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CHAPTER 17

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INTRODUCTION

17.01 AUTHORITY.

These regulations are adopted under the authority granted by §61.35, 61.351, 62.23(7), 87.30 and 144.16, Wis. Stats., and amendments thereto deemed necessary in order to promote public health, safety and welfare.

17.02 PURPOSE.

The provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village. Among other purposes, such provisions are intended to provide for adequate light, air, sanitation, drainage, convenience of access, conservation of wetlands and safety of fire and other dangers; promote the safety and efficiency of the public streets and highways; aid in conserving and stabilizing the economic values of the community; preserve and promote the general attractiveness and character of the community environment; guide the proper distribution and location of the populations and various land uses; and otherwise provide for the healthy and prosperous growth of the community.

17.03 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate, annul or interfere with any existing easement, covenant or agreement between parties or with any rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes a greater restriction upon the use of buildings or premises or upon height, location or size of building or premises or upon the height, location or size of buildings and upon the open space requirements, the provisions of this chapter shall govern.

17.04 DEFINITIONS. (Am. #303)

For the purpose of this chapter, the following definitions shall be used. Words used in the present tense include future; the singular number includes the plural; and the plural number includes the singular. The word “structure” includes buildings, while the word “occupied”, “used” and “inhabit” include the design intention to be occupied, used or inhabited; “shall” is always mandatory, not merely permissive. “Board” refers to the Village Board under the jurisdiction of this chapter. Reference to the “Plan Commission” includes the Village Plan Commission established pursuant to §62.23, Wis. Stats.; “Park Commission” refers to the Village Park Commission established pursuant to §60.181, Wis. Stats. Any reference to an officer such as “Clerk”, “Building Inspector”, “Engineer” or “Attorney” means that officer appointed or otherwise officially designated by the Village Board in such capacity, unless otherwise specifically designated.

ACTIVE ADULT LIVING COMMUNITY. A community of dwellings uniformly designed for middle-aged adults, usually aged 55 and over, living independently without support from an aide or trained healthcare professional, but with amenities available to residents within the community, such as housekeeping, indoor and outdoor dwelling maintenance, and social and recreational activities.

A ZONES. Areas of potential flooding shown on the Village's flood insurance rate map or flood hazard boundary map which would be inundated by the regional flood as defined herein. These zones may be numbered as A0, A1 to A99, or unnumbered A Zones. The Z Zones may not be reflective of flood profiles depending upon availability of data for a given area.

ADULT FAMILY HOME.

(a) As defined under Wisconsin State Statutes Section 50.01(1), a private residence to which all of the following apply:

(1) Care and maintenance about the level of room and board but not including nursing care as provided in the private residence by the care provider whose primary domicile is this residence for three or four adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in Wisconsin Statutes; or if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than four.

(2) The private residence as licensed under Wisconsin State Statutes as a foster home or treatment foster home for the care of adults where the adults were residents of the private residence at least 12 months prior to attaining 18 years of age.

(b) A place where three or four adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to seven hours per week of nursing care per resident

ACCESSORY BUILDING. An accessory building is a permanent, detached building or structure subordinate and incidental to and located on the same lot, parcel or property, as the principal use and principal building, and occupied by or devoted exclusively to an accessory use allowed within the zoning district in which the accessory building is located. An accessory building may include, but not limited to, a barn, stable, poultry house, garage, storage shed, tool shed, utility shed, pool housed, gazebo or deck. A garage, carport, utility area or deck permanently attached to a principal building, or connected to it by a common roof or covered breezeway is not considered an accessory building, but is part of the principal building.

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ADMINISTRATIVE OFFICER. A staff member such as the Building Inspector, Village Clerk, Engineer, Attorney or Planner.

AGENCY. The Village Board.

ALLEY. A street less than 21' wide and affording only secondary access to abutting property.

APPLICATION. An application for a permit under this chapter.

ARCADE. Any premises containing 2 or more amusement devices usually of an electronic nature for the primary use and entertainment of the public.

BASE SETBACK AREA. The land lying between the edge of the pavement of any street and the base setback line.

BASE SETBACK LINE. The line from which all required setbacks are measured, which line corresponds to the established ultimate street right-of-way line as set forth in §17.17

BASEMENT. That portion of any structure located wholly or partly below the average adjoining lot grade, except as provided for in §17.19(1)(b)1.

BED AND BREAKFAST INN. A house or portion thereof where short-term lodging rooms and meals are provided.

BOARDING HOUSE. A building or premises where meals or meals and lodging are offered for compensation for 5 or more persons, but not more than 12 persons and having no more than 5 sleeping rooms for this purpose. An establishment where meals are served for compensation for more than 12 persons shall be deemed a restaurant. An establishment with more than 5 sleeping rooms shall be deemed a hotel or motel.

BUILDING. Any structure used, designed or intended for the protection, shelter, enclosure or protection of persons, animals or property.

BUILDING HEIGHT. The vertical distance from the average established street grade in front of the lot or the average finished grade at the front of 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 if the highest gable of a gambrel, hip or pitch roof.

BUILDING, PRINCIPAL. The building on a lot in which is conducted the principal use as permitted on such lot by the regulations in the district in which it is located. Any building intended to be used for human habitation shall constitute a principal building.

CHANNEL. The floodlands normally occupied by a stream of water under the average annual high-water flow conditions while confined within general well-established banks.

CLINIC. A place used for the care and diagnostic treatment of sick, ailing, infirm and injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room nor kept overnight in the premises.

COMMISSION. The Village Planning Commission.

COMMUNITY LIVING ARRANGEMENT. Under the provisions Wisconsin State Statutes Section 46.03(22) means any of the following facilities licensed or operated, or permitted under the authority of the State of Wisconsin Department of Health and Family Services:

- (1) Residential care centers for children and youth, as defined in Wisconsin State Statutes Section 48.02(15d), operated by child welfare agencies licensed under Wisconsin State Statutes.
- (2) Group homes for children, as defined in Wisconsin State Statutes Section 48.02(7).
- (3) Community-Based Residential Facilities, as defined in Wisconsin State Statutes Section 50.01 (1).
- (4) Does not include adult family homes, as defined in Wisconsin State Statutes, day care centers, nursing homes, general hospitals, special hospitals, prisons, and jails.

COMMUNICATIONS SYSTEMS. Cable television, disks, dishes and devices.

CONDITIONAL USE. Any allowed use expressly listed requiring a thorough review via a public hearing process to ensure the use conforms to standards as identified in this Chapter 17.

CONTRACTOR'S YARD. Exterior premises on which building materials (cement blocks, lumber etc.), landscaping materials (sand, gravel, stone, railroad ties, etc.) and/or construction type equipment, such as bulldozers, steam shovels, trucks, etc., are stored.

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DECK. A structure characterized by a flat open horizontal surface or platform suspended above the grade of the land it covers and which may be supported by posts, beams, cantilevers or by other methods.

DENSITY. The number of dwelling units per acre of land on a parcel, lot or unified land developing activity. For the purposes of calculation, the number of dwelling units is the numerator and the acreage is the denominator, with the resultant expressed in dwelling units per acre.

DEVELOPMENT. Any manmade change to improved or unimproved real estate including, but not limited to, construction of additions or substantial improvements to the improvements to the building other than structures or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or deposition of material.

DISTRICT, BASIC. A section of the Village for which the regulations governing the height, area and the use of the building and premises are the same.

DISTRICT, OVERLAY. District which provide for the possibility of super imposing certain additional requirements upon the basic zoning district without disturbing the requirements of the basic structure.

DOMESTIC LIVESTOCK. Domestic livestock or poultry shall be considered any cow, horse, llama, goat, pig, sheep, buffalo, mule or donkey and duck, chicken, swan, geese and pigeon or any livestock or poultry as determined by the Village Board.

DRIVE-IN RESTAURANT. An establishment where a customer is permitted or encouraged either by design of physical facility or by the service to carry on his business in an offstreet parking area accessory to the business.

DWELLING, MULTIPLE-FAMILY. A residential building or a grouping of residential buildings where each building is designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided. Within this Chapter 17, the terms multiple-family and multi-family are utilized interchangeably.

DWELLING, TWO-FAMILY. A detached building containing two separate building units, designed for the occupancy by not more than two (2) families, attached by a common wall, floor or ceiling. Common terms used to describe a two-family dwelling are duplex or side-by-side duplex.

DWELLING, SINGLE FAMILY ATTACHED. A residential structure designed to house a single-family unit from the lowest level to the roof with private entrance, but not necessarily occupying a private lot and sharing a common wall between adjoining units.

DWELLING, SINGLE FAMILY DETACHED. A residential structure designed to house a single family on a lot and surround on all sides by a private yard.

DWELLING UNIT. A housekeeping unit designed and used for occupancy by a single individual or family group and normally containing a separate room for eating, cooking, sleeping, recreation, relaxation, storage and personal hygiene.

ELDERLY HOUSING. A dwelling unit or units designed and constructed to be occupied by elderly persons. An elderly person is a person who is 55 years of age or older on the date such person intends to occupy the premises, or a family, the head of which, or his spouse, is an elderly person as defined herein.

ENVIRONMENTAL CONTROL FACILITY. Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste or thermo pollution, radiation or other pollution, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities

EFFICIENCY UNIT. Within a multiple-family building, a dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

FAMILY. The body of persons related by blood, marriage or adoption or 4 or less unrelated persons who live together in one dwelling unit as a single housekeeping entity.

FAMILY DAY CARE HOME. A dwelling licensed as a day care by the State of Wisconsin Department of Health and Family Services pursuant to Wisconsin State Statutes Section 48.65, where care is provided for not more than eight (8) children.

FARM. A tract of land at least 20 acres in size devoted principally to the raising of crops, livestock and/or farm products.

FEED LOT. A lot or facility used or proposed to be used for the confined feeding and/or holding of animals where the number and kind of animals exceed 75 units per acre of confined area. One animal unit shall be equivalent to 1,000 lbs. of live animal weight and the acreage used to compute the density shall include all fenced areas, pens, yards or similar uncovered structures and all covered enclosures where the animals are enclosed for 30 or more continuous 24-hour days per year. Dairy farm operations utilizing seasonal winter confinement of livestock shall be excluded from this definition unless deemed contrary by the Village Board. The intent of this definition is to clearly distinguish the feed lot type of farming situation which concentrates large numbers of livestock on small acreage from the more general or traditional type of farm operation in which cultivation and livestock grazing, or feeding is conducted on a smaller scale. It is not the intent of this definition to prohibit feed lots, but only to distinguish such a use because of the potential as a pollution source and to effectively control it.

FENCE. A tangible barrier or obstruction of any material or a line of obstacles above the surface of the ground with the purpose or intent of having the effect of preventing passage and/or view across the fence line.

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FENCE, OPEN. (Cr. #296) A structure of rails, planks, strung wire, or similar material erected as an enclosure, barrier or boundary. Open fences are those with more than 50% of their surface area open for free passage of light or air. An open fence may be either an ornamental fence or a security fence.

FENCE, SECURITY. (Cr. #296) An open or solid fence intended to guard property against unauthorized entry, and to protect stored goods and products from theft and other unauthorized handling. Security fences usually exceed 6 feet in height, are often made of wrought iron or woven wire, and may incorporate additional security features such as barbed wire.

FENCE, SOLID. (Cr. #296) A structure of rails, planks, strung wire, or similar material erected as an enclosure, barrier or boundary. Solid fences are those 50% or less of their surface are open for the free passage of light and air and designed to conceal from view the activities conducted behind them. Example of such fences include but are not limited to stockade, board-on-board, board and batten, basket weave, louvered fence, and chain link with screening inserts.

FLOOD INSURANCE RATE MAP. A map prepared for the Village by the Federal Emergency Management Agency (FEMA) upon completion of a detailed flood insurance study. This map shows that the actuary rate zones applicable to the different areas of the Village form the basis for both the regulatory and insurance aspects of the regular phase of the National Flood Insurance Program.

FLOOD PROFILES. A graph showing the relationship of the floodwater surface elevations of a flood event of a specified recurrence interval to the stream bed and other significant natural and manmade features along a stream.

FLOOD PROTECTION ELEVATIONS. Two feet above the water surface elevation of the 100-year recurrence interval flood. This safety factor (freeboard) is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action and obstruction of bridge opening.

FLOOD. REGIONAL. A flood determined to be a representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years. This means that in any given year there is a 1% chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26% chance of occurrence.

FLOOD STAGE. The elevation of the floodwater surface above an official established datum plan which is Mean Sea Level 1029 Adjustment.

FLOODLANDS. For the purpose of this chapter, the floodlands are all lands contained in the regional flood or 100-year occurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into Floodway Overlay District, Floodplain Conservancy Overlay District, and a Floodplain Fringe Overlay District.

FLOODPLAIN FRINGE. Those floodlands outside the floodway subject to inundation of the 100-year recurrence interval Flood. For the purpose of this chapter, the floodplain fringe includes a Floodplain Conservancy Overlay District and a Floodplain Fringe Overlay District.

FLOOR AREA. The maximum horizontal projected area within the perimeter of the outside surface of walls or supports of the building or structure.

FLOOR AREA RATIO (FAR.) Used to indicate total floor area of all buildings allowed on a given lot, expressed as a percentage ratio to the total area of the lot; i.e.; an FAR of 100% allows a floor equal to the total area of the lot, an FAR of 50% allows a floor area of one-half the total area of the lot. A floor area ratio of 50% could be applied to a one story building occupying 50% of the lot or a 2-story building occupying 25% of the lot.

FOSTER FAMILY HOME. The primary domicile of a foster parent which is for four or fewer foster children and which is licensed pursuant to Wisconsin State Statutes Section 48.62. .

FOSTER HOME. Any facility that is operated by a person required to be licensed under the provisions of Wisconsin State Statutes Section 48.62, and that provides care and maintenance for no more than four children or, if necessary to enable a sibling group to remain together, for no more than six children or, if the State of Wisconsin Department of Health and Family Services promulgates rules permitting a different number of children, for the number of children permitted under those rules.

FRONTAGE. Length of any one property line of a premises, which abuts a legally accessible street right-of-way.

GARAGE, PRIVATE. A structure where private vehicles are kept for storage purposes only and wherein such use is accessory to the residential use of the property on which it is stored. Enclosed or roofed carports shall be considered garages within this definition.

GARAGE, PUBLIC OR COMMERCIAL. Any building or premises, other than a private or a storage garage, where motor driven vehicles are equipped, repaired, serviced, hired, sold or stored for monetary gain as a business.

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GARAGE, STORAGE. Any building or premises used for the storage only of motor driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired is sold and vehicles are not equipped, serviced, repaired, hired or sold for monetary gain as a business.

GASOLINE SERVICE STATION. A place where gasoline, diesel fuel, kerosene or lubricating oil or grease for operating motor vehicles is offered for sale to the public, either as a self-service or full service operation and deliveries are made directly into motor vehicles and including facilities for greasing, oiling, washing and minor repairs of vehicles on the premises, but not including major automatic car washing or body repair facilities.

GRADE, ESTABLISHED. The elevation of the finished street at the centerline or curb as fixed by the Engineer or by such authority as shall be designated by law to determine such an elevation.

GROUP QUARTERS. Places where people live or stay in a group living arrangement owned or managed by an organization providing housing and/or services for the residents, with the residents not usually related to one another. The many different types of group quarters, defined in this Section 17.04 such as Community Living Arrangement, Nursing Home or Senior Care Facility, are typically denoted by number of beds or occupants, and not number of dwelling units.

HIGHWAY. A right-of-way designated by the Village road and street specifications for the principal purpose of providing vehicular thoroughfare and not necessarily affording direct access to abutting property.

HOME OCCUPATIONS. An occupation for financial gain or support conducted entirely within a residential dwelling unit by the resident occupants of the dwelling unit that is limited in extent and incidental and secondary to the principal use of the dwelling unit for residential purposes. The home occupation is generally owned by the resident occupants and may produce or fabricate a physical product in accordance with the standards for home occupations within this Chapter.

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 patient bed care.

HOSPITAL, ANIMAL. An establishment providing for medical care and treatment of animal or pets, but distinguished from a kennel in that no outdoor runs shall be permitted for the boarding of animals which are not being cared for.

HOTEL. A building in which lodging, with or without meals, is offered for compensation and usually provides for more than 5 sleeping rooms for this purpose.

HUMAN HABITATION. The use of a building or structure for overnight living or longer periods of time and including the aggregate of normal occupancy activities, such as lounging, cooking, eating, sleeping, bathing, sanitation, etc.

IN-LAW UNIT. A room or suite of rooms have a separate kitchen facility located in a single-family dwelling occupied by not more than 2 persons related by blood or marriage to the family occupying the dwelling.

JUNKYARD. Any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber or other materials stored or customarily stored for salvage or sale.

KENNEL, COMMERCIAL. An establishment, structure or premises where dogs or other household pets are raised, sold, bred, boarded, trained, or groomed for commercial purposes. The raising and selling of 3 or more litter of animals per year shall constitute a commercial kennel.

KENNEL, HOBBY. A noncommercial establishment, structure or premises accessory to the principal use of the property where 4 or more animals of 6 months minimum age are kept for such private purposes as pets, field trials, shows o hobby. The occasional raising of not more than 2 litters of animals per year on the premises and the sale or disposal of the animals within 6 months of the birth shall also be considered a hobby kennel.

LETTER OF MAP AMENDMENT (LOMA). Official notification from the Federal Emergency Management Agency (FEMA) that a flood hazard boundary map or flood insurance rate map has been amended.

LOADING SPACE. An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials in which it abuts upon a street, alley or other appropriate means of access.

LODGING HOUSE. A building where lodging only is provided for compensation, having not more than 5 sleeping rooms for this purpose and where no meals are provided.

LOT. A parcel of land with described boundaries and abutting or having access via an approved easement to a public street or other approved way. See §17.13(1)(b).

LOT AREA. Area of a lot as defined herein and bounded by lot lines exclusive of land provided by public rights-of-way, public streams or other public bodies of water.

LOT DEPTH. The mean horizontal distance measured between the street line and the opposing rear line or lines of the lot.

LOT LINES. The lines following the exterior boundaries of a lot as defined herein.

LOT LINE, SIDE. A lot line extending from a street line towards the interior of the lot and separating adjoining lots.

LOT, PARKING. A tract of land where motor vehicles are parked or stored for the purpose of temporary daily or overnight off-street parking.

LOT WIDTH. The horizontal distance along the cord between side lines measured at the required building (street or front) setback line.

LIVING AREA, MINIMUM. The occupied or usable floor area in a building designed and built with necessary ceiling, electrical, heating and plumbing facilities to accommodate normal human habitation; with typically separate rooms for living, kitchen, bath and bed space. A full basement, or a basement with an exposed elevation to only a rear or side yard is not considered living area for calculating minimum living area.

MINIMUM LIVING AREA. See Living Area, Minimum.

MOBILE HOME. A constructed unit which is or was, as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters or is intended to be used, and includes any additions, attachments, annexes, foundations and appurtenances. See §66.058(1)(d), Wis. Stats.

MOTEL. A building or series of buildings in which lodging is offered for compensation for a period of one month or less, has more than 5 sleeping rooms or units and is distinguished from a hotel primarily by reason of providing direct, independent access and adjoining parking for each rental unit.

MULTIPLE LEVEL BUILDING. For purposes of residential dwellings, a building with more than one (1) level having rooms for living, kitchen, bath and bed spaces. A basement fully or partially below adjacent grade is not considered a residential building level.

MUNICIPALITY. The Village of Dousman, Waukesha County, Wisconsin.

NAVIGABLE WATER. Those intermittent and perennial rivers, streams, ponds, lakes and flowages shown on the USGS Topographic Quadrangle 7.5-minute series for the Village as periodically updated and any waters considered navigable, in fact, if it meets the test outlined in case law cited herein. Wisconsin case law, specifically, Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGayner & Co. v. DNR., 70 Wis. 2d 936 (1975) held that a stream is navigable, in fact, if it is capable of floating a boat, skiff or canoe of the shallowest draft used for recreational purposes and that a stream need not be navigable in its normal or natural condition to be navigable in fact. Determinations of navigability are ultimately field determinations and map delineations are merely the best representation of navigable conditions at any particular time.

NONCONFORMING STRUCTURE. A structure which does not conform to the building location, height or building size regulations of the district which is located.

NONCONFORMING LOT. A lot which does not conform to the lot size regulations of the district in which it is located.

NONCONFORMING USE OF LAND. A use of any land in a way which does not conform to the use, residential density or open face regulations of the district in which it is located.

NONCONFORMING USE OF STRUCTURE. A use carried on within any building which does not conform to the use or residential density regulations of the district in which it is located.

NURSING HOME. A place where five (5) or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their physical or mental condition, require access to 24-hour nursing services, including limited nursing care, intermediate level nursing care and skilled nursing services, as defined in Wisconsin State Statutes Section 50.01(3).

NORTHEAST DEVELOPMENT. The assemblage of properties generally located at the southeast corner of Highways 18 and 67, with the area further defined as a unified mixed use development within the Comprehensive Plan.

OFF-STREET PARKING SPACE. The area on a lot designed to accommodate a parked motor vehicle as an accessory service to the use of the lot and with adequate access thereto from the public street. For purposes of satisfying parking requirements of this chapter, off-street parking shall be as defined in the parking restrictions of this chapter.

OPEN SPACE. Any space occupied with a structure may not be counted as open space.

ORDINARY HIGH WATERMARK. A point on the bank or shore of a body of water up to which the presence and action of surface water is so continuous as to leave a distinctive

4/13/92 mark by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognizable characteristics.

OWNER. The holder of record of an estate in possession in fee simple or for life in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life, but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of a least one owner shall be considered an owner.

OUTDOOR RECREATIONAL FACILITIES. Land and structures, along with accessory equipment, designed and utilized for leisure time activities of a predominantly “outdoor” nature and of more specified purpose than passive park-like open areas and further classified as follows:

- (a) Public. Facilities owned and operated by a governmental agency for limited or general public use.
- (b) Private Commercial. Facilities owned and operated by an individual or group for profit as business, whether or not open to general public use.
- (c) Private Noncommercial Group. Facilities owned and operated by a group for the exclusive use of the members of such group and their guests and not for profit as a business.

PATIO. A flat, open, horizontal surface or platform located on the grade of the land and not considered to be a structure as defined and regulated herein and not considered to be utilizing open space as floor area ratio.

PERMIT. A special use permit issued under this chapter.

PLANNED UNIT DEVELOPMENT (PUD) A method of developing a property through design of all components as a planned unit which satisfies the use, access, sanitation, building and environmental regulations without the use of the standardized zoning restrictions

PLANTING SCREEN. An area landscaped with natural growing plant material which effectively screens off from view objects it is intending to hide from view.

POLYSTRUCTURE. An enclosure that has a frame of steel or other materials which is covered with plastic, polyurethane, vinyl, canvas or other flexible sheeting material. (Cr. #231)

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PRACTICAL DIFFICULTY. That circumstance where special conditions affect a particular property and make strict compliance with the dimensional standards of this chapter regarding area, setbacks, offsets, width, height or floor area ratio unreasonable and prevent a property from being utilized for a permitted purpose in conformance with the use regulations of the zoning district in which the property is located or would render conformity with such restrictions unnecessarily burdensome.

PRIMARY FLOOR AREA. The floor area of a building for purposes of determining required parking ratios, which area shall include only that portion of the total floor area devoted to customer service, sales and office space and shall not include storage, utility, hallways and other accessory space which does not generate parking demand.

PRINCIPAL BUILDING. See Building, Principal.

PRINCIPAL USE. See Use, Principal.

PRIVATE CLUB OR LODGE. A structure or grounds used for regular or periodic meetings or gatherings of a group of persons organized for a nonprofit purpose, but not groups organized to render a service customarily carried on as a business.

PROFESSIONAL HOME OFFICES. Any number of occupations for financial gain or support conducted entirely within a residential dwelling unit by resident occupants of the dwelling unit where the resident occupants work remotely for an employer whose base of operations is located elsewhere.

PROFESSIONAL OFFICE. The office of a doctor, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, artist, musician or other similar recognized profession.

PUBLIC AND SEMI-PUBLIC BUILDINGS. Public and semi-public buildings and uses in the sense of this chapter are structures principally of an institutional nature and servicing a public need, such as hospitals, rest homes, schools, including private academic and nursery schools, day care centers, libraries, museums, public and private utilities and other services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

QUARRYING. The removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other such process for commercial purposes and personal gain.

RECREATIONAL VEHICLE. Motorized vehicles that include a cabin for living accommodations and are commonly used for recreational travel and touring. Vehicles included in this category come in several forms: travel trailers, tent trailers, and camping trailers, all of which must be towed by a car, and truck campers, motor homes and camper vehicles, all of which have a motor within the body of the vehicle.

REFUSE DISPOSAL SITE. A tract of land operated, subject to restrictions of use and under supervision, by a public or private agent where more than one family may take all types of refuse, including organic and inorganic wastes (but excluding human excretions and sewage and/or other liquid waste), for compacting and burial by modern sanitary landfill methods and in accordance with the Wisconsin Administrative Code. Hard or clean fill operations involving material such as foundry sand, dirt, gravel, concrete, or other forms of clean fill material shall not be required to conform to the provisions of the quarrying conditional use section of this chapter.

REMODELING. Any structural alterations, additional, modifications, rebuilding or lateral enlargements of any existing structures, principal or accessory. Remodeling shall also refer to the conversion of living spaces or other floor areas into space for living purposes, such as converting a part of the living area into a bedroom or bathroom regardless of whether such changes require structural alterations to the basic structures. Ordinary maintenance repairs, such as painting, decorating, paneling, replacement of doors, windows, and other nonstructural components where structural alteration is not required, shall not be considered remodeling.

RESTAURANT. Any building, room or place where meals are prepared, service or sold to transients or the general public, and all places used in connection with it and includes any public or private school lunchroom for which food service is provided by contract. "Meal" does not include soft drinks, ice cream, milk, milk drinks, ices and confections. "Restaurant" does not include taverns that serve free lunches, consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter; churches, religion, fraternal, youth or patriotic organizations which occasionally prepare, serve or sell meals to transients or the general public, any public or private school lunchroom for which food service is directly provided by the school or private individuals selling foods from a movable or temporary stand at a public farm sale; bed and breakfast establishments that serve meals only to its lodgers or serving food or beverages through a licensed vending machine.

Section 50.50(5), Wis. Stats., is incorporated herein by reference.

ROAD. A public or private right-of-way usually affording primary access to abutting property.

ROADSIDE STAND. An accessory building used or intended to be used solely by the owner or tenant of property or farm on which such building is located for the sale of agricultural products raised on the property.

ROOMING HOUSE. Same as LODGING HOUSE.

SAND AND GRAVEL PITS. See QUARRYING.

SENIOR ALTERNATIVE HOUSING. A building or group of buildings containing dwellings intended to be occupied by elderly persons or senior citizens, as defined by the Federal Fair Housing Act, as amended. Senior housing may include independent and/or assisted living arrangements but shall not include nursing or convalescent homes regulated by the State of Wisconsin. Independent and assisted living housing are defined as follows:

- (a) SENIOR ASSISTED LIVING. Housing that provides twenty-four-hour supervision and is designed and operated for elderly people who require some level of support for daily living. Such support shall include meals, security, and housekeeping, and may include daily personal care, transportation and other support services, where needed. Individual dwellings may contain kitchen facilities.
- (b) SENIOR INDEPENDENT LIVING. Housing that is designed and operated for senior citizens in good health who desire and are capable of maintaining independent households. Such housing may provide certain services such as security, housekeeping and recreational and social activities. Individual dwellings are designed to promote independent living and shall contain kitchen facilities

SENIOR CARE FACILITY. A residential care facility that includes at least two of the following types of residential care and is operated as a fully integrated facility by a single operating entity:

- (a) Community-based residential facility (CBRF), as defined in Wisconsin State Statutes Section 50.01(1g).
- (b) Residential-care apartment complex (RCAC), as defined in Wisconsin State Statutes Section 50.01(6d).
- (c) Nursing home, as defined in Wisconsin State Statutes Section 50.01(10)

SENIOR HOUSING. Means "housing for older persons" as defined by section 807(b)(2) and (3) of the Fair Housing Act (42 U.S.C. 3607 (b)(2) as may be amended from time to time

SETBACK. The shortest horizontal distance between the base setback line and the nearest foundation, walled or enclosed portion of building.

SETBACK LINE. A line parallel to the base setback line and extending the full width of the lot.

SHORELANDS. Those areas lying within the following distances from the ordinary high watermark of navigable waters: 1,000 from the lake, pond or flowage and 300' from a river or stream or to the landward side of the floodplain, whichever distance is greater. Shoreland shall not include those lands adjacent to farm drainage ditches where such lands are not adjacent to a navigable stream or river; those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching or had no previous stream history; and such lands are maintained in nonstructural agricultural uses.

SIDE YARD. The distance between any lot lines other than a street and nearest foundation, wall or enclosed portion of a building.

SIGN. Any structure or part thereof, any device attached to a structure or any other form or visual communication applied by paint, illumination, embossing or other technique to a structure for the purpose of directing, advertising, informing, warning, or otherwise conveying information visual to the viewer.

SIGN, DIRECTIONAL. A sign intended solely for the purpose A sign intended solely for the purpose of directing patrons or customers to an establishment off the main traveled road and not including promotional advertising unnecessary to such directional purpose.

SIGN, NONACCESSORY. A sign relating to a commercial or similar activity other than activity actually engaged in on site on which such sign is located.

SITE PLAN. A site plan shall include building site and location, existing and proposed grades, parking area and surfacing, lighting, signage and location of signs, vegetative cover, landscaping plan and surface water drainage, construction site erosion control practices, sanitary facilities and septic system and any other items the Plan Commission feels are necessary for their review. It may also be deemed appropriate that anticipated completion dates are supplied in the site plan.

SOLAR ENERGY CONVERSION SYSTEM. Active or passive solar collection and heating systems that include such systems defined by §101.57(8)(d), Wis. Stats.

SPECIAL EXCEPTION. A special or unique situation, excluding a change in use or a use prohibited in a zoning district, which may be authorized by the Board of Appeals and is specifically set forth in this chapter as a special exception and which may justify the waiver of the regulation applicable thereto and does not necessarily require determination of an unnecessary hardship or practical difficulty.

STABLE, COMMERCIAL. A tract of land on which horses or other livestock are kept for hire, training, board or sale.

STORY. That portion of a building included between the surface of a floor and the surface of the floor next or above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having $\frac{1}{2}$ or more of its height above grade shall be deemed a story for purposes of height regulation.

STREET. A Village right-of-way accepted by the Village Board as a Village street and for which the Village maintains and bears responsibility for.

STREET FRONTAGE. The lineal measurement of a lot on an abutting street contiguous and parallel to the street measured at the base setback line. See §17.17(1)(a).

STREET LINE. A dividing line between a lot, tract, or parcel of land and a contiguous street. See §17.17(1)(a).

STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something have a permanent location on the ground and being more than 6" above grade.

STRUCTURE, LEGAL NONCONFORMING. A building, structure or portion thereof lawfully existing at the time of passage of this chapter, but which does not conform on one or more respects to the regulations of this chapter.

STRUCTURE, PERMANENT. A structure placed on or in the ground or attached to another structure in a fixed and determined position and intended to remain in place for a period of more than 9 months.

STRUCTURE, TEMPORARY. A movable structure not designed for human habitation or occupancy, but for temporary protection of goods or materials during a period of construction.

STRUCTURAL ALTERATION. Any change in the supporting members of a building or any substantial changes in the roof structure or in the exterior walls.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement if the structure, the cost which equals or exceeds 50% of the present equalized assessed value of the structure, wither before the improvement or repair is started or if the structure has been damaged and is being restored before the damage occurred. The term does not, however, includes either any project for improvement of the structure to comply with the existing State of local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure or site documented as deserving preservation by the State Historical Society or listed on the National Register of Historical Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include interior and exterior painting; decorating, paneling and the replacement of doors, windows and other nonstructural components.

SWIMMING POOL. A structure designed to hold water more than 18" deep, 10' in diameter and more than 200 cu. Ft. of water for the purpose of swimming.

TEMPORARY USE. A nonpermanent use of a building, structure or property that is not specifically regulated as a permitted use or a conditional use. Or prohibited under the Village of Dousman's zoning or other ordinances. Temporary uses are conducted for short periods of time, (e.g., one to 180 days). Temporary uses can include, but not be limited to, public entertainment and/or fund-raising event of a civil, religious or non-profit nature; any uses or placement of equipment required during a period of an emergency for the good of the public, seasonal sales of produce or nursery products from property located in a public or business zoning district; use of nonpermanent buildings or structures during periods of construction; live and/or outside entertainment on commercial or business property; model homes and real estate offices in a new residential subdivision.

TRAILER PARK OR MOBILE HOME PARK. Any tract or parcel of land upon which 2 or more trailers, camp cabins, house car or other mobile homes are located, or trailer camp sites are provided for the purpose of either temporary or permanent habitation.

TOURIST HOME. See BOARDINGHOUSE.

UNIFIED DEVELOPMENT. An area of land under unified ownership or control to be developed and improved as a single entity under a Unified Development Plan in accordance with and subject to the requirements of this Chapter.

UNNECESSARY HARDSHIP. That circumstances where special conditions, which were not self-created, affect a particular property and where, in the absence of a variance, no feasible use can be made of the land.

USE, ACCESSORY. A use subordinate to and customarily incidental to the permitted principal use of the property or buildings and located upon the same last as the principal use.

USE, LEGAL NONCONFORMING. The use of a building or land lawfully carried on at the time of passage of this chapter or amendments thereto, but which does not conform to the use regulations established by this chapter.

USE, PERMITTED. The utilization of land occupancy, activity, building or other structure which is specifically enumerated as permissible by the regulations of the zoning district in which the land is located.

USE, PRINCIPAL. The main or primary use of property or structure as permitted on such lot by the regulations of the district in which it is located.

VARIANCE. An authorization granted by the Board of Appeals to construct or alter a building, land or structure in a manner that deviates from dimensional or numerical standards of this chapter. The issuance of a variance shall not have the effect of allowing a use of property otherwise prohibited by this chapter and shall not allow the intensification of a use which would otherwise not be allowed on other property having a similar condition or situation. Such variance may not allow for a use which is not allowed in the zoning district in which the property is located or allow floodland construction that is not protected to the flood protection elevation.

VISION SETBACK AREA. An unoccupied triangular space, at the street corner of a corner lot, as established by §17.17(1)(b).

WETLANDS. Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and which have soils indicative of wet conditions.

WIND ENERGY CONVERSION SYSTEM. Windmills which are used to produce electrical power.

GENERAL PROVISIONS

17.10 COMPLIANCE. Except as otherwise specifically provided, the use, size, height, and location of buildings now existing or hereafter erected, converted, enlarged or structurally altered, the provision of the open space and the use of the land shall be in compliance with the regulations established herein for the district in which such land or building is located.

17.11 BUILDING PERMIT.

- (1) **REQUIRED.** No building shall be erected, structurally altered, repaired, remodeled or relocated until a building permit has been issued by the Building Inspector certifying that the building as proposed would be in compliance with the provisions of this chapter and with Chapter 14 of this Municipal Code.
- (2) **APPLICATION.** An application for a building shall be made to the Building Inspector. Such application shall be in accordance with §17.12(2) of this chapter.
- (3) **ISSUANCE.** Building permits shall be issued by the Building Inspector and conform to the provisions of §17.12(3) of this chapter.

17.12 BUILDING AND OCCUPANCY PERMITS.

- (1) **REQUIRED.** No vacant land shall be occupied or used, except for agricultural purposes, and no building shall be used, occupied or the use changed until an occupancy permit has been issued certifying that any building, use or occupancy complies with the provisions of this chapter and all other applicable State and county codes. This permit shall be obtained before any new building is occupied or any change is made in the type of use or before any nonconforming use is resumed, changed, extended or granted conditional use status pursuant to §17.28 of this chapter.
- (2) **APPLICATION.** All permits shall be applied for with the Village Building Inspector. Application for an occupancy permit shall be made prior to occupying the building. The application for the building permit shall contain sufficient information to permit the Building Inspector to ascertain whether commencement of construction of the property shall begin. All necessary permits shall be prepared on forms provided by the Village and shall include for the purpose of proper enforcement of this chapter the following data:
 - (a) A statement by the applicant as to the intended use of the premises and of any existing or proposed buildings thereon.
 - (b) An accurate map of the property drawn to a reasonable scale and properly showing:

1. The boundaries of the property involved.
 2. The location of the centerline of any abutting streets.
 3. The location on the lot of any existing buildings, proposed additions or new buildings, including the measured distances between the buildings, lot lines and street lines measured to the nearest portion of such buildings.
 4. The proposed floor elevation of any proposed buildings in relationship to the existing and/or established grade of any abutting streets and adjacent properties. The elevation shall indicate the slope of all 4 sides of the proposed building.
 5. The high-water line of any stream or lake on which the property butts.
 6. The proposed locations of the primary and secondary septic systems and private wells.
 7. If the area in which any earthen material or vegetation or moved or removed exceeds 5% slope, 4,000 sq. ft. or within 200' of a waterway or wetland, the application shall indicate placement and type of erosion and sediment control practices to be used in order to prevent sediment from leaving the site.
- (c) Where the use involves human occupancy, a structure must be accommodated by municipal sewer and water or a plan shall be submitted for proposed sewage disposal, approved by the Waukesha County Health Department through issuance of a sanitary permit prior the issuance of the building permit.
- (d) Fees shall accompany each application for permit in accordance with the established Village fee schedule and such payment shall be made to the Village Clerk.
- (3) **ISSUANCE.** Building and occupancy permits shall be issued by the Village Building Inspector after adequate investigation as to the compliance.
- 4/13/92
- (a) Building Permits. Provided the application is in order and any building , occupancy or uses proposed will be in compliance with the provisions of this chapter, a certification that such permit has been issued shall be posted in a prominent place on the premises during the period of any construction involved in readying the land or building for occupancy.

- (b) Occupancy Permit. Occupancy permits shall be issued by the Building Inspector after adequate inspection within 10 days after the notification of the completion of the erection, alteration or relocation of a building or of the intent to commence a use, the Building Inspector or his deputy shall make an inspection of the premises and any building thereon, and if such building, use or occupancy comply with the requirements of this chapter and Ch. 14 of this Municipal Code, an occupancy permit shall be issued.
- (4) EXPIRATION. If within 6 months of the date of the issuance of the building permit the proposed construction has not commenced or if within 24 months an occupancy permit has not been issued, the building permit shall expire, except that upon showing of valid cause, the Village board may grant an extension of such permit for a period of 6 months.
- (5) RESERVED. (Rep. #261)
- (6) EXCAVATION. If within 30 days from the date of the excavation construction has not commenced, the excavated area shall be filled by the property owner unless time is extended by the Village Planning Commission.
- (7) TEMPORARY STRUCTURE. A temporary structure, as defined, shall not be permitted for more than a one-year period.
- (8) TEMPORARY USE REGULATION. Temporary uses, including but not limited to special events and the use of temporary buildings during construction and as defined in Section 17.04, may be permitted according to the following regulations.
 - a. Public Property. Temporary uses on any publicly owned property shall be approved by the Village Board in accordance to the standards listed in Section 17.12 (8)(c). With approval of the temporary use, the Village Board shall set a timeframe for such use.
 - b. Private Property. The approval process for temporary uses o private property is as follows:
 - 1. 180 Days or Less. A zoning permit application may be filed with the Village Zoning Administrator if the temporary use will exist for a period of time not to exceed 180 days. The Zoning Administrator may grant, deny or conditionally grant such temporary use unless the Zoning Administrator finds the use may be detrimental and/or incompatible with adjoining properties or the community at large in which case the Zoning Administrator shall refer the matter to the Plan Commission. In that event, the Plan Commission shall make the determination of whether to approve, deny or conditionally approve the temporary use.

2. Greater Than 180 Days, But Less Than a Year. A zoning permit application may be filed with the Village Clerk for a referral to the Village of Dousman Plan Commission. The Plan Commission shall make the determination of whether to approve, deny or conditionally approve for the temporary use.
- c. Conditions. When granting approval or a permit for a temporary use, the applicable authority may include conditions or stipulations for such approval addressing such matters as parking, access, signage, lighting, security, solid waste disposal potable water and sanitary facilities, screening, noise, traffic control, hours and days of duration and operation, financial guarantees or warranties to ensure compliance and/or against defects or damage to public property, and other items which may be required to protect the health, safety, and welfare of the public. The applicable authority may request information about the proposed temporary use prior to consideration of the temporary use. The applicable authority shall state in the record of the meeting the reasons for approval or denial of a temporary use.
- d. Fees. An application fee and/or permit fee may be established payable for the applicant of the temporary use to offset Village administration and inspection costs.
- e. No temporary use approval shall have a duration longer than one (1) year. Upon expiration of the temporary use, an applicant may seek new temporary use approval to extend the temporary use beyond one (1) year, subject to the same review procedures as described herein for the initial application. At no time shall the use deviate from the definition of "temporary use" as defined in Section 17.04 of this Code.

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17.13 SITE REGULATIONS.**(1) LOT REQUIREMENTS.**

- (a) Building Must be on the Lot. Every building hereafter erected, structurally altered or relocated shall be located on a lot, as defined herein. Any building used for the principal use permitted in that district shall constitute the principal building and there shall be no more than one principal building on a lot, except in business districts, industrial districts, planned unit developments and agricultural districts. In Agricultural Districts, no more than one residence may be permitted on a single parcel of land unless it can be demonstrated that more than one residence is necessary and accessory to the principal agricultural use of the property. The Board of Appeals may grant a special exception to permit more than one principal building on a lot in any district where such grant would be contrary to the spirit and intent of this chapter, and provided that sufficient lot area is provided and the building so located so as to individually meet the setback, offset and lot size and open space requirements of the district in which it is located. In the event the structure is divided off of the larger tract, it shall meet the size requirements of the district in which it is located. No accessory building shall be constructed until the principal building is under construction or completed except as described in Section 17.13(7), below. Where the use of land is principally for agricultural pursuits and on parcels of 35 acres or more, farm buildings may be allowed without the necessity of having a residence in place or under construction subject to approval of the Village Plan Commission and it is determined that the building will not be contrary to the spirit and intent of this chapter and will not include the operation of a commercial boarding or riding stable for horses or agricultural pursuits specializing in the forced feeding of livestock and where it is determined that the use of the building will be accessory to a farming operation which is consistent with the use provisions of the district in which it is located.

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- (b) Lot Described. The lot herein defined shall be exclusive of any land lying in the public right-of-way, public streams or other public water body. Where such streams, water body or public right-of-way divide a single described parcel into 2 or more parts, such severed portions shall be considered separate individuals lots provided they meet the use, building location and area regulations of the zoning district in which they are located. Where the parcels do not meet these lot requirements, they, in combination, shall be considered a single lot for regulatory purposes, computation of area requirements and other location provisions of this chapter.

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BUILDING AND PRIVATE STREET OR WAY. (Am. #256) The intent of this provision is to discourage the creation of lots and placement of structures which do not have adequate access for emergency vehicles and equipment and to provide a right-of-way width which could accommodate a public right-of-way of necessitated in the future and to allow the creation of parcels which, due to unusual topographical consideration, cannot abut a public street. Subject to the approval of the Plan Commission, building may be permitted on an existing tract of land which does not abut or have direct frontage on a public street or officially approved way. Access by a permanent easement at least 33" in width to a public street is required.

(2) **CONSTRUCTION STANDARDS FOR PRIVATE STREETS AND PRIVATE DRIVES.** (Cr. #256)

(a) Definitions.

1. As used herein, the term "private street" shall include all private routes of ingress and egress from any public right-of-way which provides access to 2 or more residential dwellings/units, commercial buildings, or properties.
2. As used herein, the term "private drive" shall include all private routes of ingress and egress from any public right-of-way, which provides access to one residential dwelling/unit, commercial building, or property. Notwithstanding anything contained herein to the contrary, this ordinance shall not apply to private drives that are 200 feet in length or less, as measured from the edge of the public right-of-way along the centerline of the proposed driveway to the nearest exterior point of the principal building located in that property.
3. Notwithstanding anything contained herein to the contrary, this ordinance shall not apply to private routes if ingress and egress from any public right-of-way, regardless of length, which serves only uninhabited and unmanned private telecommunications facilities and accommodates only occasional vehicular traffic and after construction of the facility

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(b) Construction Standards for Private Streets.

1. At the end of the private street, a minimum paved cul-de-sac shall be provided. This cul-de-sac and the private street shall be constructed in accordance with the Village's standard road specifications and the Village's standard road sections in effect at the time of construction.

2. The road ditch construction along the private street shall be required per the Village's standard road specification and road section. The property owner shall obtain all drainage easements necessary to construct these ditches.
 3. All costs necessary for the maintenance of the private street to conform to these requirements for the safe passage of emergency vehicles shall be at the property owner's expense.
- (c) Construction standards for Private Drives in Excess of 200 Feet in Length.
1. All private drives shall be constructed utilizing a compacted subgrade consisting of quality material suitable for standard highway loading.
 2. Drainage structures or culverts, at least 20 feet long with end sections, shall be installed under the surface at the low points in grades, sloped to drain to the existing storm drainage outlet. These structures or culverts shall be sized to drain their entire storm drainage contributing areas based on the 10-year frequency storm design.
 3. A minimum of road ditch construction along these private drives shall be required in those areas where storm runoff would otherwise be forced onto the traveled surface due to the topography. The property owner shall obtain all drainage easements necessary to construct these ditches.
 4. The minimum depth of the stone base shall be 5 inches of 1 ½ inch crushed stone traffic bond (TB) material compacted in place, over which 5 inches of ¾ inch crushed gravel or crushed stone (TB) material shall be compacted in place.
 5. All private drives shall have a gravel surface not less than 14 feet in width, together with turn-around areas as provided in sub-paragraph 8., and together with emergency vehicle pull off areas as noted below with final approval by the Village Plan Commission. The emergency pull off areas shall be:
 - a. Every 300 linear feet of driveway.
 - b. 50 feet long – 10 feet wider than driveway.
 - c. Same construction standards as indicated in subparagraph 4.
All branches and shrubbery shall be cut back to a distance of 5 feet beyond the edge of the pull off areas as provided in subparagraph

6. All vegetation, trees and shrubbery must be cut back so that a 10-foot clearance height is provided. All branches and shrubbery shall also be cut back to a distance of 15 feet on either side of the centerline of the traveled surface portion of the private drive.
7. All curves and bends in the surface shall be constructed to safely transport a fire truck with cab and trailer so that this vehicle is confined to the 14-foot surface width.
8. At the end of the private drive, a cul-de-sac or turn around area shall be provided for emergency vehicle use. The minimum

(d) Plan Submittal and Review.

1. The applicant shall submit construction, site, and drainage plans to the Village Clerk's office indicating dimensions, locations, and construction materials as needed/requested by the Village. The plans shall be drawn to scale and not exceed 1 inch = 50 feet for private streets and 1 inch = 200 feet for private drives. The applicant shall submit copies of the plans as determined by the Village Plan Commission.
2. The Village Engineer shall review the plans for compliance with this ordinance and forward recommendations to the Village Plan Commission for review. Village Plan Commission approval is required prior to building permit issuance.
3. The private driveway or street shall be completed prior to an occupancy permit being issued.
4. The Village Building Inspector or designee may inspect the private driveway and streets at the following stages:
 - a. After subgrade is grade.
 - b. After stone/gravel is installed.
 - c. During asphalt installation (for private streets).
5. The cost of reviewing the plans by the Village Engineer or other Village officials, as well as any inspection services required to ensure installation of the private drive and/or private street in accordance with this ordinance, shall be borne by the property owner. The property owner shall reimburse any such expense within 30 days after invoicing, and if not reimbursed, shall constitute a special assessment upon the property in accordance with the provisions of §66.60(16), Wis. Stats.

(e) Alternative Standards for Access from State or County Highways.

Notwithstanding the standards for a “private street” in accordance with this Section 17.13(3), if a shared driveway providing access to a maximum of two (2) residential units in with ingress and egress from any public right-of-way under the jurisdiction of the State of Wisconsin or Waukesha County, may be allowed without constructing a “private street” if the access has approval of and is designed in accordance to the standards established by the State or County. The Village Board shall require, and the Plan Commission may recommend the establishment of an easement and terms of easement and usage to ensure permanent safe, proper and emergency accessibility to both residential units. This standard is in place to allow suitable development of property as allowed by the Village of Dousman Comprehensive Plan and this Chapter 17 that may be otherwise not be allowed by onerous design standards by the State or County to create a private street. Nothing in this paragraph shall prevent the future redevelopment of the properties of the two residential units with additional residential units including access from a private or public street

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- (3) **NO UNDESIRABLE STRUCTURES OR USES.** (Rn. #256) No building or structure shall be erected, structurally altered or relocated and no lumber, materials, furniture or other equipment shall be stacked, piled or stored in a manner which shall be of such character as to have a substantial adverse effect on the property values or general desirability of the neighborhood. A motor vehicle which is no longer licensed, that has been abandoned, disassembled, is inoperable, disabled, junked or wrecked shall not be stored anywhere on any premises, except in an authorized salvage yard or is completely enclosed in a structure.

(a) The Building Inspector shall submit any such case in question to the Village Board for its determination.

(b) The Village Board shall base its determination upon the following considerations:

1. Design or appearance of such unorthodox or abnormal character in relation to the surroundings as to be considered unsightly or offensive to the degree that would have a substantial adverse effect on the property values and general desirability of the neighborhood.
2. Identical design and appearance with proximate buildings to the degree that monotony and commonness would have a substantial adverse effect on the property values and general desirability of the neighborhood.

(c) The decision of the Village Board shall be stated in writing, including the reason for refusing a permit or any conditions of approval.

- (4) **STREET GRADE.** (Rn. #256) Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Building Inspector as being in satisfactory relationship with the establishment street grades or with the existing street grade where one is established, with particular consideration for proper drainage and safe vehicular access.
- (5) **PRESERVATION OF TOPOGRAPHY.** (Rn. #256) In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving the natural beauty of the landscape, no change in the existing topography shall be made which would effect drainage or increase the slope to a ratio greater than 3 horizontal to one vertical within a distance of 20 feet from the property line. Exceptions to this requirement, including retaining walls, may be permitted with the written consent of the abutting property owner and the approval of the Plan Commission. In no case shall any slope exceed the normal angle of slippage of the material involved and all slopes shall be protected against erosion.
- (6) **REMAINING ACCESSORY BUILDING WITHOUT PRINCIPAL STRUCTURE.**
 - (a) When a land division is requested that creates a property with an accessory building or buildings without a principal structure and the intention is to construct a principal structure on the lot in question, prior to final approval of the land division of the following shall occur:
 - 1. The accessory structure shall be razed or otherwise removed from the lot.
 - 2. The property owner shall submit a cash bond or a Letter of Credit in an estimated amount to remove the accessory building as approved by the Building Inspector. The Letter of Credit shall be in a form approved by the Village Attorney. The property owner shall also submit an agreement to be bound by the requirements of this subsection in a form approved by the Village Attorney, and accepted by the Village Board. The cash bond or Letter of Credit shall remain in force for a period of two full years. IF the following occurs, the Village shall have the authority, nit not the obligation, to enter the property with such equipment, employees and contractors as Village deems necessary to remove the accessory building utilizing the cash bond or Letter of Credit for removal expenses, and the property owner and all those claiming through the property owner shall have no recourse against the Village foe any damage to land or structures or for any salvage value for the structure or any items therein:

- a. A building permit is not issued for a principal building on subject lot within six months (180 days) of acceptance of the cash bond or Letter of Credit by the Village Board.
- b. Final occupancy is not granted by the Building Inspector for the principal building within 24 months (720 days) of acceptance of the cash bond or Letter of Credit by the Village Board.

The property owner shall place a deed restriction and grant an access easement to the Village with the land division in a form approved by the Village Attorney, incorporating the following requirements. If a building in the subject property within 6 months (180 days) of recording of the land division, or if final occupancy is not granted by the Building Inspector for the principal building with 24 months (720 days) of the recording of the land division, the Village shall have the authority, but not the obligation, as follows. The Village may enter the property with such equipment, employees and contractors as Village deems necessary to remove the accessory building or buildings, and the Village expense to remove the accessory building or buildings shall be placed on the property tax bill pursuant to Wisconsin Statutes Section 66.0627, constituting a lien on the property, and the property owner and all those claiming through the property owner shall have no recourse against the Village for any damage to land or structures, or any salvage value for the structures or any items therein.

- (b) Should the principal structure be granted final occupancy with 24 months (720 days) as indicated above, either the cash bond shall be returned, the Letter of Credit released, or the deed restriction removed only after approval by the Village Board.

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17.14 DRAINAGE REGULATIONS. (Rep. & recr. #256)

- (1) **ADEQUATE DRAINAGE REQUIRED.** No principal building shall be erected, structurally altered, or relocated on land which is not adequately drained at all times nor which is subject to periodic flooding, nor so that the lowest floor level, including any basement floor is less than one foot above the highest anticipated seasonal groundwater level. The highest anticipated seasonal groundwater elevation shall be determined by the Building Inspection Department at the time of excavation for the lowest floor. The Building Inspector may request test holes to be excavated to a level one foot below the planned lowest floor elevation prior to the footing inspection approval. The inspector will be looking for groundwater that fills the test hole. The Building Inspection Department may request test holes be dug or a soil boring inside the building pad are if prior evidence such as soil boring(s) or soil maps show signs of high groundwater.
- (2) **OBSTRUCTION TO DRAINAGE PROHIBITED.** The damming, filling, relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with the approval of the Village and (as applicable) the Department of Natural Resources Chapter 30 permit.
- (3) **BUILDING RESTRICTED ADJACENT TO DRAINAGE CHANNELS OR WATER COURSES.** No building other than a bridge, dam or revetment subject to the aforesaid approval, shall be erected, structurally altered or relocated within the average annual high water line of such natural water course nor so that the lowest floor of said building is less than the average annual high water line or 100-year flood elevation.

17.15 SANITATION AND WATER SUPPLY.

- (1) **SAFE SEWAGE DISPOSAL POSSIBLE.**
 - (a) No principal building shall be erected structurally altered or relocated unless it has been certified by the Building Inspector or Plumbing Inspector that it conforms to all Village ordinances and other governmental laws and regulations then applicable to sewage disposal systems and that satisfactory evidence has been submitted to show that suitable provisions for disposal of sewage is possible for the proposed use on the lot. If it is not served by an approved municipal or other State approved sewage disposal system, a Waukesha County sanitary system permit shall be required for all new private systems.

- (b) While every attempt has been made through control of minimum lot size, building location and plumbing standards to insure that proper disposal of sewage will be provided on any lot, it is recognized that no such standards will completely insure adequate disposal in every situation. This section has been written for the purpose of giving the community the authority to require whatever additional provisions are necessary to prevent a sanitary problem from developing in a situation where the normal requirements will not insure a proper sewage disposal.
- (2) **OUTHOUSES PROHIBITED.** No outhouse shall be hereafter erected, shall only be permitted on construction sites for 6 months unless extended by the Building Inspector. Porta potties for special events are
- (1) **WATER SUPPLY REQUIRED.** No occupancy permit shall be issued for a building issued for residence purposes unless provisions is made for a safe and adequate supply of water or connection is to be made to an improved municipal or community water system. Where a building is proposed in an area served by a community water system or municipal system, no private wells will be permitted unless specifically approved by the Village Board.
- (2) **TEMPORARY SANITARY SYSTEMS.** Porta-potty or metro toilets permitted for no more than a week unless by the Building Inspector.

17.16 USE REGULATIONS.

- (1) **USES RESTRICTED.** In any district, no building or land shall be used and no building shall be hereafter erected, structurally altered or relocated except for the uses as hereafter stated for that district, or as permitted as a conditional use per §17.35 and §17.36 of this chapter.
- (2) **ACCESSORY USES.** In any district, accessory buildings, structures and uses customarily incident to the permitted uses in that district shall be permitted subject to such requirements as may be hereafter designated for that district in which they are located or as further regulated in this chapter.
- (3) **UNCLASSIFIED USES.** Any use not specifically listed as a permitted use shall be considered to be prohibited except as may be otherwise specifically provided hereinafter per §17.36. In case of questions as to the classification of a use, the questions shall be submitted to the Plan Commission for determination.
- (4) **ADDITIONAL REQUIREMENTS.** Any use in any district which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood may require correction or improvement by such measures as are directed by the Village Board consistent with reasonable technological and economic practicability. Any building determined to be unfit for human habitation or which may endanger the health, safety and welfare of the public, as may be determined by the Village Board, shall be removed pursuant to the procedures outlined by the Wisconsin Statutes.

17.17 BUILDING LOCATION. (Rep. & recr. #256)

(1) SETBACKS.

- (a) The setback lines from which building setbacks shall be measured is the right-of-way line for all streets, highways and approved access ways in the Village.
- (b) Vision setback lines at the intersection of public streets or highways and of a street or highway with a railroad where the grade is not separated are hereby established as follows:
 - 1. Across each sector between the intersection of a street or highway with a railroad, a vision setback line shall be established by a straight line connecting points on the base setback line and the railroad right-of-way line, which points are located 120 feet from the intersection of these 2 lines.
 - 2. Across each sector between intersecting streets or highways, one or more of which has an established width of 100 feet or more, a vision setback line shall be established by a straight line connecting 2 points on the intersecting base setbacks lines, which are located 60 feet from the intersection.
 - 3. Across each sector between any other intersecting streets, a vision setback line shall be established by a straight line connecting 2 points on the intersecting base setback lines which are located 30 feet from the intersection.
- (c) No principal building or its accessory buildings shall be erected, altered or placed so that any portion is closer to the base setback line than the setback distance hereafter specified by the regulations for the district in which such building is located, with the following exception:
 - 1. On STH 67 and USH 18 the setback line shall be 50 feet from the road right-of-way line.
- (d) The required setback may be decreased in any residential or business district to the average of the existing setback of the abutting structures on each side, but in no case less than 15 feet in any residential district and zero feet in the Downtown Business District. The 50-foot setback required along state highways may not be decreased.

- (e) No other structure of any kind, except necessary highway and traffic signs, public utility lines, drainage structures, rural mailboxes, newspaper boxes and open stairs extending 6 feet or less from the enclosed portion of the structure shall be hereafter erected, altered or placed within such base setback areas. Private retaining walls, guard posts or other landscape structures shall not be permitted unless placed below the street centerline elevation.
 - (f) In the vision setback area no structure of any kind shall be permitted which exceeds a height of 3 feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines and fences (50 percent open construction) through which there is a clear vision, nor shall any plan material be permitted which obscures safe vision of the approaches to the intersection.
 - (g) Additions to and replacements of existing structures may be made within the established setback areas as long as they do not further encroach into the setback area, subject to approval of the Plan Commission and provided the owner will file with the Village and agreement in writing which shall be recorded in the Waukesha County Register of Deeds' office to the effect that the owner will remove all new construction additions and replacements erected after the adoption of this chapter at his expense, when necessary for the improvement of the highway.
 - (h) In all cases where any of the highways for which setback lines are established by this chapter are located on municipal boundaries, such establishment shall apply only within the incorporated area.
- (2) **SIDE-YARDS.** No principal building shall be hereafter erected so that any portion thereof is closer to any lot line than the side yard distance specified by the regulations for the district in which such building is located, with the following exceptions:
- (a) In the case of any lot of record which has a minimum average width less than that required by the district in which it is located, the offset from a side lot line may be reduced proportionately to the ratio between the actual minimum average width and the required minimum average width for principal buildings only, however, that no side yard offset shall in any case be less than 6 feet.
 - (b) Patios as defined shall not be permitted within 6 feet of a side lot line. Side yards on decks may be reduced to 60% of the distance between the principal structure and the lot line otherwise required for principal structures in the district in which such deck is located, but shall in no case be located within 6 feet of the lot line.

- (c) Where a lot abuts a district boundary line, the side yards from such line in the district of less restricted use shall not be less than the required for the district of more restrictive use.
- (d) In the case of multiple family or commercial use structures as defined by COMM 61-65, Wis. Adm. Code, the side yards may be modified as follows:
 - 1. Two or more buildings on adjoining lots may be erected with common or directly adjoining walls, provided the requirements of the Building Code relative to such construction are complied with and provided that at both ends of such "row" type buildings the applicable offset requirements shall be complied with.
 - 2. The required side yard may be reduced on one side of a structure, provided the side yard on the side is increased by an equivalent amount and provided the owners of any property adjoining the area of reduced side yards shall file with the Village Board a copy of a recorded deed restriction stipulating that no building shall be erected on the property so as to reduce the combined side yards in such case to a distance less than that resulting from the normal application of the minimum side yard requirements to both properties, except as permitted under subsection (1) above.
- (3) MAINTENANCE AND USE OF SETBACK AND SIDE YARD AREAS. Any such required setback or side yard shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for the storage or display of equipment, products, vehicles or any other material.
- (4) VILLAGE UTILITY BUILDINGS. Village owned and Utility Buildings and Utility Structures may be located closer to the lot line than described in this section and closer than described in the regulations for the district in which such building or structure is located, as approved by the Village Board based on the need and design for the utilities serving the public, provided that the minimum setback shall be 5 feet and the minimum side and rear yard offset shall be 6 feet.

17.18 HEIGHT REGULATIONS.

- (1) **MAXIMUM HEIGHT RESTRICTED.** In any district no building or structure shall be hereafter erected or structurally altered to a height in excess of that specified by the regulations for that district.

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- (2) **EXCEPTIONS.** The following shall be expected from the height regulations of all districts:
 - (a) Chimneys and flues.
 - (b) Subject to the approval of the Plan Commission and Village Board, cooling towers, elevator bulkheads, fire towers, monuments, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts, aerals, silos, grain elevators, T.V. discs, solar panels, wind energy converters and necessary mechanical appurtenances. Some of the structures listed above must also comply with Section 17.20(5) of this chapter and any of the appropriate village ordinances.
- (3) **INCREASE PERMITTED.** The maximum height of any structure may be increased by not more than 10 feet, providing all required offset and setbacks are increased by one foot for each foot which such structure exceeds the height limit of the district in which it is located subject to approval of the Plan Commission and Village Board.
- (4) **FENCES.** (Rep. & recr. #296) See Section 17.20(4).

17.19 AREA REGULATIONS.

- (1) **FLOOR AREA.**
 - (a) Any building intended in whole or part for residential purposes shall provide a minimum living area as hereinafter specified by the regulations for the district in which such building is located. Such minimums are stated in terms of the minimum total living area required for a building and that portion of the total which must be provided on the first-floor level. Such minimum total shall be increased by 100 square feet for any building not having a basement of at least 300 square feet in area.
 - (b) Living area shall be measured at each level from the outside edge of wall to outside edge of wall and for purposes of computing total minimum living area shall not include garages, other outbuildings, open porches or basements. Breezeways, exposed basements, split levels and the secondary floors of multi-storied residence may be included in computing total minimum area according to the following schedule:

2/11/08

1. That portion of the basement of an exposed basement residence or split level which has been designed as an integral part of the living area of the home may be included in computing total minimum living area when at least one side is exposed and access has been provided to the outside at grade level by means of at least one door. Such computations shall maintain a minimum basement floor area of 300 square feet.
 2. That portion of the second floors of multistoried buildings which have a minimum distance the ceiling face and the top of the first floor ceiling joist of 7 feet, may be included in computing the total minimum living area, provided there are permanent stairways leading from each floor to the next floor.
 3. In a split level building the first-floor living area shall include all area which is not over another living area of the building.
- (c) The Board of Appeals may grant an exception to permit a building of less than the required minimum living area where such grant would not be contrary to the spirit or intent of this chapter, would not be of such character or quality as to depreciate the property values of the surrounding area and provided that in no case shall a minimum floor area of less than 900 square feet be permitted.

(2) LOT SIZE.

- (a) No lot shall be hereafter created and no building shall be erected on a lot of less area or of minimum average width less than specified by the regulations of the district in which such building is located or is a preexisting legal lot of record.
- (b) For the purpose of this chapter, the lot area shall be measured from the base setback line.
- (c) The lot shall be at least as wide as the specified minimum average width for a distance of at least $\frac{1}{2}$ the lot depth.
- (d) No lot area shall be reduced by any means so as to create a lot of less than the required size or so that the existing offsets, setbacks, open space or lot area would be reduced below that required by the regulations for the district in which such lot is located.
- (e) Where a lot has less land area or width than required for the district in which it is located and was of a legal lot of record at the time of the passage of this chapter, such lot may be used for any purpose permitted in such district, but nor for residential purposes for more than one family provided, however, that in no case shall the setback and offset requirements be reduced, except by order of the Board of Appeals after due hearing or as otherwise herein provided. Such substandard lot shall be in a separate ownership from abutting lands. IF the abutting lands and the substandard lot shall not be sold or developed unless it has a minimum width of 60feet and minimum area of 7,500 square feet.

(3) OPEN SPACE.

- (a) To be considered useable and therefore, countable, such open space area shall be readily accessible and of a size and shape which can be reasonably considered to provide for the amenities and necessities of light, air, play space, garden, etc. Crop, pasture and wooded land may be included in computing such an open area.
- (b) No part of the open space provided for any building shall be included as part of the open space required for another building, except as herein provided for planned unit developments.

17.20 ACCESSORY BUILDING NUMBER, SIZE, PLACEMENT & HEIGHT.

(1) .Accessory Buildings Number, Size, Placement & Height.

- (a) Any accessory building erected, structurally altered or placed on a lot, parcel or property in the Village of Dousman shall conform to the standards per the zoning district as listed in the chart and noted below.

Standards for Detached Accessory Buildings per Zoning District

Zoning District	Maximum Number Allowed	Maximum Size of All Allowed Accessory Buildings Combined (See Note #1 Below)	Minimum Street Yard Setback (Front)	Minimum Side Yard Setback	Minimum Rear Yard Setback	Minimum Distance Between All Buildings	Maximum Height	Location within Lot
A Agricultural Land Preservation Transition	5	Property 3.0 acres or larger-3% of property size, up to 50,000 square feet. Less than 3.0 acres adhere to SR-1 below.	50 feet, except (See Note #2 Below)	20 feet except (See Note #2 Below)	20 feet, except (See Note #2 Below)	10 feet, except (See Note #2 Below)	25 feet, except maximum 40 feet with 1 to 1 relationship between height and setback (See Note #4 Below)	Any yard, but only one (1) structure can be closer to street than principal building
RR Rural Residential	5	Property 3.0 acres or larger-3% of property size, up to 25,000 square feet. Less than 3.0 acres adhere to SR-1 below.	50 feet	20 feet, except (See Note #3 Below)	20 feet, except (See Note #3 Below)	10 feet	25 feet, except maximum 40 feet with 1 to 1 relationship between height and setback (See Note #4 Below)	Any yard, but only one (1) structure can be closer to street than principal building
SR-1 Single Family Residence	2	864 square feet, except (See Note #5 Below)	30 feet, except (See Note #6 Below)	6 feet	6 feet	5 feet	17 feet	Side and Rear Yards Only
SR-2 Single Family Residence	2	864 square feet, except (See Note #5 Below)	30 feet, except (See Note #6 Below)	6 feet	6 feet	5 feet	17 feet	Side and Rear Yards Only
SR-3 Single Family Residence	2	864 square feet, except (See Note #5 Below)	35 feet, except (See Note #6 Below)	6 feet	6 feet	5 feet	17 feet	Side and Rear Yards Only
GR General Residence (See Note #7 Below)	2	864 square feet, except (See Note #8 Below)	30 feet, except (See Note #6 & #9 Below)	6 feet	6 feet	5 feet	17 feet	Side and Rear Yards Only, except (See Note #9 Below)
B-1 Downtown Business (See Note #7 Below)	1	864 square feet subject to Plan Commission review of size in relation to property size	NA	3 feet	3 feet	5 feet	17 feet	Rear Yard Only

Zoning District	Maximum Number Allowed	Maximum Size of All Allowed Accessory Buildings Combined (See Note #1 Below)	Minimum Street Yard Setback (Front)	Minimum Side Yard Setback	Minimum Rear Yard Setback	Minimum Distance Between All Buildings	Maximum Height	Location within Lot
B-2 Highway Business (See Note #7 Below)	2	864 square feet	NA	6 feet	30 feet	5 feet	17 feet	Rear Yard Only
LI Light Industrial (See Note #10 Below)	2	500 square feet, except (See Note #10 Below)	30 feet	6 feet	25 feet	5 feet	17 feet	All yards, subject to Plan Commission for proper site design
HI Heavy Industrial (See Note #10 Below)	2	500 square feet, except (See Note #10 Below)	30 feet	6 feet	25 feet	5 feet	17 feet	All yards, subject to Plan Commission for proper site design
P Public Properties (See Note #10 Below)	2	500 square feet, except (See Note #10 Below)	By Plan Commission review	By Plan Commission review	By Plan Commission review	5 feet	17 feet	By Plan Commission review
Q Quarrying (See Note #10 Below)	2	500 square feet, except (See Note #10 Below)	50 feet	20 feet	20 feet	5 feet	60 feet for quarrying, 17 feet other structures	By Plan Commission review
C-1 Conservancy	NA	Not Allowed in C-1	NA	NA	NA	NA	NA	NA
FW Floodway District	NA	If Allowed, (See Note #11 Below)	NA	NA	NA	NA	NA	NA
GFP General Floodplain	NA	If Allowed, (See Note #11 Below)	NA	NA	NA	NA	NA	NA
FF Flood Fringe	NA	If Allowed, (See Note #11 Below)	NA	NA	NA	NA	NA	NA
SF Shoreland & Floodland Overlay	NA	Allowed pursuant to the standards of the base zoning district	NA	NA	NA	NA	NA	NA

Note #1: The size of an accessory building is determined by the structure footprint in plain view, including any extended roof covering. The maximum size is the total combined size of all accessory buildings if multiple accessory buildings are allowed per lot in the zoning district. When maximum size of an accessory building or a combination of accessory buildings is based on the size of the property, the size shall be determined by the Village Planner from Plat of Survey, Certified Survey Map, Plat of Subdivision or tax assessment records.

Note #2: Farm Buildings housing animals in the Agricultural Land Preservation Transition District shall be located a minimum of 100 feet from any navigable water course, an existing dwelling or any property in the RR, SR-1, SR-2, SR-3 or GE zoning district.

Note #3: Farm buildings housing domestic livestock or poultry in the Rural Residence District shall be located a minimum of 50 feet from any property.

Note #4: The height of any accessory building between 20 and 40 feet must match all setbacks, for example a 35-foot accessory building height must have a minimum setback of 35 feet. In addition, the height of any accessory building between 25 and 40 feet must be proportionate to the size of the accessory building, pursuant to the approval of the zoning administrator.

Note #5: If the premises does not have an attached garage, the premises may have no more than two (2) accessory buildings with a total floor area square footage per accessory building to not exceed 864 square feet and a maximum combined floor area maximum for two (2) accessory buildings of 1,720 square feet. However, allowance of the combined floor area maximum of 1,720 shall not be allowed if a previously existing attached garage has been converted into living space. See also Section 17.20(2)

Note #6: Any accessory building located in a side yard cannot be located any closer to the street property line than the principal building.

Note #7 Any accessory building in the GR, B-1 and B-2 zoning districts require site plan and architectural review and approval by the Plan Commission.

Note #8: See Section 17.48(7)

Note #9: See Section 17.48(7)

Note #10: Any accessory building in the LI, HI, P and Q zoning districts require site plan and architectural review and approval by the Plan Commission. Any accessory building larger or combination of accessory building sizes larger than 500 square feet is required to meet the setback, height and location requirements that apply to a principal building in the district where located.

Note #11: If the Floodplain Districts and Standards of Section 17.59 allow the construction of an accessory building, the accessory building shall adhere to the standards for accessory buildings of the SR-1 zoning district.

NA = Not Applicable

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- (b) No accessory building shall be erected or placed on a lot, parcel or property until a principal building is existing or constructed on the same ,or, parcel or property.
 - (c) Any accessory building erected, structurally altered or placed on a lot, parcel or property in the Village of Dousman shall be constructed in such a way that the exterior appearance is compatible with the substantially and same materials and color as the principal structure on the lot, parcel or property. This determination shall be made by the Building Inspector, if the property owner feels the proposal is compatible and the Building Inspector has determined otherwise, the property owner may request a determination by the Plan Commission within 30 days of the Building Inspectors determination. The determination of the Building Inspector absent appeal to the Plan Commission, and the determination of the Plan Commission upon such appeal, shall be final and cannot be appealed to the Zoning Board of Appeals.
 - (d) Any use of an accessory building shall be accessory and incidental to the principal use and principal building in the same lot, parcel or property. An accessory building shall not be occupied as a residence.
 - (e) Any accessory building erected, structurally altered or placed on a lot, parcel or property shall not have any portion thereof closer than (5) five feet to the principal building or other accessory building on the same lot, parcel or property, except as regulated per zoning district in Section 17.20(1)(A).
 - (f) Any accessory building erected, structurally altered or placed on a lot, parcel or property shall meet applicable building code requirements.
- (0) GARAGES. (Rep. & recr. #222) A private garage at lease 400 square feet in area shall be required for each single family and duplex unit hereafter erected. Such garages shall be either attached to the principal building or detached as an accessory building and conform to the size, placement and height requirements of the zoning district in which the lot, parcel or property is located. 8/20/12
- (1) SWIMMING POOLS.
- (a) Use Permitted. Above and below ground swimming pools are permitted in any zoning district other than C-1 District, subject to the following:
 - 1. The pool must be intended to be used solely by the occupants of the principal use of the property on which the pool is intended to be located and their guests.
 - 2. Any pool, together with its surrounding walks, patios, diving platforms, bathhouses and accessory structures, shall be so located that the parts of the complex are conformity with the setback and side yard requirements of the applicable district.

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3. Every private swimming pool shall be completely surrounded by a fence or wall not less than 4 feet in height, but not to exceed 6 feet in height, which shall be so constructed as not to have openings, holes or gaps which would allow ease of access by unauthorized persons, except for doors or gates. A dwelling or accessory building may be used as part of such enclosure. All gates or doors opening through enclosures shall be equipped with an inside self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. The requirement of this subparagraph shall be applicable to all private swimming pools, including those constructed before the effective date of this section. Owners of private swimming pools constructed prior to the effective date of this chapter should be in compliance with this subparagraph. If an access ladder is provided, it shall be so designed so that it can be locked, tipped or otherwise placed to prohibit access to the pool by children.

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4. A temporary fence (snow fence, etc.) may be used while the pool is under construction. A permanent fence shall be constructed within 30 days after water is in the pool.
5. Aboveground pools with self-providing fencing to prevent unguarded entry shall be allowed without a separate additional fencing if such fence is of minimum height and design as specified herein. All access from grade to aboveground pools having ladders, stairs or ramps shall not have less than equal safeguard protection provided the pool proper.
6. The pool shall not be nearer than 10 feet to any residence.
7. The area of the pool shall not exceed 3% of the area of the lot.
8. Except for a properly installed diving board, access ladders or safety railing, there shall be an unobstructed area way of at least 3 feet around the entire pool on above ground pools.
9. Heating units, pumps and filter equipment shall in no case be less than 4 feet from grade and the Building Inspector determines from an inspection that, except for ladders or other access devices, the outside pool wall or decking is at least 4 feet from grade and provides no direct access to the pool.
10. The fence requirement may be waived by the Building Inspector if the pool is an aboveground pool, the deck of such pool is at least 4 feet from grade and the Building Inspector determines from an inspection that, except for ladders or other access devices, the outside pool wall or decking is at least 4 feet from grade and provides no direct access to the pool.

11. All overhead and below ground electrical wiring shall be at least 10 feet from the inside wall of any swimming pool.

(b) Permit Required. No swimming pool shall be constructed unless a permit has been issued by the Building Inspector in accordance with the Village ordinance governing the installation and maintenance of swimming pools.

(2) FUEL TANKS. All accessory structures involving the utilization or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and comply with all the requirements of the Fire Department and/or Building Inspector. All materials that range from active to intense burning shall be

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utilized and stored only in completely enclosed structures which have incombustible exterior walls. The aboveground storage capacity of materials that produce flammable or explosive vapors shall not exceed 500 gallons, unless approved by the Plan Commission or located within an Agricultural or Industrial

District. Fuel oil storage tanks shall comply with the Administrative Code requirements of DILHR. Gasoline storage tanks shall only be permitted in industrial and agricultural districts.

(3) [POLYSTRUCTURE] A polystructure, subject to the dimensional regulations of the Zoning Code, shall only be allowed for the purposes of housing plant materials associated with a nursery or greenhouse operation, whether retail, wholesale or private and shall not be used for storage of any other types of materials not directly related to the nursery or greenhouse operation unless otherwise specifically authorized as part of a conditional use under Section 17.35. This provision does not apply to the use of a polystructure as part of a general farm operation as defined at Section 17.45 of the Zoning Code on a parcel of 35 acres or more. (Cr. #231)

(4) DOCKS. (Cr. #247) In circumstances where on an outlot pursuant to Section 17.32(3) of this Code, that dock may cross over the lot line from the abutting outlot on to a residential lot provided that all of the following requirements and conditions are satisfied.

(a) The building permit application shall describe the location of the dock both on the outlot, and on the residential lot;

(b) The dock shall be designed to be a walkway, not a patio or deck;

(c) The dock shall be constructed at the same height as that portion of the dock which lies on the outlot;

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- (d) No portion of the dock shall be constructed closer than 6feet to the side lot line; and
 - (e) The dock shall be constructed entirely of wood materials, provided that wood materials that have been treated with arsenic or creosote are expressly prohibited.
- (5) FENCES. (Cr. #296) Fences are a permitted accessory structure in any district and shall comply with the following requirements:

(a) General Provisions. The following provisions apply in all districts:

1. All fences shall comply with the traffic visibility requirements set forth in Section 17.17(1)(b), (e) and (f).
2. Fences shall not be erected in the public right-of-way or in drainage easements.
3. Chicken wire, barbed wire, and electric fences are prohibited except as allowed on nonresidential property and for animal keeping and housing under the criteria specified under subsection (d).
4. All fences shall be constructed in such a manner that the finished side faces the neighboring property. Fence posts must be on the side of the fence facing away from the neighboring property unless the posts are equally visible on both sides of the fence.
5. Fences shall be upright and well maintained at all times.
6. Swimming pool fencing requires a permit. See Section 17.20(3)(a)(3. regarding additional requirements that are applicable to swimming pool fencing.
7. Fences do not require a separate permit from the Village, except as specifically required.
8. Fences are allowed in the street, side yard or rear yard in any district pursuant to the standards of Subsection 17.20(7)(b) and (c).
9. Only open fences, security fences or solid fences as defined at Section 17.04 are allowed.
10. Fences must comply with the standards set forth in this section.
11. Fences installed in violation of these regulations shall be removed. Any violations shall be enforceable by the provisions of Section 17.65 and 17.66.

(b) Residential Property. Property zoned and used for single-family or multi-family residential purpose may have fences meeting the following requirements:

	With Side and/or Rear Yards	Within Street yard	Within Double Frontage Lot Street Yard ¹
Fence Type Allowed	Open or Solid	Open	Open or Solid
Maximum Height	Six (6) feet	Four (4) feet	Six (6) feet
Location	Minimum one (1) foot from property line	Minimum two (2) feet from Base Setback Line	Minimum two (2) feet from Base Setback Line

¹ A street yard with no access to a state or county highway, or a Village arterial or collector street with the principle residential structure facing and having access to a Village minor street.

(c) Nonresidential Property. Property not zoned and used for single-family or multi-family residential purpose may have fences meeting the following requirements 12/23/10

1.

	Within Side and/or Rear Yards	Within Street Yard
Fence Type Allowed	Security	Open
Maximum Height	Eight (8) feet	Four (4) feet
Location	Minimum one (1) foot from property line	Minimum two (2) feet from Base Setback Line

2. Security fences may include up to four (4) strands of barbed wire on the top fence. The barbed wire shall be at least eight (8) feet above the grade with the vertical supports or the barbed wire either extending vertically or slanting inward away from the property line, and in that event the eight (8) foot height limitation may be exceeded only for purposed of the barbed wire extension. A fence with barbed wire shall not adversely affect the health, safety or welfare of the community or the immediate area where located, and will not impede the purpose, spirit and intent of this ordinance.

(d) Fences for Animal Keeping and Housing.

1. Fences for animal keeping and housing, allowed as a Conditional Use permit application pursuant to Section 17.36, shall be reviewed and approved on a case-by-case basis with the Conditional Use for the animal keeping and housing. The requirements of subsection © that would allow otherwise be required can be modified by specific grant of the Village Board as specified within the Conditional Use Order.

2. Fences for animal keeping and housing allowed as a Permitted Use in the applicable zoning district shall require Plan Commission review and approval. The Village Plan Commission may merit the construction of such fence upon finding that the property owner has shown clear and convincing evidence to believe that the applicant has a legitimate need for the fence in such location and that the fence will not adversely affect the health, safety or welfare of the community on the immediate area where located, and will not impede the purpose, spirit and intent of this ordinance.

Editor's note – Section 2 of Ord. No. 296, adopted Aug. 13, 2007, created provisions designated as subsection (4) to be added to §17.20. Inasmuch as there already exists such a numbered subsection, to avoid duplication, said provisions have been re-designated as subsection (7).

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17.21 SPECIAL USE SYSTEMS.

Special use systems, as herein defined, are permitted in any district other than C-1, when used solely by the occupants of the principal use and subject to the following:

- (1) **PERMIT REQUIRED.** A separate special use permit shall be required for each system. The permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (2) **BASIS OF APPROVAL.** The Village Board shall base their determination of general consideration as to the effect of such grant on health general welfare, safety and economic prosperity of the Village and specifically of the immediate neighborhood in which such use would be located. These considerations shall include the effect on the established character and quality of the area; its physical attractiveness; the demand for related services; the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, glare, dust, smoke or odor and such factors as would be appropriate to carrying out the intent of this chapter.
- (3) **SPECIAL USE PERMITS.**
 - (a) **Energy and Communications Systems; General.**
 1. **Approval Required.** No owner shall build, construct, use or place any type or kind of special use system within the Village without receiving the appropriate special use permit for such system.
 2. **Separate Permit Required for Each System.** A separate special use permit shall be required for each system. Such permit shall be applicable solely to the systems, structures, use and property described in the permit.

3. Basis of Approval. The Village Board shall base their determination on general consideration as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and specifically of the immediate neighborhood in which such use would be located,

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including such consideration as the effect on the established character and quality of the area; its physical attractiveness; the movement of traffic, the demand for related service; the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor; and such other factors as would appropriate to carrying out the intent of this chapter.

(b) Types of Special Uses.

1. Wind Energy Conversion Systems. Wind energy conversion systems, commonly referred to as “windmills”, are used to produce electrical power provided the following information requirements and standards shall apply:
 - a. Application. Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premises. The plat of survey shall show all properties to be served and the means of the connection to the wind energy conversion system.
 - b. Construction. Wind energy conversion systems shall be constructed and anchored in such manner as to withstand wind pressure of not less than 40lbs. per square foot in area.
 - c. Noise. The maximum level of noise permitted to be generated by a wind energy conversion system shall be 50 decibels, as measured on a dB(A) sachem measured at the lot line.
 - d. Electromagnetic Interference. Wind energy conversion system generators and alternators shall be filtered, shielded or both so as to prevent the emission of radio frequency energy that would cause any harmful interference with radio and television broadcasting or reception. If that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

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- e. **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this section, however, all such systems over 75 feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as part of the wind energy conversion system conditional use permit application.
 - f. **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than 6 feet in height. A sign shall be posted on the fence warning of high voltage.
 - g. **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing such interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.
 - h. **Compliance with Electrical Code.** The electrical portion of the installation shall comply with all provisions of the Village Electrical Code.
2. **Solar Energy Conversion Systems.** Solar energy conversion systems, commonly referred to as "active" or "passive" solar collection and heating systems, and including all systems as defined by §101.57(8)(b), Wis. Stats., provided that the following information requirements and standards shall apply:
- a. **Application.** Applications for the erection of a solar energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the conversion system and the means by which the energy will be provided to the structure or structures. The application shall include calculations showing that the structure is constructed to withstand any additional loading placed upon the structure by the installation of the solar energy conversion system.
 - b. **Construction.** Solar energy conversion systems shall be constructed and installed in conformance with all applicable conversion systems.

- c. Location and Height. Solar energy conversion systems shall meet all setback and yard requirements for the district in which they are located. Solar energy conversion systems shall conform to all height requirements of this chapter unless otherwise provided in the conditional use permit issued pursuant to this chapter.
- 3. Communication Systems. Communication systems, commonly referred to as cable television disks, dishes or devices provided that the following information requirements and standards shall apply:
 - a. Application. Application for the erection of a communication system shall be accompanied by a plat of survey for the property on which the system is to be located showing the location of the system and all other improvements on the property. If the system is intended to provide communication to more than one premises, the plat of survey shall show all properties to be served and the means of connection to the communication system. A copy of all agreements with the system users of the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system, if any, and provide assurance as to the safety features of the system.
 - b. Noise. The maximum level of noise permitted to be generated by a communication system shall be 50 decibels, as measured on a dB(A) scale, measured at the lot line.
 - c. Electromagnetic Interference. Communication system devices shall be filtered, shielded or both so as to prevent emission or radio frequency energy that would cause any harmful interference with radio or television broadcasting or reception. If that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the communication system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
 - d. Location and Height. Communication systems shall be located in the rear yard only, unless otherwise approved by the board, and shall meet all setback and yard requirements for the district in which they are located.
 - e. Compliance with Electrical Code. The electrical portion of the installation shall comply with all provisions of the Village Electrical Code and Ch. ILHR 16, Wis. Adm. Code

(c) Permit Procedures.

1. Approval. The Village Board is hereby designated the agency which approves special use permits.
2. Issuance. The Village Board hereby designates the Building Inspector as the official to receive, process and, following approval by the Village Board, issue special use permits.
3. Application. The permit application shall be made to the Building Inspector or forms provided by the Village. The application shall include the following information.
 - a. The name and address of the applicant.
 - b. The address of the property on which the special use will be located.
 - c. A survey of the property including indication of general terrain and topographical characteristics, the location of all significant terrain features, such as streams, ponds, tree growth, etc. and the location of all existing structures.
 - d. An accurate and complete written description of the use for which special grant is being requested including pertinent statistics and operational characteristics.
 - e. Plans and other drawings showing proposed development of the site and buildings including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 - f. Any other information which the Building Inspector may deem to be necessary to the proper review of the application.
4. Review and Referral. The Building Inspector shall review the application and, if the application is complete and contains all required information, refer it to the Village Board.
5. Hearing. Upon referral of the application, the Village Board may schedule a public hearing thereon as soon as practical and pursuant to provisions of §17.35 and §17.36 of this chapter, the Village Board shall notice such hearing as deemed appropriate.
6. Determination. Following public hearing and necessary study investigation, the Village Board shall, as soon as practical, render its decision in writing and a copy made a permanent part of the Village Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted and any and all conditional made applicable thereto or, if disapproved, shall indicate the reasons for disapproval. The Village Board may impose any conditions or exceptions necessary to minimize any burden on any persons affected by granting the special use permit.

7. Termination. When special use does not continue in conformity with the conditions of the original approval or where change in the character of the surrounding area of the use itself cause it to be no longer compatible with surrounding areas or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Village Board following a public hearing thereon.
8. Changes. Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Village Board and, if in the opinion of the Village Board such change or addition constitutes a substantial alteration base on the standards set forth in subpars. 1.c. and 3., a public hearing before the Village Board shall be required and notice thereof be given pursuant to §17.63 of this chapter.

(d) Requirements.

1. Standard Requirements.
 - a. Except as may be specifically otherwise provided, any such special use shall conform to the building location, height, building size, lot size and open space regulations of the district in which it is located.
 - b. Building, site and operation plan of the proposed use shall be submitted for approval of the Village Board. Such plans shall be in sufficient detail to enable the Board to evaluate the suitability of architectural and landscape treatment; proper location of the building or buildings on the lot; satisfactory provision for parking and circulation needs, drainage and sewage disposal and adequate planting screen where necessary to eliminate noise, dust, odor, smoke or other objectionable operating condition; and the general compatibility of the proposed use with the area in which it is located.
2. Special Requirements. In addition to the general standards and requirements as stated in this section, such special uses shall be subject to more specific standards and requirements pertinent to the particular use, which standards and requirements may be set out in a supplementary guide for special use regulation adopted by the Board and modified from time to time in order that they reflect the best and most contemporary of regulatory practices.
3. Modification of Regulations. Requirements applicable to uses by the regulations of this section may be modified or waived by the Board in their application to special use if in the Board's opinion they are not appropriate or necessary to the proper regulation of the special use and where such modification or waiver would not in the Board's opinion result in adverse effect upon the surrounding properties.
4. Accessory Uses and Structures. Uses and structures accessory to a principal special use may be permitted subject to appropriate regulations in the same manner as previously set forth for the principal special use.

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- (e) Appeal Process. Any person aggrieved by a determination by the Village Board under this section may appeal the determination as provided by the Village.
- (f) Reservation of Rights. The transfer of title to any property shall not change the rights and duties under this section.
- (g) Approval does not waive permit requirements. The approval of a permit under this section shall not be construed to waive the requirement to obtain a building or plumbing permit prior to installation of any system.
- (h) Other permits. It is the responsibility of a permit applicant to secure all other necessary permits required by any State, federal or local agency. This includes, but is not limited to, a water use permit pursuant to Chs. 30 and 31, Wis. Stats., or a wetland fill permit pursuant to §404 of the Federal Water Pollution Control Act.

17.22 OFF-STREET PARKING. (Am. #256)

- (1) **SPACE REQUIRED.** Any building erected shall be provided with off-street vehicle parking space not more than 400 feet at the nearest point from the building served and to be used exclusively by the residents, patrons or employees of the building. Parking stalls shall be striped out on the pavement with a minimum of a 3-inch wide marking. A parking space shall be 9 feet in width and 20 feet in depth for 30, 45, 60- and 90-degree stalls and 25 feet in depth for 0-degree stalls, i.e. parallel parking stalls. There shall be at least 24 feet between opposite facing parking stalls and 24 feet minimum width for internal parking lot drives and for ingress and egress driveways. The following schedule shall be utilized to determine the number of parking spaces required for the various uses.
 - (a) Single or Multifamily Dwelling Unit. Two spaces per unit. Garage space can be used to satisfy this requirement.
 - (b) Auditoriums, Churches, Theaters, Community Centers and Other Places of Public Assembly. One space for each 3 seats provided.
 - (c) Retail Business Establishments. Seven spaces per 1,000 square feet of sales areas plus one space per 2 employees. This requirement does not apply to the area of the building utilized for storage purposes. No additional space will be required for such storage space.
 - (d) Restaurants, Taverns, Clubs, Etc. Seven spaces per 1,000 square feet of gross seating area plus one space per 2 employees. This requirement does not apply to the area of the building utilized for storage purposes. No additional space will be required for such storage space.

- (e) Wholesale and Other General Business Establishments. One space for each 2 employees during any 12-hour period and one space per 300 square feet of office floor area.
- (f) Office Buildings. One space for each 300 square feet of floor area, with a minimum of one space for each 2 employees.
- (g) Medical and Dental Clinics. Five spaces for each doctor and one space for each employee.
- (h) Industrial Buildings and Warehouse Buildings. One space for each 2 employees during any 12-hour period and one space per 300 square feet of office floor use.

Sanitariums, Institutions, Rest Homes, Nursing Homes. One space for each 2 beds plus one space for every 2 employees.

- (i) Senior Living, CBRF and Assisted Living Facilities. One space for every 3 dwelling units.
 - (j) Hospital. One space for each 2 beds plus one space for every 2 employees.
 - (k) Hotels and Motels. One space for each guestroom plus one space for every 2 employees.
 - (l) Colleges, Vocational and Night Schools, Secondary and Elementary Schools. One space for each employee plus one space for every 2 students. At elementary and secondary schools, the number of stalls
 - (m) Multiple Use Facilities. Shall be based upon a maximum space requirement as determined by the Plan Commission.
- (2) **ADJUSTMENTS TO REQUIRED PARKING.** The Plan Commission may grant relief to the parking regulations for expansion of existing uses and changes in existing business and industrial uses.
- (3) **RESIDENTIAL PARKING.** Parking of vehicle accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for quests. Vans, cube vans, panel trucks, motor homes, recreational vehicles or pick-up trucks used for private and recreational use or one similar vehicle used in a business for transportation to and from a place of employment may be parked on a residential property as long as such use does not become a nuisance to the surrounding neighborhood. Parking vehicles that have a larger than one-ton load capacity such as semi-tractors, dump-trucks, etc. requires a conditional use permit.
- (4) **PARKING OF TRUCKS AND EQUIPMENT.** No other vehicular equipment of a commercial or industrial nature, as expected in subsection (3) above, shall be parked or stored for more than 2 consecutive hours and 4 cumulative hours during any 24hour period on any lot in any zoning district, except business or industrial districts or as follows:
- (a) Agricultural equipment (such as farm tractors, plows, seeders, combines, cultivators, farm trucks, etc.) used in a farm operation and located within an agricultural district.

- (b) One panel, van or pick-up truck used in the conduct of conforming business activity being carried on in a residential or agricultural district. The Board of Appeals may, if the need is evident, permit more than one such vehicle of the Board of Appeals and Plan Commission indicate they have no objection to the increase in the number of such vehicles. No limitation shall be placed on vans or pick-up trucks if they are used for private nonbusiness or noncommercial recreational purposes.
- (5) SURFACING. Any off-street parking area, other than that provides for a single-family residence, having a capacity for more than 4 vehicles shall have a hard surface installed with bituminous asphalt, concrete or Plan Commission approved materials, unless waived by the Plan Commission.
- (6) SCREENING. Any off-street parking area, other than that provided for a single-family residence, which abuts or faces a residential district shall provide a planting screen, landscaped fence, or wall at least 4 feet in height along the side abutting or fronting on a residential district. However, no screening may be installed in a vision corner.
- (7) SIDE YARD.
 - (b) In any off-street parking area, other than that provided for a residence, which abuts a residence district, no vehicle shall be allowed to park closer than 10 feet to the abutting residential lot line. No vehicle may be parked in a vision corner
 - (c) Surfaced residential driveways or parking areas must be at least 6 feet from the adjacent property line and landscaped with vegetative material.
- (8) SETBACK. No vehicle shall be parked closer than 10 feet to the base setback line, side lot line, rear lot line or within a vision corner.
- (9) LIGHTING. Lights provide in any parking area shall be hooded or beamed so as not to create undesirable glare or illumination of adjacent residential property.

17.23 OFF-STREET LOADING AND UNLOADING.

- (1) REQUIRED. In any business or industrial district an off-street loading space shall be provided at the time any building or structure is erected, enlarged or increased in floor area or capacity, changed in use or otherwise changed to create a need for parking or loading.
- (2) SPACES. Efficient spaces for loading or unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that adjacent streets and alleys shall at all times be free and non-obstructed to the passage of traffic.
- (3) AREAS. Each such loading space shall have an area at least 10 feet wide by 45 feet long, and with a minimum of 14 feet height clearance.

17.24 SIGNS. All signs erected or modified within the Village of Dousman shall be constructed and maintained in accordance with and subject to the provisions of this Section 17.24 and any amendments thereto which may hereafter be adopted by the Village.

(1) **PURPOSE AND INTENT.** The purpose and intent of this section is to provide for and regulate the area, number, location, construction, maintenance and overall design of signs in a manner compatible with the use or uses on the subject property, compatible with surrounding land uses, and promotes public welfare and community aesthetics.

(2) **GENERAL SIGN REGULATIONS.** The following general sign regulations shall apply to all signs within the Village of Dousman.

(a) **Compliance.** No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without first complying with the provisions of this Section 17.24.

(b) **Submittal for Sign Permit.** If a permit is required for a sign, the application shall be filed with the Building Inspector who shall review the application for its accuracy and completeness with this Section 17.24. The Building Inspector shall approve or deny the permit application. If the proposed sign is of such design or character that compliance with this Section 17.24 is questioned by the Building Inspector, the application may be referred to the Village Plan Commission for review and recommendation. The Plan Commission shall review the referral in accordance with the Purpose and Intent statement and standards of this Section 17.24.

(c) **Application for Sign Permit.** If a permit is required for a sign or if an existing sign requiring a permit is substantially altered, application for a permit shall be made on forms provided by the Building Inspector and made available in the Village Clerk's office, and shall contain, or have attached thereto, the following information:

1. Name, address, and telephone number of the applicant; location of the building, structure, or lot to which, or upon which, the sign is to be attached or located.
2. Name of person, firm, corporation or association erecting the sign.
3. Written consent of the property owner or lessee of the building, structure, or land which, or upon which, the sign is erected, if the applicant is not the property owner or lessee.
4. A scale drawing (and scale sectional drawing) of such sign indicating the dimensions, the type and color of materials to be used, the type of illumination, if any, and the method of construction and attachment.

5. A scaled site survey indicating the location and position of such sign in relation to nearby buildings, structures, lot line, vehicular and pedestrian access ways, public and private right-of-way, and existing signs on the parcel or on adjacent parcels within 50 feet. The scaled site survey shall be a maximum 1-inch equals 100 feet or as approved by the Building Inspector.
6. Copies of any other permits required, and issued, for said sign, such as an electrical permit for an illuminated sign.
7. Additional information as may be required by the Building Inspector or the Village Plan Commission if so referred.

(d) Approval of Sign Permit. If the complete sign permit application conforms to the standards within this Section 17.24 and any other applicable code, such as electrical, the Building Inspector shall issue the permit on an authorized placard after the applicant provides the sign permit fee and any other required permit fee to the Village as required by the Village Fee Schedule. A sign permit shall become null and void if work authorized under the permit has not been completed within six (6) months of the date of permit issuance.

(e) Denial of Sign Permit Application. If the sign permit application does not conform to standards within this Section 17.24 or any other applicable code, the Building Inspector shall inform the applicant of the reason(s) for denial of said permit in writing within 30 days of submittal of the complete application.

(f) Measuring Sign Display. In calculating the sign display area to determine whether it meets the requirements of this section, the Building Inspector shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the sign display area calculation. Sign display area of irregular shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.

(g) Sign Illumination and Nuisance Prevention. Illumination of all signs permitted in the Village must conform to the following restrictions:

1. Signs which are internally illuminated shall not face adjacent lands which are zoned for, or used as, single family or duplex use.
2. Signs shall not resemble, imitate, or approximate traffic or railroad signs, signals, or devices; shall not cause glare, mislead or confuse traffic, or impair driver visibility on public ways, private roadways, or adjoining properties; shall not be flashing, revolving, blinking, strobe, or animated, except for the display of the time and temperature as approved by the Village Plan Commission.
3. No illuminating elements of any kind may be visually exposed.
4. The level of illumination shall follow Section 17.29(7), exterior lighting standards.

5. Signs shall conform to the requirements of the COMM 16 (National Electrical Code).
6. Signs shall not be constructed, operated, or maintained so as to constitute a nuisance to adjoining properties, or materially affect or detract from the value of the adjoining properties.

(h) Electronic Message Centers. Electronic Message Centers, as defined, shall be allowed with the following standards.

1. The electronic message center shall be a portion of a freestanding sign or a wall supported sign providing other sign copy, such as the name of a business. The electronic message center can be a directory sign advertising multiple businesses located on the same property as the subject sign, or as an allowed shared frontage sign.
2. The electronic message center shall not provide images that flash, revolve, blink, strobe or are animated or any other traveling messages or similar actions that convey motion.
3. The electronic message center may provide the display of time and temperature.
4. The electronic message center informational cycle shall be no shorter than ten (10) seconds.
5. The electronic message center shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast in relation to the ambient outdoor illumination. At no time shall the sign brightness cause glare or temporary blindness to drivers of vehicles along the abutting right-of-way. The sign owner shall adjust the brightness and contrast to an acceptable level if so, directed by the building inspector.
6. The electronic message center shall conform with all other applicable standards of this Section 17.24.

(i) Sign Construction and Maintenance Standards.

1. Wind Pressure and Dead Load Requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 20 pounds per square foot of area.
2. Protection of the Public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.
3. Maintenance. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a work or damaged legal, conforming sign to its original condition, and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds and grass.

4. **Supporting Members or Braces.** Supporting members or braces of all signs shall be constructed of galvanized iron, pressure-treated wood, steel, copper, brass, or other non-corrosive, fire resistant material. Every means or device used for attaching any sign shall make use of sound engineering practices.

5. **Sign Placement for Fire Safety.** No signs or any part thereof or sign anchors, braces, or guy rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any anchor, brace or guy rod shall be erected, constructed or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the Village, as necessity may require.

6. **Sign Placement for Visibility.** A sign shall not be located within any vision setback as required by this chapter.

(j) **Existing Nonconforming Signs.** Signs with a valid permit lawfully existing at the time of the adoption or amendment of this Section 17.24, which do not conform with the provisions of this section, may be continued as an existing nonconforming use as defined in this chapter.

(k) **Shopping Center Master Sign Plan.** The owner of a shopping center, as defined, may deviate from sign size and number of signs standards of this Section 17.24 by submitting a master sign plan for the entire site for Village Board approval under Planned Unit Development process and standards within this chapter. In recommending the deviations by the Plan Commission, and approval of the deviations by the Village Board, the approval shall adhere to the purpose and intent statement of this Section 17.24 and the standards to approve of a Planned Unit Development. The approved master sign plan shall become the regulations for signs for the shopping center.

(l) **Sign Examples.** The building inspector may maintain drawings or photographs of example signs as a guide to sign permit applicants of how to implement the sign standards within this Section 17.24.

(3) **DEFINITIONS.** The following definitions shall apply to words, terms and phrases within this Section 17.24.

(a) **Actively Marketed.** Actively marketed means (1) proactive measures are being taken to connect and engage with potential customers, which may include listing with a real estate agent, publishing advertisements in a newspaper or other print publications, or engaging in online advertising activities, such as posting on a website; and (2) these actions are repeated, updated, and modified regularly to continue to seek engagement with potential purchasers. The mere fact of placing a sign on a lot does not itself demonstrate that the property is being actively marketed.

(b) **Building Inspector.** The person or team of individuals assigned by the Village Board to ensure compliance of construction projects with federal, state and Village codes through review and issuance of permits, inspections and code enforcement within the Village, including signs.

- (c) **Business Zoned Property.** Any property with an assigned zoning district of Downtown Business District or Highway Business District.
- (d) **Copy.** Sign legend or message.
- (e) **Development Identification Sign.** A sign whose purpose is to indicate the presence of a residential subdivision or multi-family development.
- (f) **Directory Sign.** A sign or a portion thereof that identifies the names of tenants in a multi-tenant building or a development made up of a group of buildings advertising two (2) or more businesses on the same property, or as an allowed shared frontage sign. The directory sign shall be part of a freestanding ground or pole signs located on the same property of the tenants so identified on the sign, or allowed as a shared frontage sign.
- (g) **Double Faced.** A sign which has two readable areas, placed back-to-back.
- (h) **Electronic Message Center.** A portion of a permitted sign referring to any type of programmable sign, with an electronic display or changeable copy.
- (i) **Flashing Sign.** A sign which has lights which operate in a pulsating or intermittent manner.
- (j) **Freestanding Sign.** A sign placed directly onto the ground or surrounding surface, with a solid sign base that hides from view internal poles, uprights or braces (also known as a monument sign).
- (k) **Government Sign.** Any sign that is owned, operated, or required by a governmental entity having jurisdiction, including, but not limited to, the signs designated in this Section 17.24 as government signs, and signs that are required by applicable laws. Such signs include signs on municipality-owned vehicles, official traffic, fire and police signs, signals, devices, and markings of the State of Wisconsin and the Village or other public authorities, or posted notices required by law.
- (l) **Gross Surface Area.** The entire area within a single continuous perimeter enclosing the extreme limits of the sign, excluding structural elements. The dimensions of the structural elements shall be proportionate to the gross surface area of the sign. The gross surface area, including the structural elements, shall not exceed 1.5 times the gross surface area of the sign face.
- (m) **Industrial Zoned Property.** Any property with an assigned zoning district of Light Industrial District or Heavy Industrial District.
- (n) **Illuminated Sign.** A sign designed to give forth or reflect artificial light, from a light source incorporated in the sign or indirectly from another light source.
- (o) **Lot Frontage.** The lineal distance that a parcel abuts a public right-of-way.

- (p) **Off-Premise Sign.** A sign not intended to be temporary (see Temporary Sign), and advertising or promoting a use not conducted on the parcel where the sign is located, excluding on-premises signs.
- (q) **On Site Directional Ground Sign.** A small sign placed directly onto the ground or surrounding surface with the purpose of directing customers, visitors or deliveries to a node or landmark on the same property on which the sign is located.
- (r) **Permanent Sign.** A sign intended to be displayed and “permanent in place” for the duration of the permit use, and is not a temporary or promotional sign. Example of permanent signs may include, but not limited to freestanding signs, pole signs, wall supported signs and projecting signs.
- (s) **Pole Sign.** A sign supported by uprights or braces placed directly onto the ground or surrounding surface, with the bottom edge of the sign frame 10 feet or more above the surface of the adjoining ground or surface.
- (t) **Portable Sign.** Any structure without a permanent foundation or not otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability. The sign copy area of a portable sign may be double sided.
- (u) **Projecting Sign.** A sign which is attached directly to the building wall and whose extreme point extends not more than 36 inches from the face of the wall. For the purposes of defining projecting signs, mansard roofs or overhangs are not considered as part of a wall. Except as allowed in this Section 17.24, projecting signs shall be on a building side facing a public right-of-way.
- (v) **Public Zoned Property.** Any property with an assigned zoning district of Public Properties.
- (w) **Rear Entrance Sign.** A permanent sign which directs attention to a business at a rear or secondary customer entrance.
- (x) **Residential Zoned Property.** Any property with an assigned zoning district of any of the single-family residential districts, the General Residential District, the Agricultural Land Preservation Transition District, or the Rural Residential District.
- (y) **Right-of-Way.** Land covered by a public road or sidewalk, either owned by the federal, state or local government.
- (z) **Roof Sign.** A sign of a permanent or temporary nature which is constructed on the roof of the building.
- (aa) **Sandwich Board Sign.** A two-sided portable sign constructed of wood, metal or similar rigid and durable material displayed outside and near the main building entrance of a business to temporarily identify a product or service, a special sale item or a special sales event of the on-site business. The sandwich board sign is two (2) individual sign surfaces connected at a pivot point at the top of the sign surfaces so that each sign surface can support itself and be placed on a flat solid surface in the form of an inverted “v” shape.

- (bb) **Setback.** The shortest lineal distance measured from the public right-of-way to the structure.
- (cc) **Shared Frontage Sign.** A sign located on property that abuts Main Street, Ottawa Avenue, Highway 18 or Highway 67 zoned for business or industrial, that advertises a use conducted on an immediately adjacent parcel that is off-set from Main Street, Ottawa Avenue, Highway 18 or Highway 67 but which has legal vehicular access to those right-of-ways. Also, a sign located on property that abuts Main Street, Ottawa Avenue, Highway 18 or Highway 67, when the main entrance to the business does not face Main Street and there are no other sign options allowed in this Section 17.24 to identify the business.
- (dd) **Shopping Center.** A contiguous business zoned property of at least 3 (three) acres in size consisting of a single building or group of buildings containing a variety of retail establishments and having a common identification and with privately owned access and parking facilities available to use by customers of the business or businesses located on the subject site.
- (ee) **Sign.** A sign is 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 is used to advertise or promote an individual, firm, association, corporation, profession or business, which is visible to the public.
- (ff) **Substantially Altered.** Any major alteration to a sign, but not including routine maintenance, painting or change of copy of an existing sign.
- (gg) **Temporary Sign.** A sign or other advertising device without a permanent foundation or not otherwise permanently attached to a fixed location. A temporary sign is further subject to the standards of this Section 17.24 for temporary signs. A temporary sign may include, but not limited to real estate signs advertising actively marketed land or property available for purchase, election/political signs, noncommercial sales of personal property such as rummage sale and garage sale signs, agricultural farm stand signs, special program of a public institution or special community event signs, grand opening signs, and employment and help wanted signs.
- (hh) **Time and Temperature Sign.** A sign displaying the time and temperature.
- (ii) **Vehicle or Trailer Sign.** A vehicle or trailer sign is a temporary, promotional or permanent sign affixed, painted on, or placed in or on any vehicle, trailer or other device capable of being driven or towed, which is displayed in public view so that the primary purpose is to attract the attention of the public, rather than the vehicle or trailer to serve the business of the owner thereof in a manner which is customary for said vehicle or trailer for transportation or carrying of materials.

(jj) **Wall-Supported Sign.** A display or sign which is attached directly or painted on a building wall and whose extreme point extends not more than 36 inches from the face of the wall. The distance from the wall to the outermost edge of a mansard roof or overhang is considered in computing this inch limitation. Except as provided in this Section 17.24, wall signs shall be on the building side facing a street.

(kk) **Window Sign.** A sign of a permanent nature which is hung, or lettered upon the inside of a window.

(4) PROHIBITED SIGNS. The following sign types are prohibited.

(a) **Off-Premise Signs.** An off-premise sign, as defined, is prohibited, except for a shared frontage sign, as defined.

(b) **Roof Sign.** A roof sign, as defined, is prohibited.

(c) **Vehicle or Trailer Sign.** A vehicle or trailer sign, as defined, is prohibited.

(d) **Parking of Advertising Vehicles.** No person shall park any vehicle or trailer on a public right-of-way or public property or on private property so as to be visible from a public right-of-way, which has attached there to or located thereon any sign or advertising device for the sole purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby property of any premises. This section is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettered on a motor vehicle and not used as regulated above nor is this section intended to prohibit advertising for sale of personally owned vehicle offered from the private property of the vehicle owner or owner's immediate family.

(e) **Signs on Utility Poles.** No signs, temporary or permanent, shall be affixed to utility poles, except for government signs.

(f) **Permanent Signs on Residential Zoned Properties.** Any permanent sign or signs on residential zoned properties are prohibited, except as allowed with an approved home occupation, or conditional use permit or a permanent development identification sign.

(5) SIGNS ALLOWED IN ALL ZONING DISTRICTS WITHOUT A PERMIT.

(a) **Temporary Signs without a Permit.** Temporary signs, as defined, and as regulated below, are allowed without a permit. Types of temporary signs may include a portable sign, a banner, a flag or any sign consisting of wood, plastic, vinyl or any other sturdy and durable material with posts securing the sign to the ground.

1. Temporary signs on any property shall be allowed for a maximum period of six (6) months and a maximum duration of six (6) months in any calendar year, unless the Building Inspector approves of a temporary sign timeframe extension if requested in writing by property owner or sign owner with justification indicating the need and the length of time for the extension. The Building Inspector shall grant the extension if all required standards for a temporary sign are met. Only one extension shall be granted at a maximum of an additional six (6) months. The following exceptions to these time limitations apply:

- a. *Signs on Property Under Construction.* Temporary signs are permitted in any district for the duration of a building permit, where a building permit is in effect and construction is occurring.
 - b. *Signs on Property Marketed for Sale or Lease.* Temporary signs may remain on a property for all time that the property is actively marketed, as defined herein, for sale or lease. Whether the property is being actively marketed for sale or lease shall be subject to the determination of the Village Planner. The sign must be removed no later than ten calendar days after the marketing of the property is concluded. The total sign area requirements of the district in which the sign is located shall apply.
 - c. *Signs on Property Under Development.* Temporary signs may remain on a property under some circumstances while the property is under development, subject to the following limitations. A sign permit is required for any such sign. Such sign shall be treated as a permanent sign for purposes of permitting, but shall remain a temporary sign for purposes of removal once the approval expires. Such signs may remain on the lot for one year following the date the sign permit is granted, unless otherwise restricted in the grant of the sign permit. Prior to expiration of the sign permit or any extension thereof, upon request of the owner or developer, the Plan Commission may extend the sign permit for successive periods of up to one year each, if the Plan Commission finds the development is actively proceeding and the sign is not otherwise in violation of the standards of this Section. The sign must be removed no later than thirty calendar days following the expiration of the permit unless specified otherwise by the Plan Commission. The total sign area requirements of the district in which the sign is located shall apply, except as follows: if during the process of development, the property is rezoned, the sign area calculations of the original zoning district shall continue to apply for the duration of the development; and if the property being developed includes multiple contiguous parcels, the calculation of sign area shall include all such contiguous parcels as though they were one parcel.
 - d. *Preemption.* If a longer time is expressly allowed by Wisconsin Statutes Section 12.04, or other applicable laws, the shortest period required by such law applies.
2. A temporary sign on residential zoned property shall not exceed 12 square feet per temporary sign and only one (1) temporary sign is permitted on properties up to one acre in size, and only two (2) temporary signs are permitted on properties one (1) acre in size or larger.
 3. A temporary sign on business or industrial zoned property shall not exceed 32 square feet per temporary sign and only one (1) temporary sign is permitted on properties up to one acre in size, and only two (2) temporary signs are permitted on properties one (1) acre in size or larger.

4. A temporary sign shall not be located within any public right-of-way. Any Village official shall be allowed to remove any temporary sign located within any public right-of-way without notification of the sign owner.
5. A temporary sign shall be located a minimum of 10 feet from any property line, except if the temporary sign is placed on the front façade of a building.
6. A temporary sign shall not be located within any vision setback area as required by this chapter.
7. A temporary sign shall be safely secured to the ground or building to prevent damage to persons or property during high wind occurrences.
8. A temporary sign shall be placed on a property only with approval of the property owner.
9. A temporary sign shall be properly maintained to be not torn, tattered and nonreadable, at all times.
10. An illuminated temporary sign may require an electrical permit and shall comply with standards of illumination of Section 17.24 (2) (g).

(b) Permanent Signs without a Permit. Certain permanent signs are allowed without a permit in accordance with the categories listed below. However, any of the following categories of signs that are illuminated may require an electrical permit and shall comply with standards of illumination of Section 17.24 (2) (g).

1. Property address numbers assigned by the Village or of a design approved by the Building Inspector that are required to be placed on every principal structure or as designated by the Village in clear view from the public right-of-way on which the address is assigned.
2. Government signs, as defined, which control traffic, parking restrictions, public information and notices.
3. Name and warning signs which identify premises or describe a hazardous condition which may exist on a premises, not more than three (3) square feet in area and located a minimum of 10 feet from any property line, except if placed on the front façade of a building.
4. Any flag, emblem or insignia of a nation, state, county or local governmental unit or school, limited to three (3) flag poles per property, located a minimum of 10 feet from any property line with a flagpole height not exceeding the maximum height restriction for the zoning district on which the flagpole is located. Such flags are deemed to be tantamount to government signs.

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5. Home occupation and professional home office signs, limited to one (1) per residential zoned property, not exceeding three (3) square feet in sign display area and located mounted flush against the dwelling or on a private light post.
6. Window signs on business zoned or industrial zoned properties which are painted, placed in, or affixed to, on the interior of a window surface, subject to the sign display area not exceeding 50 percent of the window area on which the sign is displayed. Window signs may be illuminated and may require an electrical permit.
7. Any sign located completely within an enclosed building and such sign is not placed in a window facing outward for the purpose of being readable from outside the building.
8. Traffic control signs on private property, such as "Stop," "Yield," and similar signs, that serve the same purpose on private property as government signs serve on public property. Traffic control signs include directional signs giving directions to areas such as drive-through or drive-up lanes, visitor or employee parking, or shipping and loading zones.
9. Signs posted on or attached to the top of motor vehicle fuel dispensers, not exceeding four (4) square feet in area.
10. A sandwich board sign, as defined, not higher than four (4) feet in height and not larger than 16 square feet in size each side, provided it is not located within a public right-of-way, not blocking any ingress/egress or handicapped accessibility, and must be removed when the business the sign advertises is closed for business.

(6) PERMANENT DEVELOPMENT IDENTIFICATION SIGNS PERMITTED IN RESIDENTIAL ZONED

DISTRICTS. Permanent Identification Signs are allowed in residential zoned districts which are placed at the entrance to a residential subdivision or multi-family development is subject to the following restrictions:

1. Shall display only the name of the subdivision or development.
2. Shall be located a minimum of 10 feet from all lot lines except that the minimum set back requirement may be modified by the Village Plan Commission if requested by the applicant, if the 10 foot location from lot lines does not provide proper sign visibility and if the proposed sign is not located within any vision setback.
3. Shall be a maximum of eight (8) feet maximum height and a maximum size of 64 square feet.
4. May be illuminated in accordance with Section 17.24(2)(g).

5. Shall be located on a property either in ownership of the developer, on a property in common ownership of a homeowners association, or on private property with an easement for said sign.
6. Applicant shall submit a long-term maintenance plan for the sign.
7. The Village Plan Commission shall find the application for a permanent development identification sign meets all standards within this Section 17.24 (6) (a).

(7) SIGNS PERMITTED IN ALL BUSINESS AND PUBLIC PROPERTIES DISTRICTS WITH A PERMIT. The following signs are allowed in all business and public properties districts with a permit, limited to the total sign copy area of all signs on any one property to the gross surface area requirements, set forth in subparagraphs (a) through (b). If multiple signs are desired, the total sign display area must be apportioned between these signs.

(a) Freestanding Signs or Pole Signs. Signs which are self-supporting, are not attached to, or reliant upon, any other structure for support, and are subject to the following restrictions:

1. Shall not exceed a maximum height of 16 feet above the lot grade at the base of the sign.
2. Shall be set back a minimum of 10 feet from all lot lines unless modified by the Village Plan Commission at the request of the applicant.
3. Gross surface area shall not exceed 48 square feet for one side, nor 96 square feet of the sign display area on all sides for an individual double-faced sign.
4. Gross surface area shall not exceed 200 square feet of sign display area for multiple freestanding or pole signs on within a single property or within a shopping center, as defined. However, multiple freestanding or pole signs within a single property or within a shopping center shall be separated a minimum of 100 feet from any point of the sign structure, measured along the linear frontage of the property.
5. May be illuminated in accordance with Section 17.24(2)(g).

(b) Wall-Supported Signs. Signs which are secured to a building or structure for support are subject to the following restrictions:

1. Shall not exceed above the parapet wall or the top of the roof of the building which supports it.
2. Shall not project more than 36 inches from the wall which supports it.
3. Gross surface area shall not exceed 50 square feet for an individual sign and total of all signs on the building shall not exceed 100 feet.

4. May be illuminated in accordance with Section 17.24(2)(g).
5. Wall-supported signs shall be located along and visible from a public right-of-way, except secondary wall-supported signs may be allowed on a side of a building not visible from a public right-of-way but having a customer entrance on the side of the building to which the sign is attached, defined as a rear entrance sign..

(8) SIGNS PERMITTED IN ALL INDUSTRIAL DISTRICTS WITH A PERMIT. The following signs are allowed in all industrial districts with a permit, limited to the total sign copy area of all signs on any one property to the gross surface area requirements, set forth in subparagraphs (a) through (b). If multiple signs are desired, the total sign display area must be apportioned between these signs.

(a) Freestanding Signs or Pole Signs. Signs which are self-supporting are not attached to, or reliant upon, any other structure for support, are subject to the following restrictions:

1. Shall not exceed a maximum height of 30 feet above the lot grade at the base of the sign.
2. Shall be set back a minimum of 10 feet from all lot lines unless modified by the Village Plan Commission.
3. Gross surface area shall not exceed 100 square feet for one side, nor 200 square feet of sign display area on all sides for an individual double-faced sign.
4. Gross surface area shall not exceed 400 square feet of sign display area for multiple freestanding or pole signs on within a single property. However, multiple freestanding or pole signs within a single property shall be separated a minimum of 100 feet from any point of the sign structure, measured along the linear frontage of the property.
5. May be illuminated in accordance with Section 17.24(2)(g).

(b) Wall-Supported Signs. Signs which are secured to a building or structure for support are subject to the following restrictions:

1. Shall not extent above the parapet wall or the top of the roof of the building which supports it.
2. Shall not project more than 36 inches from the wall which supports it.
3. Gross surface area shall not exceed 200 square feet of sign display area.
4. May be illuminated in accordance with Section 17.24(2)(g).

(9) SHARED FRONTAGE SIGNS WITH A PERMIT. Any shared frontage sign with a permit is allowed to provide uses on business and industrial zoned properties not directly abutting a main thoroughfare (public right-of-way), but located near the thoroughfare, an opportunity for identification that is afforded by this Section 17.24 to business and industrial zoned properties directly abutting a main thoroughfare. Shared frontage signs are allowed under the following conditions.

(a) General Regulations of Shared Frontage Signs.

1. Boundary of Use within Downtown Area of Village. For any legally conforming permitted use or conditional use located on a business or industrial zoned property, located within 600 feet of the Main Street or Ottawa Avenue right-of-way.
2. Boundary of Use along Village Perimeter Highways. For any legally conforming permitted use or conditional use located on a business or industrial zoned property, located within 800 feet of either the Highway 18 or Highway 67 right-of-way.
3. One Sign Permitted. Only one (1) Shared Frontage Sign shall be permitted per use, and the size of shared frontage sign shall count toward the overall signage allowed on the property on which the sign is located.
4. Location.
 - a. The shared frontage sign within downtown shall be located on another property with business or industrial zoning, and only with written and duly recorded authorization of the owner of the lot where the sign is located. The shared frontage sign along Highway 18 or Highway 67 shall be located on another property with business or industrial zoning, and only with written and duly recorded authorization of the owner of the lot where the sign is located.
 - b. The shared frontage sign within downtown shall be located a maximum of 600 feet from the lot on which the use being advertised is located. The street frontage sign along Highway 18 or Highway 67 shall be located a maximum of 800 feet from the lot on which the use being advertised is located.
 - c. The shared frontage sign shall be located near the driveway providing vehicle access to the use being advertised, and in no event no further than 25 feet from the driveway.
 - d. The shared frontage sign within downtown shall be located within a property abutting the Main Street or Ottawa Avenue right-of-way. The street frontage sign along Highway 18 or Highway 67 shall be within a property abutting the Highway 18 or Highway 67 right-of-way.
 - e. Any shared frontage sign along Highway 18 or Highway 67 shall be located a minimum of 250 feet from any other shared frontage sign and a minimum of 100 feet from any other freestanding sign; except multiple shared frontage signs may be located closer than 250 feet if on opposite sides of a public right-of-way.
 - f. Any shared frontage sign shall be prohibited within the Vision Setback Area as required by Section 17.17 (1) (b).
5. Sign Types. The shared frontage sign shall be a freestanding ground sign according to the criteria of Section 17.24(9)(b), subject to the following. In the event the Plan Commission finds there is no reasonable location for a freestanding ground sign to serve the business only in downtown, then the Village Plan Commission may allow a shared frontage wall sign according to the criteria of Section 17.24(9)(c).

6. Directory Sign Required. A shared frontage sign shall be designed to be a directory sign, to allow for equal space to advertise multiple businesses. Equal space shall be horizontal extending the entire width of the sign. If fewer shared frontage sign businesses exist than the number of spaces available on the sign, the existing shared frontage sign businesses may use equal multiple spaces on the directory sign, provided that the space shall be re-adjusted in equal proportions if and when new businesses locate in the shared frontage locations and the Plan Commission requires co-location of the street frontage signage. Within a shared frontage sign along Highway 18 or Highway 67 no one tenant or business advertising on the sign shall be allowed more than two (2) feet height on sign face.

7. Sign Location Agreement. The shared frontage business must enter an agreement with the owner of the property where the sign will be located, relating to the location of the sign on the property. The agreement must be recorded in the office of the Waukesha County Register of Deeds. Among its provisions, the agreement must address: obligations concerning construction, reconstruction, repair, and maintenance of the sign; removal of the sign upon termination of the shared frontage businesses; co-location by additional shared frontage businesses; co-location by additional Back Street businesses; and division of costs and responsibilities among co-locators on the sign. Proof of this written agreement must be submitted with the street frontage sign application.

8. Uniformity. The Plan Commission, in its review of sign applications, shall endeavor to ensure that all signs shall have a uniform appearance.

9. Approval. All shared frontage signs are subject to the approval of the Plan Commission. The Plan Commission shall deny any shared frontage sign application that does not conform to all standards of Section 17.24. The Plan Commission shall provide findings of approval or denial of any street frontage sign.

(b) Shared Frontage Freestanding Ground Signs. Shared frontage freestanding ground signs that are self-supporting, are not attached to, or reliant upon, any other structure for support, are subject to the following restrictions:

1. Sign face area and sign limited to one (1). A maximum of one (1) shared frontage shall be allowed per property to a maximum of 32 square feet in sign face area within downtown, and a maximum of 120 square feet along Highway 67. The sign may be a maximum 32 square feet each side if the sign is perpendicular to the Main Street right-of-way, or a maximum of 120 square feet each side if the sign is perpendicular to the Highway 18 or Highway 67 right-of-way.
2. Maximum Height. Within downtown, a maximum height of eight (8) feet shall apply, measured to any portion of the sign or sign structure from adjacent grade. Along Highway 18 or Highway 67, a maximum height of 18 feet shall apply, measured to any portion of the sign or sign structure from adjacent grade.

3. Sign Base. Within the downtown, the sign shall be constructed with a minimum of a one (1) foot and a maximum of a two (2) feet high base made of brick or stone material, or any other durable material as approved by the Plan Commission, for the entire width of the sign, except as described in subsection (b)(5). Along Highway 18 or Highway 67, the sign shall be constructed with a minimum of one (1) foot and a maximum of a two (2) foot high base that shall be decorative in a durable material approved by the Plan Commission. The sign base shall not count toward the maximum sign face area. The sign shall not have any externally visible support pole or poles.
4. Side Columns. The shared frontage freestanding ground sign may have side columns to a maximum of one (1) foot width in a material consistent with the sign base. The side columns shall not count toward the maximum sign face area. The Plan Commission may require side columns to hide the side of internally lighted signs.
5. Sign base optional with side columns. Side columns of brick or stone material to enclose the sign support posts may be allowed without the requirement of a sign base, as approved by the Plan Commission.
6. Sign top. Any material above the sign face is not allowed except for structure components of the sign.
7. Sign face area options. The sign face area shall be proportionate in height and width, with the height to width ration being no more than 3 to 1 and no less than 1 to 3.
8. Sign Copy.
 - a. Each equal business sign may display the name of the business, business logo and a general product line sold or service provided.
 - b. Within the downtown, letters in each business sign copy shall be a minimum of four (4) inches and a maximum of eight (8) inches. Along Highway 18 or Highway 67 there is no minimum or maximum letter dimension.
 - c. All letters within equal business signs within the same shared frontage freestanding ground sign shall have compatible style, as approved by the Plan Commission.
9. Businesses to advertise. The businesses allowed to place a sign within the shared frontage freestanding ground sign are businesses that conform to the criteria of this section for a shared frontage sign and any business or businesses located within the property abutting Main Street on which the shared frontage freestanding ground sign is located, unless the business has a separate freestanding sign, pole sign or ground sign allowed pursuant to Section 17.24(6) (a) or (7) (a).
10. Setback. The shared frontage freestanding ground sign shall be setback a minimum of 10 feet from all lot lines unless modified by the Plan Commission.
11. Visibility. The shared frontage freestanding ground sign shall not block visibility of pedestrians or vehicles, as determined by the Plan Commission.

12. Permanently affixed. The shared frontage freestanding ground sign shall be permanently affixed.
13. Sign illumination. The shared frontage freestanding ground sign may be nonilluminated or internally illuminated. Illumination shall conform to the criteria within Section 17.24(2)(g).

(c) Shared Frontage Wall-Supported Signs. Street frontage wall-supported signs are prohibited, except as described in this Section 17.24(9)(c)). In the event the Plan Commission allows a shared frontage wall sign, such sign shall conform to the following criteria:

1. Sign face area and sign limited to one (1). A maximum of one (1) shared frontage wall-supported wall sign shall be allowed per property to a maximum of 32 square feet. The shared frontage wall supported sign does not count toward the maximum allocation for wall-supported sign or signs advertising the business or businesses with the building on which the shared frontage wall supported sign is located.
2. Permanently affixed. The street frontage wall-supported sign shall be permanently affixed.
3. Placement. The street frontage wall-supported sign shall be placed on a front or side vertical wall face, and shall not be placed higher on a building wall higher than the ceiling of the highest full story of a building. No Back-Street wall-supported sign shall be placed on a roof.
4. Projection from wall. The street frontage wall-supported sign shall not project any more than 12 inches from the vertical wall face.
5. Sign Copy.
 - a. The street frontage wall-supported sign shall only display the name of the business, business logo and a general product line sold, or service provided. Letters on the Back-Street wall-supported sign shall be a minimum of six (6) inches and a maximum of 12 inches.
 - b. All letters within equal business signs within the street frontage wall-supported sign shall have compatible style as other wall-supported signs on the same building, as approved by the Plan Commission.
6. Sign Illumination. The street frontage wall-supported sign may be non-illuminated or illuminated. Illumination shall conform to the criteria within Section 17.24(2)(g).

(10) SUBSTITUTION. Subject to the property owner's consent, noncommercial speech of any type may be substituted for any duly permitted or allowed commercial speech; provided, that the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. This provision prevails over any provision to the contrary in this Code. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not create a right to increase the total amount of signage on a lot or parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted. The term "commercial speech" means any sign, wording, logo, or other representation advertising a business, profession, commodity, goods, services or entertainment for business purposes. The term "noncommercial speech" means any message that is not commercial speech, including, without limitation, messages concerning political, religious, social, ideological, public service, and information topics.

SECTION 2: SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict. SECTION 3: CONTINUATION OF EXISTING PROVISIONS

The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

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17.25 AIRPORT SAFETY ZONE.

- (1) **MAXIMUM HEIGHT.** No building or objects of natural growth located within 2 miles of the boundaries of any existing airport landing field or landing and takeoff strip and with a band of 500 feet on each side of the centerline extended of any runway shall hereafter be erected, altered or permitted to grow to a height above the elevation of the nearest point of such runway greater than 1/15 of the distance from such point.

- (2) CONTROL OF USE. No building or land located within 2 miles of the boundary of any airport, landing field or landing and takeoff strip shall be allowed so as to produce a hazard to the operation of the aircraft.
- (3) EXCEPTIONS. The above regulation shall not apply to growing field crops which are harvested at least once a year, nor to fences not over 5 feet high.

17.26 MOBILE HOMES AND TRAILERS.

- (1) HUMAN HABITATION PROHIBITED. Except within an approved Mobile Home Park or Camp, no trailer or mobile home shall be used for the purpose of human habitation being defined as entering the mobile home for any purpose other than maintenance.
- (2) STORAGE PROHIBITED. No mobile home in excess of 25 feet in length shall be located or stored on any property except in an approved home park, unless completely enclosed in a structure as approved by the Village Plan Commission.
- (3) MANUFACTURED HOMES (HUD). (Cr. #256) Manufactured Homes (HUD) and manufactured dwellings (UDC) are permitted to be placed, constructed and installed following the regulations in this zoning code and state and federal laws.

17.27 LEGAL NONCONFORMING USES, STRUCTURES AND LOTS.

- (1) EXISTING USE PERMITTED. The existing lawful use of a building or premises at the time of the enactment of this chapter or any amendment thereto may be continued, although such does not conform with the provisions of this chapter for the district in which it is located, subject to conditions stated below.
- (2) CLASSIFICATION AND REGULATION. For the purpose of administration, legal nonconforming shall be classified and regulated as follows:
 - (a) Existing Nonconforming Structures. (Rep. & recr. #256)
 - 1. The lawful nonconforming structure existing at the time of the adoption or amendment of this chapter that is used only for conforming uses may be continued although its size or locations does not conform with the lot width, lot area, yard, height, parking, loading and access provisions of this chapter, subject to the requirements of this section.
 - 2. Additions and Enlargements. Additions and enlargements to existing legal nonconforming structures that are used only for conforming uses are permitted if they conform with the established building setback lines along streets and the yard, height, parking, loading and access provisions of this Ordinance.

3. Reconstruction, Repair and Structural Alteration. Where such lawful nonconforming structure that is used only for conforming uses is damaged or destroyed by fire, explosion, flood or other calamity beyond 50 percent of the current fair market valuation, it shall be reconstructed, repaired, or structurally altered only in conformity with the applicable district regulations. If such damage is equal to or less than 50 percent of the current fair market valuation, it may be reconstructed, repaired, or structurally altered in its previously existing location provided that the total cost of such reconstruction, repair or structural alteration done over the life of the structure shall be compounded and the aggregate total shall not exceed 50 percent of the current fair mark valuation of the structure.
 4. All nonconforming structures lying within floodplains shall be flood proofed prior to any extension, enlargement, reconstruction, repair or structural alteration being made.
 5. When figuring the cost of improvements in the reconstruction, repair or structural alteration of a structure, the cost of such work shall be the fair market value of all labor and materials even if all or any portion of the labor or materials is provided at less than fair market value.
 6. A deed restriction shall be recorded in the office of the Register of Deeds and presented to the Building Inspector prior to the issuance of any building permit for any nonconforming structure. The deed restriction shall state the cost of the improvements requested on the building permits, as cost is defined in paragraph 5., so as to establish the cumulative cost of improvements on the nonconforming structure.
- (b) Nonconforming Use of Structure and Lands.
1. No such use shall be expanded or enlarged.
 2. Upon petition to and approval of the Village Plan Commission and Village Board, such use may be changed to another use provided the Village Plan Commission and Village Board determines that the new use would not result in a greater degree of nonconformity than the current use.
 3. When any such use is discontinued for 12 consecutive months or 18 cumulative months during a 3-year period, and future use of the land or structure shall conform to the use regulations of the applicable district. Seasonable uses shall be excluded from this provision.
 4. When a structure which houses such nonconforming use is damaged beyond 50 percent of the current equalized assessed value, it shall not be restored except in conformity with applicable district regulations.

5. Total structural repairs or alterations to a structure housing a nonconforming use shall not exceed, on accumulative percentage basis, 50 percent of the equalized assessed value of the structure at the time the structure became a legal nonconforming.
 - (c) Nonconforming Lots. The size and shape of such lots shall not be altered in any way which would increase the degree of such nonconformity to the applicable district regulations.
- (3) **CONDITIONAL USE STATUS.** Subject to the provisions of §17.25 and §17.36 conditional use status may be granted to existing legal nonconforming uses upon petition of the owner and where such use is determined to be not adverse to the public health, safety or welfare, would not conflict with the spirit or intent of the chapter or would not be otherwise detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the recommendation of the Village Plan Commission and approval of the Village Board following a joint public hearing. If this conditional use is terminated for any reason, the property shall not revert back to legal nonconforming status but the use shall terminate.

17.28 EXISTING PERMITS.

1. **CONSTRUCTION PERMITTED.** Nothing in this chapter shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this chapter and the construction of which shall have been substantially started within 6 months from the date of such permit.
2. **SUBSEQUENTLY NONCONFORMING.** Any such use which does not conform to the use regulations of the district in which it is located shall, however, subsequently be considered a legal nonconforming use.

17.29 SITE PLAN AND PLAN OF OPERATION REVIEW.

1. PURPOSE AND INTENT. (Am. #241) For the purpose of promoting compatible development, stability of property values, and to prevent impairment of depreciation of property values, no person shall commence any use or erect any structure, with the exception of Village owned Utility Buildings and Utility Structures and single family and two family dwellings, without first obtaining the approval of the Village Plan Commission of detailed site, plan of operation and architectural plans as set forth in this section.

The Village Plan Commission shall approve, conditionally approve, or reject the detailed site and architectural plans. The Village Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading in the case of commercial and industrial uses, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.

2. ADMINISTRATION. Plan data shall be submitted to the Village Clerk who shall transmit all applications and their accompanying plans to the Village Plan Commission, Zoning Administrator/Planner, and Building Inspector for their review. Plans shall be accompanied by the application fee as established by the Village Board. Plan data to be submitted with all plan review applications shall include the following:
 - a. A plat of survey drawn by a registered land surveyor including the site plan information drawn to a recognized engineering scale. (Am. #256)
 - b. Name of project noted.
 - c. Owners and developer's name and address noted.
 - d. Architect and/or engineer's name and address noted.
 - e. Date of plan submittal.
 - f. Scale of drawing noted on plan.
 - g. Existing and proposed topography shown at a contour interval not less than 2 feet. Topography shall extend 40 feet onto adjacent property or to the building on the adjacent lot, whichever is greater.
 - h. The characteristics of soils related to contemplated specific uses.
 - i. Total number of parking spaces and layout, including driveways shall be shown on the plan.

- j. The type, size and location of all structures with all building dimensions shown.
 - k. Indicate height of building(s).
 - l. Indicate existing and proposed street locations on the site plan.
 - m. Indicate existing and proposed public right-of way and widths.
 - n. North arrow shown.
 - o. Locate existing and general location of proposed sanitary sewers, storm sewers and water mains.
 - p. Submit a storm water management plan indicating all facilities, including detention/retention areas. The design criteria shall meet the requirements as stated in the Village Subdivision Code.
 - q. Locate existing trees that are 9 inches in diameter or larger. (Am. #256)
 - r. Note location, extent and type of proposed plantings.
 - s. Note location of pedestrian sidewalks and walkways.
 - t. A graphic outline of any development staging that is planned is required to be shown on the site plan.
 - u. Architectural plans, elevations and perspective drawings and sketches illustrating the design and character of proposed structures. These plans shall include proposed building colors and building materials. (Am. #256)
 - v. Landscaping plan and point calculations.
 - w. Lighting plan and a photometrics plan may be required upon Plan Commission request.
3. PLAN OF OPERATION. No use shall be approved until the Village Plan Commission and staff has reviewed the plan of operations that shall indicate:
- a. The proposed use of the land and/or structures;

- b. Activities to occur both inside and outside all principal and accessory structures;
 - c. The frequency and duration of all activities;
 - d. The number of employees of any commercial or industrial enterprise;
 - e. The estimated number of occupants of a residential use;
 - f. The number, size and type of all vehicles associated with the use;
 - g. Plan for Compliance with the performance standards set forth in this ordinance;
 - h. The season, days and hours of operation;
 - i. The expected starting and completion dates of constructions;
 - j. The proposed phasing of the project, if appropriate;
 - k. Other information as requested by the Village Plan Commission.
4. GENERAL ARCHITECTURAL PRINCIPLES. The implement and define criteria for the purposes set forth in this Ordinance, the following principles are established to apply to all structures and uses and to changes or additions to existing structures and uses:
- a. No building regulated by this section shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards,
 - b. No building regulated by this section shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.
 - c. No building regulated by this section shall be permitted where any exposed façade is not constructed or faced with a finished material that is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
 - d. No building or sign regulated by this section shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.

- e. No building or use regulated by this section shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village.
 - f. Buildings and uses regulated by this section shall maintain existing topography, drainage patterns and vegetative cover insofar as is practical. The Village Plan Commission may require that drainage easements be executed.
 - g. Buildings and used regulated by this section shall provide for adequate site construction erosion control measures. The Village Plan Commission may require erosion control plans and may establish time schedules for landscaping and re-vegetation of construction sites.
 - h. Buildings and uses regulated by this section shall provide for safe traffic circulation and safe driveway locations.
 - i. Buildings and uses regulated by this section shall provide for adequate parking and loading areas.
 - j. Buildings and uses regulated shall be designed in such manner that all light rays are directed downward onto the property. No rays shall be directed towards adjacent properties. (See subsection (7)).
5. DETAILED ARCHITECTURAL STANDARDS. To implement the purposes set forth in §17.29(1), the following architectural criteria and review guidelines are established:
- a. Building facades. (Am. #256) In the commercial districts, all building exterior shall be brick, decorative masonry, glass panel, or other appropriate finished façade as may be approved by the Village Plan Commission.

In the industrial district, all building exteriors facing a street or approved way, shall be brick, decorative masonry, glass panel, or other appropriate finished façade as may be approved by the Village Plan Commission. Such brick, masonry, glass, or decorative facing shall extend for a distance of 20 feet along the sides of the structure. Material type and colors shall be noted on the plans. Material samples shall be provided when requested by the Planner or Village Plan Commission.
 - b. Overhead Doors. No overhead doors on a business, industrial, or institutional building shall face a public street. The Village Plan Commission may permit overhead doors to face a public street when it has made a finding that there is no feasible alternative location for such doors.
 - c. Heating Air Conditioning and Ventilating Equipment. HAVC equipment shall be located in a manner to be unobtrusive and screened from view.

- d. Storage of Garbage/Trash. All garbage cans, trash containers, and other storage devices situated on any lot shall be in closed containers with lids and shall be concealed or suitably screened from public view. Fencing or landscaping shall be used to totally obstruct vision into the storage areas by the alternatives set forth in Figure 1 or their equivalent.
- e. Other Architectural Standards. The Village Plan Commission may impose other architectural standards deemed appropriate in the vicinity of the project.

6. LANDSCAPING. (Am. #256)

- a. On-Site Landscaping and Screening. For all district or uses except one and two-family residential uses. The following landscape guidelines are examples for proposed landscaping with site plans to be submitted. The Village Plan Commission will review each landscape plan to determine if the proposed plan conforms with intent of these Standards and Guidelines. Please refer to this section for guidance in preparing the landscape plan.
- b. Landscape Plan. Landscape plan shall indicate the location, type of species and size of all plantings, including type and planting plan/installation of ground cover materials. Materials and colors for all other landscape treatments shall be submitted with the landscape plan (i.e., dumpster enclosure, fence, retaining wall, etc.). A planting schedule/chart shall be included on the landscape plan. The base map of the landscape plan shall match the site plan that is subject to Plan Commission approval, and shall be provided at a readable size and with a scale.
- c. Landscape Standards. Landscaping plans are subject to Village Plan Commission review and approval subject to the following minimum standards. Any alteration to the approved plan shall be subject to additional Plan Commission review and approval, except that the Zoning Administrator may authorize alteration of locations of proposed plantings to avoid utilities, to avoid plantings within drainage ways or to improve vision of signage, vehicles or pedestrians, although the number and size of plantings as approved shall remain the same.
 - 1. The minimum number of trees(deciduous and/or evergreen) on a site shall be calculated based on the principal street frontage; one tree is required for each 20 feet. For lots with 100 feet or less of road frontage; a minimum of six (6) trees shall be planted or retained. A minimum of two trees are to be planted or retained in each front yard and each street side yard. The Plan Commission may approve bushes and shrubbery or a combination as a substitute for deciduous trees or a combination thereof, if site conditions, such as lot size, topography and the need for buffers between land uses dictate such substitutions.

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2. Deciduous trees shall be a minimum of 2-inch caliper and evergreens a minimum of four (4) feet at time of planting.
3. Efforts to protect and retain existing trees should be noted in the landscaping plan.
4. It is expected that all landscaping shall be appropriately distributed on the site. Additional plantings of trees (deciduous and evergreen), ornamental trees and shrubs, and building foundation plantings, above the minimum required herein shall be planted consistent with the aesthetic style of the building and/or site, and may be required by the Plan Commission. The Plan Commission may require the use of landscaping , berms, fencing, retaining walls, etc., to buffer an intense land use from a less intense land use. Landscaping required for on-site storm water management shall be shown on the landscape plan, including, but not limited to rain gardens, infiltration areas, ground cover in drainage ways and plantings surrounding basins.
5. Landscaping shall not obstruct fire department view of external fire alarms or access to the building, and shall not block access to fire hydrants, standpipes or other fire suppression systems.
6. Landscaping shall be used to screen unsightly site elements, such as refuse enclosures, utility boxes, building mechanical equipment and service door and loading docks. The Plan Commission may require the use of landscaping, berms, fencing, retaining walls, etc., to buffer and intense land use from a less intense land use.
7. All trees shall be hardy, urban tolerant and disease resistant.
8. The natural topography shall be used in the design and layout of the site.
9. All landscaping shall be completed at the time of issuance of final occupancy permit. A temporary occupancy permit may be issued until the time of completion of all landscaping.
10. All plantings must be maintained. If at any time, required trees die, are damaged or destroyed, such trees must be replaced in the original approximate location.

11. Prior to issuance of any building permit, the Plan Commission may require the subject property owner to submit a letter of credit or cash deposit in an amount approved by the Village Planner and in a form acceptable to the Village Attorney if the Plan Commission determines a financial surety is required to insure compliance with the approved landscape plan. The letter of credit or cash deposit shall be in the amount of the estimated cost of landscape materials and installation plus an additional ten percent for village administrated cost verified by the Village Planner. If landscaping is installed in phases, the village may reduce the letter of credit to an amount of the remaining estimated cost. However, the village will retain 25 percent of the original letter of credit amount for one full year from the date of full landscape plan installation. Should landscaping not be completed within nine (9) months of occupancy, or if landscape materials that do not survive one full growing season are not replaced, the village shall draw upon the letter of credit or cash deposit as funds to complete or replace landscaping. Once the landscaping has been completed and has survived one (1) full year from the date of full landscaping installation, the property owner may request that the letter of credit be release and/or the cash deposit be refunded, and the Village Clerk shall proceed accordingly after receiving approval from the Village Planner to do so. Any cash deposit shall be refunded to the subject property owner, and in the event the cash deposit was made by a person or entity that is different from the subject property owner, the private parties shall be solely responsible to reimburse one another as they deem to be necessary or appropriate.
12. When building setbacks and/or location of a building or buildings on a site located within the B-1 Downtown Business Zoning District does not allow adequate placement of the minimum number of trees, the Plan Commission may waive all or part of the minimum number of trees to be planted. However, if waived, the developer and/or property owner shall provide to the Village of Dousman an adequate amount of funds to purchase same amount of waived trees in a public park or public place.

7. EXTERIOR LIGHTING STANDARDS. These standards are intended to protect motorists and surrounding areas from excessive light or flare. This Section is not, however, intended to apply to the public street lighting.

(a) Internal Lot Lighting. Lighting standards and luminaries for parking lots, internal roads, drives and walkways shall conform to the following requirements:

TYPE OF LUMINAIRE*	PERMITTED ILLUMINATION	MAXIMUM HEIGHT
No cut-off	2-foot candles	12 feet
TYPE OF LUMINAIRE*	PERMITTED ILLUMINATION	MAXIMUM HEIGHT
No cut-off	3 foot-candles	28 feet

4/14/03

* See description of types of luminaries in Paragraph 3. below.

Method of Light Measurement. Illuminations shall be measured in the foot candles at 6 inches above the ground level in a horizontal position at the lot line. A direct reading portable light meter with color and cosine corrected sensor and multiple scales shall be used. The meter shall have been tested and calibrated to an accuracy of plus or minus 5% within one year of its use. Measurements shall be made after dark. The difference between "lights on" measurements and "lights off" measurements shall be used to determine the illumination, thereby eliminating the effects of ambient light.

(b) Types of Luminaries. Luminaries and lighting which may be used:

1. No Cut-off Luminaire. This is a luminaire whose light source is visible from above a line parallel to the ground running through the center of the Luminaire (i.e., and angle of greater than 90 degrees.) Such luminaries have the maximum glare potential.

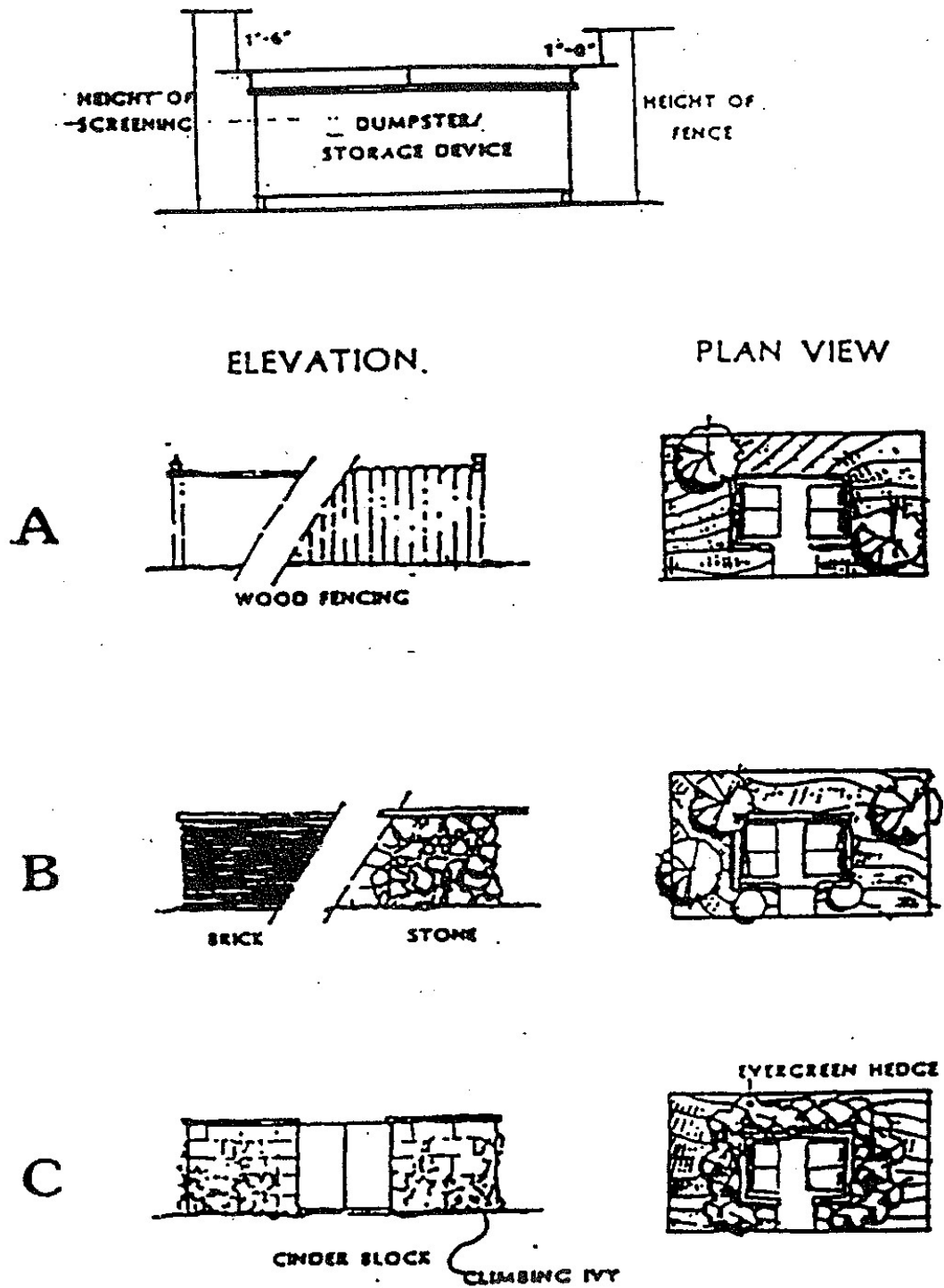
Cut-off Luminaire. This luminaire has a cut-off of less than 90 degrees, so that at the centerline of the street, the luminaire is totally shielded from view. This fixture reduces glare to a minimum. Except in Paragraph (3) below, all cut-off fixtures shall be designed and located so that the cut-off line is at least 10 feet within the lot line.

Floodlighting. Floodlighting of building shall not exceed 3 foot-candles measured from a height equal to $\frac{1}{2}$ the building height at the face of the building and shall be focused on the building with no fugitive light leaving the fixture (shielded).

(d) Additional Lighting Regulations. Notwithstanding any other provisions of this Section to the contrary:

1. No flickering or flashing lights shall be permitted.
2. Light sources, or luminaries, shall not be located within buffer yard areas except on pedestrian walkways.

Figure 1
STORAGE OF GARBAGE AND TRASH STORAGE



5/11/98

**ZONING CODE 17.30 STORM WATER MANAGEMENT
AND EROSION CONTROL NOW IN SEPARATE
SECTION.**

SECTION 16

17.31 FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS.

(Cr. #245)

(a) FINDINGS OF FACT.

- (1) The Board finds that adult-oriented establishments, as defined and otherwise regulated by the Village in its Adult-Oriented Licensing and Regulation Ordinance, require special zoning in order to protect and preserve the health, safety and welfare of the Village.

3/9/09

- (2) Based its review of studies conducted in Phoenix, AZ, Garden Grove Ca, Los Angeles CA, Whittier Ca, Indianapolis IN, Minneapolis MN, St. Paul MN, Cleveland OH, Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Coleman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), the Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property value.
- (3) The Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
- (4) It is not the intent of the Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.
- (5) In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the Village, it is the intent of the Board to prevent the concentration of Adult-Oriented Establishments with a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
- (6) Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Board finds that geographic separation of Adult Oriented-Establishments from alcohol beverage licensed premises is warranted.

(b) Location of first amendment protected adult-oriented establishments.

ZONING CODE 17.31

- (1) The first amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined and otherwise regulated by the Village, are entitled to certain protections, including the opportunity to locate in the Village. Therefore, if an Adult Oriented Establishment License has been granted by the Village, and of requirements of this Section of the Zoning Code are met, an Adult-Oriented Establishment shall be allowed use in the light industrial zoning district(s) and shall be prohibited in any other zoning district. No other requirement of the Zoning Code need be satisfied, but for those required in order to obtain an Adult-Oriented Entertainment License from the Village.
- (2) Adult-Oriented Establishments shall be located at least 250 feet from:
 - a. Any residential district line, playground lot line, or public park lot line;
 - b. Any structure used as a residence, place of religious worship, public or private school, or Youth Facility as defined in the Village's Adult-Oriented Establishment Licensing and Regulation Ordinance;
 - c. Any other structure housing an Adult-Oriented Establishment;
 - d. Any structure housing an establishment which holds an alcohol beverage license.
- (3) Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the above residential district boundary lines, to the lot line of any lot used for a park, playground, or the lot line of any structure listed in (2)b., c. and d. above.
- (4) The measurement from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
- (5) For Adult-Oriented Establishments located in conjunction with other buildings and clearly separate from other establishments such as in a shopping center, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.

- (6) For any Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the location subsequent to the grant or renewal of its license of any of the establishments described in (2), above, within 1,000 feet of the licensed premises. This provision applies only to the renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.
- (7) A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the location subsequent to the grant or renewal of its license of any of the establishments described in (2), above, within 1,000 feet of the licensed premises. This provision applies only to the renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

10/9/00

17.32 CONSTRUCTION ON OUTLOTS. (Cr. #247)

No building or structure may be constructed or placed on an outlet in the Village of Dousman except in strict compliance with this section. For purposes of this section the term "outlot" shall mean a defined territory of land that is shown on a subdivision plat or a certified survey map as being an outlot, and which is owned either directly or for the common benefit of the lots which were created by the subdivision plat or certified survey map. Buildings and structures are permitted on outlots in the Village in strict compliance with all of the following:

- (1) COMPLIANCE. All of the provisions of this code related to buildings and structures must be followed to the same extent as though the outlot were a conforming lot in the zoning district in which it is located, except as expressly modified in this Section.
- (2) BUILDING PERMIT. A building permit shall be required for any construction of any building or structure in an outlot. If the outlot is subject to the control, or ownership of a homeowner's association, or if it is maintained by a homeowner's association, the building permit application shall be signed, or otherwise approved in writing, by the homeowner's association. If there is no homeowner's association, all persons having an ownership interest in the outlot are required to sign, or otherwise approve in writing, the building permit application.

(3) DOCKS. In addition to the foregoing requirements of this Section, docks on outlots shall be further regulated as follows: Docks are permitted on outlots in the Village in the following circumstances, and in full compliance with all of the following:

- (a) The outlot must contain a body of water which covers a minimum of twenty (20) acres of surface at any given time during each year; and
- (b) No more than (1) dock per abutting residential lot may be constructed; and
- (c) The dock shall extend no further than (10) feet into the outlot; measuring from the outlots boundary line; and
- (d) The dock shall be no larger than a total surface area of three hundred (300) square feet in area, measuring from the outlots boundary line; and
- (e) The dock shall be located such that it is at least (6) feet from an imaginary line drawn from the side lot lines of the abutting properties extended into the outlot, at all points along the dock; and
- (f) No portion of a dock constructed herein may have a height of more than (4) feet above the ground surface of the outlot; the surface being the ground below the dock, or if there is water below the dock, then the ground surface under the water; and
- (g) The dock must be constructed entirely of wood materials, however wood materials that have been treated with arsenic or creosote are expressly prohibited; and
- (h) Nothing herein authorizes any person to construct a dock on an outlot if it is not permitted by private deed restriction affecting the outlot, or if it is prohibited by applicable law; and
- (i) Offset, setback, side yard and front yard requirements of this zoning code shall not apply to docks on outlots, provided that all of the requirements of this Section 17.32(3) are satisfied.

(4) OTHER LAWS. All buildings and structures on outlots shall be subject to full compliance with all applicable Village of Dousman, Waukesha County, State of Wisconsin and federal government ordinances, statutes, codes, rules and permits. Nothing stated herein shall authorize construction which is otherwise prohibited by such applicable laws.

17.35 CONDITIONAL USE PERMITS.

- (1) **REQUIRED.** Certain uses and situations which are of such a special nature or are so dependent upon actual contemporary circumstances as to make impractical the predetermination of permissibility or the detailing in this chapter of specific standards, regulations or conditions which would permit such determination is each individual situation may be permitted as conditional uses. The fact that a conditional use may be permitted should not infer any right thereto. Conditional uses may be denied by the Village Board and Village Plan Commission so long as such action is not discriminatory or unreasonable.
- (2) **APPLICATION.** Applications for conditional use permits shall be made in triplicate to the Village on forms furnished by the Village Clerk and shall include the following;
 - (a) Fifteen copies of a map (preferably a topographic map), drawn to scale of not less than 200 feet to 1 inch showing the land in question; its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100 feet of the land in question; and the proposed location and use of any buildings, sanitary systems and wells in such land and within 100 feet of such land in question.
 - (b) The names and complete mailing addresses, including zip codes of the owners of all properties within 300 feet of any part of land included in the proposed use.
 - (c) Additional information as may be required by the County Health Department, Village Plan Commission or Village Board.
 - (d) A fee as may be established and periodically modified under §17.63(2)(b), shall accompany each application. Such fee shall be paid by cash, check or money order to the Village of Dousman. Costs incurred by the Village in obtaining professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.
 - (e) Where necessary to comply with certain Wisconsin Statutes, an application will be submitted to the Department of Natural Resources.
 - (f) The site plan and plan of operations information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission and Village board.

4/13/92

- (3) PUBLIC HEARING. (Am. #256) Upon receipt of the application, foregoing data and fees, the Village Plan Commission and Village Board shall establish a date for a joint public hearing and shall publish notice of the hearing once each week for 2 consecutive weeks in the official newspaper. Notice of the public hearing shall be given to the owners of all lands within 300 feet of any part of the land included in such conditional use by mail at least 10 days before public hearing. A copy of the notice of public hearing along with pertinent information relative to the specific nature of the matter (copy of application and map) shall be transmitted without delay to the Plan Commission and Village Board. Testimony of all interested parties will be recorded at the public hearing. The action of the Plan Commission, and any conditions made applicable thereto, shall then be forwarded to the Village Board for final action.
- (4) APPLICATION FOR CHANGE OF CONDITIONAL USE PERMIT. If any holder of a conditional use permit wished to extend or alter the terms of such permits, he must apply for such extension or alteration through the procedure of application for conditional use permits detailed herein.
- (5) EXPIRATION OF CONDITIONAL USE STATUS. Conditional use status will terminate when, after public hearing, Plan Commission and Village Board determine any of the following:
 - (a) The conditional use has not continued in conformity with the conditions of the permit.
 - (b) A change in the character of the surrounding area or in the conditional use itself causes such use to be no longer compatible with surrounding uses.
 - (c) The conditional use has been discontinued for a period of 12 consecutive or 18 cumulative months in a 3-year period. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, snowmobile courses, ski areas, quarries, etc.) Upon such determination, the owner of the premises shall be required to bring all such lands and buildings into conformity with district regulations of the district in which such former conditional use is located, and all other provisions of this chapter within 90 days from such determination.
 - (d) Expiration of the conditional use shall not result in any nonconforming rights and the entire use shall be ceased.

17.36 CONDITIONAL USE PERMITTED. (Am. #256)

Subject to the procedures above and in addition to such use as enumerated in the district regulations, the following may be permitted as conditional uses only in the districts that specify the conditional use. Conditional uses may be granted hereunder with any reasonable conditions deemed necessary by the Plan Commission or Board. When conditions are listed in the categories below, these are intended to be in addition to any other conditions that may be established by the Village Board or Plan Commission. Conditional Use shall comply with §17.29 Site Plan and Plan of Operations.

- (1) **ANTIQUÉ SHOPS, GIFT SHOPS, ARTS AND CRAFTS STUDIOS AND SIMILAR USES.** Subject to the following:
 - (a) The site plan, building plan and plan of operations are to be submitted to an approved by the Plan Commission.
 - (b) The Plan Commission shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.
- (2) **ARCADE AND OTHER AMUSEMENT PLACES.**
 - (b) Site plan, building plans and plan of operation are to be submitted to and approved by the Plan Commission and lot sizes are to be in conformance with the district regulations.
 - (c) The Plan Commission shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.
- (3) **AUTOMOBILE SERVICE STATIONS, ETC.**
 - (a) The building plans, site plan and plan of operation shall be submitted to and approved by the Plan Commission.
 - (b) No gasoline pump or other accessory equipment shall be closer than 15 feet to the base setback line.
 - (c) No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property.
- (4) **ANIMAL HOSPITALS, VETERINARIAN CLINICS, COMMERCIAL AND HOBBY KENNELS.** Animal hospitals and veterinarian clinics shall be permitted uses by right in business districts as long as such facilities do not include the operation of a commercial kennel. The following requirement shall be met:

- (a) The location, building and site plan and plan of operation shall be submitted to and approved by the Plan Commission and Village Board.
- (b) Animal hospitals and clinics not involved in the operation of a commercial kennel may be permitted on lot of not less than one acre and shall be in conformance with building location, height regulations and area regulations in the district in which such facilities are located. A commercial kennel operation shall not be permitted on parcels of less than 3 acres and 300 feet of minimum average width.
- (c) No building shall be located closer than 50 feet to any lot line. Where the buildings are to be used to board or house animals in a commercial kennel including outdoor kennel runs, such structures and fenced runs shall not be closer than 100 feet to an adjoining lot line. All indoor runs in an animal hospital or clinic shall be soundproofed to control/limit sound from emanating out of the building.

(5) BED AND BREAKFAST FACILITIES.

- (a) Off-street parking is provided at the rate of one stall per rental unit/bedroom and an attached garage for the owner per this ordinance.
- (b) Any permit required by §50.51(b), Wis. Stats., has been secured.
- (c) One exterior advertising sign may be erected on the premises. Sign location, type and size must be included in, and approved. Maximum sign square footage is 32 feet square feet.
- (d) The operator of a bed and breakfast must live on the premises or in adjacent premises.

(6) CHURCHES, SYNAGOGUES AND OTHER BUILDINGS FOR RELIGIOUS ASSEMBLY.

- (a) The location, building and site plan and plan of operation shall be submitted to and approved by the Plan Commission.
- (b) A maximum floor area ratio of 50%.
- (c) Such use shall conform to the setback, height and double to offset requirements of the zoning district in which it is located.
- (d) The height limitation may be extended to a maximum of 50 feet provided the minimum required setbacks and offset shall be increases

- (7) CEMETERIES AND MAUSOLEUMS FOR THE BURIAL OF HUMAN REMAINS ONLY. Subject to the approval of the Village Board following recommendation of the Plan Commission.
- (8) COMMERCIAL GREENHOUSES. The following minimum requirements shall be complied with:
 - (a) The location, building and site plan and a plan of operation shall be subject to the review and approval by the Plan Commission.
 - (b) No building other than the one used only for residential purposes shall be closer than 150 feet to the lot line of an adjoining lot in a residential district, in all other cases, a minimum offset of 50 feet shall be maintained.
 - (c) No such use shall be considered on a lot less than 1 ½ acres in size.
 - (d) Sufficient details shall be submitted in order to determine the adequacy of the storage of any fertilizers or chemicals associated with the greenhouse.
- (9) COMMERCIAL TRUCK PARKING.
 - (a) The parking and storage of commercial type vehicles, dump trucks, construction vehicles, semi-trailers, tractors and school buses, may be allowed as long as the vehicle is owned or leased and operated by the owner or occupant of the premises. No such use shall be allowed on any parcel except as may front directly upon and have access to an arterial or major collector street as define on the Waukesha County Established Street and Highway Width map.
 - (b) No more than one such vehicle shall be allowed to be parked or stored on the occupant's property and no more than 2 additional construction vehicles (backhoe, front end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully operative and in active use. When considered appropriate, 2 trailers may be allowed, but in no case may there be more than one semi-tractor or cab unit.
 - (c) No such vehicles shall be allowed to be parked or stored closer than 50 feet to any adjacent lot line and not closer than 100 feet from the base setback line. In the case of a truck containing refrigeration equipment, the refrigeration unit may not be operated in the open if such truck is parked closer than 50 feet to the nearest neighboring property line.
 - (d) The conditional use permit shall be reviewed every 2 years by the Plan Commission to determine conformance with the terms of the permit and its compatibility with the adjacent land uses. If it is determined that the conditional use permit is no longer compatible or that the provisions of the permit have not been complied with, the conditional use may be revoked or amended in accordance with the procedures outlined in the chapter.
- (10) COMMERCIAL FISH OR BAIT PONDS OR HATCHERIES. Subject to the following:

- (a) Location, building and site plan and plan of operation shall be submitted to and approved by the Plan Commission.
 - (b) No such use shall be permitted on a lot less than 5 acres in area.
 - (c) No building other than one used only for residential purposes shall be closer than 50 feet to the lot line of any adjoining lot in a district permitting residential use.
- (11) COMMUNICATION TOWERS. Communication structures, such as radio, wireless communication devices, and television transmission and relay towers, aerials, and radio and television receiving and transmitting antennas, not including ground and building mounted earth station dish antennas, shall be regulated as follows:
- (a) Self-supporting (without guy wire) towers less than 200 feet shall be situated on the site to self contain any debris resulting from tower failure. In all cases, the tower shall be located no closer to a lot line than 50 feet or the offset and setback requirements whichever is greater. In the event that the self supporting tower is located contiguous to a residential zoned or utilized parcel, the tower shall be set back from the lot line a distance equal to the height of the tower.
 - (b) All guy mast towers and self-supporting towers greater than 200 feet shall be situated on site to self-contain any debris resulting from tower failure. In all cases, the tower shall be located no closer to a lot line than 50% of the tower height plus 25 feet. Also, in all cases, the guy wire anchors shall be located at a minimum 25 feet from the lot line or the offset and setback requirements whichever is greater.
 - (c) Towers greater than 200 feet in height shall be located a minimum distance of 1,500 feet from any residential zoned or utilized parcel.
 - (d) All tower apparatus shall be securely fastened to minimize noise emission or damages from falling.
 - (e) All changes made to towers exceeding what was requested in the original application or otherwise legally existing at the date of adoption of this section, including but not limited to, adding microwave dishes, increasing the height, or providing high power transmitting apparatus, shall require site plan and plan of operation review and approval by the Plan Commission per the Zoning Code.
 - (f) All towers and sites shall be properly maintained and shall be kept in good condition as not to become a public nuisance or eyesore. Proper maintenance shall include but not limited to regular lawn and landscaping care, painting of an accessory building, fences and tower. Additionally, the site shall be kept clear of junk and debris.

- (g) Any tower declared to be a public nuisance due to poor maintenance, noise emissions, or other situation shall be subject to the penalties outlined in the Zoning Ordinance.
- (h) Documentation that there is a need for tower space in the area of the proposed tower shall be provided with conditional use application. New towers shall not be constructed except upon a showing of significant need.
- (i) Landscaping requirements:
 - 1. For all commercial towers of 50 feet in height, the tower base, accessory building, anchor points, and parking area shall be screened with a 4-foot (at time of planting) evergreen hedge consistent with the landscaping requirements for nonresidential properties.
 - 2. For towers 200 feet or greater, at least one row of deciduous trees not less than a caliper of 2 ½ inches diameter base height (dbh) shall be planted between the tower and public right-of-way and residential properties. The type and amount of required landscaping shall be determined by the Plan Commission on a case by case basis.
 - 3. The Plan Commission may allow an alternative landscaping or screening plan or waive the landscape requirements if it is determined that the landscaping will not serve a functional value based on existing topography or surrounding land uses.
- (j) All towers over 100 feet in height shall be constructed to accommodate a minimum of 3 and a maximum of 5 other providers of similar service at market rate.
- (k) No apparatus shall be attached to any tower except as approved by the Plan Commission and Village Board. Apparatus attached legally to existing towers prior to enactment of this section may remain but may not be increased in any way except with approval of the Plan Commission and Village Board. Approval for additional apparatus will be granted only after the applicant demonstrates a need for additional apparatus.
- (l) Removal of Communication facilities: Within 90 days after termination or expiration and non-renewal of this Conditional Use Permit, the owner shall remove its tower, equipment cabinets and all affiliated equipment or improvements that are part of its communication facilities. In the event the communication facilities are not removed from the premises within the 90-day period, the Village shall have the right to remove the tower, equipment cabinets and all other components of the communication facilities at the expense of the owner of the premises.

If such cost of removal have not been paid by the owner of the premises to the Village within 30 days after billing, the Village may charge the cost of removal to the owner of the premises by placing the charge on the tax roll as a special assessment pursuant to §66.60(16) Wis. Stats.

- (m) Prior to final approval, the owners shall furnish a certificate of insurance in a form satisfactory to the Village Attorney. The minimum amount of general liability insurance coverage shall be \$1,000,000.00 which may be reviewed by the Plan Commission and Village Board at any time to determine the sufficiency of such amount.
- (12) **CONTRACTOR'S YARDS.** Contractor's yards, as defined in this chapter, may be permitted only in industrial zoning districts subject to the following:
- (a) Location, building and site plan and plan of operation shall be submitted to and approved by the Plan Commission.
 - (b) No such use shall be permitted on a lot less than 3 acres in size.
 - (c) Storage of materials shall not be within 50 feet of the right-of-way of the road, or within the offset requirement, and shall be screened from a more restrictive zoning district by a planting screen at least 6 feet high and 15 feet in width.
 - (d) No more than one business may be allowed in a contractor's yard without express permission of the Plan Commission.
- (13) **DRIVE-IN RESTAURANTS.** Drive-in establishments serving food or beverages to customers other than at a booth or table provided the building plan, site plan and plan of operation have been submitted to and approved by the Plan Commission.
- (14) **ELDERLY HOUSING UNITS AND COMMUNITY BASED RESIDENTIAL FACILITIES (CBRF'S)** (Rep. & recr. #249) Elderly housing units and Community Based Residential Facilities (CBRF'S) subject to the following:
- (a) The minimum lot area shall be 20,000 square feet.
 - (b) The minimum open space area per dwelling unit shall be 1,500 square feet. This shall not include parking spaces or buildings.
 - (c) Side yard (unless modified per §17.17(2)(e) of this chapter) and rear yard setbacks shall be a minimum of 10 feet on each side and the road setback requirement shall be maintained.
 - (d) There shall be a minimum living area of 400 square feet for an efficiency apartment, 550 square feet for a one-bedroom apartment, and 750 square feet for a 2- bedroom apartment, No dwelling unit shall have more than 2 bedrooms. The minimum square footage requirements of this subsection may be reduced by the Village Board upon recommendation of the Village Plan Commission when it is determined that less space is required because substantial common areas and facilities are provided and readily available to the residents within the building of which the unit is a part, provided that the minimum living area is not reduce below the minimum requirements impost by State law.

(e) There shall be one parking space per 3 dwelling units. The Village Board may reduce the number of parking spaces upon recommendation of the Village Plan Commission when it is determined that the elderly housing unit or community based residential facility will need fewer spaces because employees will be working off-site, or residents will not be licensed drivers, or that additional parking spaces are available to serve the intended use on adjoining properties owned by the petitioner and designated for this purpose, or the petitioner demonstrates to the satisfaction of the Village Plan Commission and the Village Board through parking lot usage studies of similar facilities that fewer spaces are sufficient.

(f) Multi-story housing for the elderly shall be provided with elevators.

(15) FEED LOT OPERATIONS. Feed lots as defined in this chapter, including livestock and poultry of all types, may be permitted as conditional uses subject to the following. This conditional use is created in recognition of the potential which exists in feed lot operations for uncontrolled run-off and animal waste pollution of surface and groundwater and potential for such uses to become a nuisance.

(a) General Requirements.

1. No feed lot operation shall be permitted on less than 35 acres of tillable land nor closer than 1,000 feet from any land presently zoned residential
2. No accessory residence shall be permitted closer than 100 feet to the feed lot operation.
3. No part of the feed lot operation shall be closer than 300 feet from the center line of any public road nor closer than 200 feet from the lot line of any public road nor closer than 200 feet from the lot lines of the site on which the production unit is situated.
4. It is important that careful planning and sound management be applied to the operation of manure handling and waste run-off. Farmers are encouraged to seek advice from the Waukesha County Land Conservation Department staff. A conservation plan addressing the proposed methods of manure handling and waste run-off controls shall be prepared and made a part of the plan of operation for any proposed feed lot operation.
5. Animal waste shall not be mechanically spread between December 1 and April 1 unless the manner of application has been reviewed by and approved by the Village Plan Commission and the Waukesha County land Conservation Department staff.

(b) Information to Be Submitted.

1. Site plan showing drainage structures and the methods to be employed to control, contain or divert run-off and animal waste.
2. An operation plan detailing the method of operation and the equipment necessary to accomplish a safe and sanitary disposal of animal waste. An agreement must be filed with the Village by the owner of the land that any manure discharged in a drainage way or a public way, either intentionally or accidentally, will be cleaned up by the Village and the cost thereof assessed back to the property owner pursuant to §66.60(16), Wis. Stats.
3. A statement of the number of animals to be contained in the proposed animal feed lot. This plan shall include numbers, type and weights. Any change in the number of animal units for a period of more than 30 days shall be reported to the Plan Commission.
4. A statement detailing the method of animal collection, storage and disposal to be employed.
5. A conservative plan prepared by the Waukesha County Land Conservation Department staff and approved by the Village Plan Commission.

(16) FUR FARMS, PIG FARMS, CREAMERIES, CONDENSERIES, COMMERCIAL OR CUSTOM GRAIN DRYING OPERATIONS. The following minimum requirements shall be complied with in the granting of the conditional use order under this section.

- (a) The location, building and site plans and plan of operation shall be subject to the review and approval of the Village Plan Commission.
- (b) No building shall be located closer than 100 feet to the lot line of an adjoining lot in a residential district. In all cases, a minimum offset of 50 feet shall be maintained.
- (c) The plan of operation shall state the method by which animal waste will be handled in a safe and healthful manner. No such consideration or approval shall be granted on a lot less than 5 acres in size.

(17) IN-LAW UNITS. Subject to the following:

- (a) The location, building and site plans shall be submitted to and approved by the Plan Commission.
- (b) The Waukesha County Health Department shall certify that the septic system will accommodate the proposed use, or the structure shall be connected to municipal sewer.

- (c) The maximum living area per in-law unit shall not exceed 800 square feet for a 20bedroom unit.
- (d) There shall be an additional garage space with a minimum of 300 square feet for the in-law suite.
- (e) The architecture of the residence shall be compatible with the adjacent residential neighborhood and should appear to be a single-family residence.
- (f) The units shall have an interior door between the living units.
- (g) A deed restriction will be filed in the Waukesha County Register of Deeds' office prior to issuance of the building permit indication that this living unit is for family members of the principal dwelling unit only.
- (h) Three-quarters of a residential equivalency assessment unit shall be charged for the sewage charge.

(18) LABORATORIES FOR TESTING, EXPERIMENTAL OR ANALYTICAL PURPOSES.

- (a) The location, building and site plan and plan of operation shall be submitted to and approve by the Plan Commission.
- (b) No building other than one used only for residential purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
- (c) Off-street parking shall be provided as required for office building and customer service establishments.

(19) LEGAL NONCONFORMING USES. Follow §17.27(3)

(20) MOBILE HOME PARKS AND CAMPS.

- (a) No such use shall be permitted on a parcel of less than 5 acres and contain less than 25 mobile home lots.
- (b) All requirements of §12.06 of this Municipal Code shall be complied with.
- (c) The maximum density of 6 units per acre shall be permitted. C-1 zoned lands cannot be used as a basis for density determination and in no case shall the total number of mobile homes permitted in the Village exceed 2 percent of the total number of residential living units in the Village.

- (d) Each mobile home stand shall be placed at an elevation of at least 2 feet above the highest anticipated groundwater level and the site in general shall not be subject to periodic flooding.
- (e) Each mobile home and other structures containing sanitary facilities shall connect to an approved water and sewage system provided by the Village.
- (f) The mobile home park plan shall be in accordance with §12.06(2) of this Municipal Code.
- (g) No building or mobile home stand shall be located closer than 50 feet to the lot line in adjoining residential districts.
- (h) The provisions of all county, state and local regulations on mobile homes and mobile home parks shall be complied with.
- (i) The location, building and site plan and plan of operation must be approved by the Village Planning Commission.

(21) MOTELS AND HOTELS. Subject to the following:

- (a) The location, building, site plan and plan of operation shall be submitted to and approved by the Plan Commission.
- (b) No such use shall be permitted on a lot less than 3 acres in area.
- (c) Off-street parking shall be required in accordance with the parking provisions of this chapter.
- (d) No building shall be located closer than 15 feet to the lot line of an adjoining lot in a district permitting residential uses.

(22) MULTIPLE-FAMILY, SINGLE FAMILY ATTACHED AND TWO-FAMILY UNITS WHEN REQUIRED AS A CONDITIONAL USE PERMIT IN SECTIONS 17.48 AND 17.48(A). Subject to the following:

- (a) Location, building and site plan and plan of operation shall be submitted to and approved by the Plan Commission.

TABLE A

Type of Dwelling Unit	Minimum Lot Area (sq. ft)	Minimum Floor Area (sq. ft.)
Efficiency Unit	10,000 (4.35 Dwelling Units per Acre)	600
One Bedroom Unit	10,000 (4.35 Dwelling Units per Acre)	800
2 Bedroom Unit	12,000 (3.63 Dwelling Units per Acre)	1,000
3 Bedroom Unit	15,000 (2.90 Dwelling Units per Acre)	1,200
4 or more bedroom Unit	18,000 (2.42 Dwelling Units per Acre)	1,300

- (b) The minimum lot area for multi-family, single-family attached and two-family dwelling units when required as a Conditional Use Permit in Section 17.48 and 17.48(A) shall be no less than 40,000 square feet and shall be further determined by the number of dwelling units to be constructed in accordance with Table A, except when Sections 17.48 or 17.48(A) indicate allowances of greater densities per acre pursuant to the Comprehensive Plan. In no case shall the minimum lot area be less than 40,000 square feet. The density coefficients of dwelling units per acre reflected in Table A are presented as maximum dwelling units per acre, and are provided as another form of calculating the number of dwelling units allowed on a property. When a mixture of types of dwelling units exist on the same property, calculations shall be made to ensure each individual dwelling unit will have the required minimum lot area on the property as required by Table A. For example, two one-bedroom units and two two-bedroom units on the same property shall require a minimum lot area of 44,000 square feet. Exceptions or modifications to the minimum lot area shall not be permitted via a Planned Unit Development or any other approval vehicle. However, exceptions may be made via a Conditional Use Permit or Planned Unit Development for various forms of group quarters housing for senior citizens or health care facilities allowed in the General Residential or Multiple-Family Zoning Districts.
- (c) The minimum living area for each multi-family, single-family attached and two-family dwelling unit when required as a Conditional Use Permit in Section 17.48 and 17.48(A) shall adhere to the minimum living area of Table A. Exceptions or modifications to the minimum living area shall not be permitted via a Planned Unit Development or any other approval vehicle. However, exceptions may be made via a Conditional Use Permit or Planned Unit Development for various forms of group quarters housing for senior citizens or health care facilities allowed in the General Residential or Multiple-Family zoning districts.
- (d) Notwithstanding the standards for the minimum lot area required per dwelling unit type provided in Table A, the following maximum dwelling units per acre are allowed in the following circumstances:
 - 1. The maximum dwelling unit per acre density of unified development multiple-family or single-family attached dwellings allowed as a Conditional Use Permit within property or properties designated for Low-Density Multi-Family pursuant to the Village of Dousman Comprehensive Plan shall be a maximum of six (6) dwelling units per acre.

2. The maximum dwelling unit per acre density of unified development multiple-family or single-family attached dwellings allowed as a Conditional Use Permit within property or properties designated for High-Density Multi-Family pursuant to the Village of Dousman Comprehensive Plan shall be a maximum of ten (10) dwelling units per acre.
 3. The maximum dwelling unit per acre density of unified development multiple-family or single-family attached dwellings allowed as a Conditional Use Permit within the Northeast Development area on property or properties designated for High-Density Multi-Family pursuant to the Village of Dousman Comprehensive Plan shall be a maximum of fifteen (15) dwelling units per acre.
 4. Exceptions or modifications to the allowed maximum dwelling unit per acre density shall not be permitted via a Planned Unit Development to any other vehicle. However, exceptions may be made via Conditional Use Permit or Planned Unit Development for various forms of group quarters housing for senior citizens or health care facilities.
- (e) For the purpose of this Section 17.36(22), and Section 17.48 and 17.48(a), the dwelling unit per acre density shall be the number of dwelling units on the developed property divided by net size of the lot or property, resulting in a coefficient of dwelling units per acre. The net property size is the gross size of the property at time of application for development minus any public right-of-way, and minus 50% of total contiguous property in the same development and ownership covered by designated environmental features. Designated environmental features are areas delineated as wetlands and verified as wetlands by the Wisconsin Department of Natural Resources, the Southeastern Wisconsin Regional Planning Commission or the Army Corps of Engineers; Primary Environmental Corridors and Secondary Environmental Corridors as verified by the Southeastern Wisconsin Regional Planning Commission; floodplains mapped locally or by the FEMA; and land that is permanently or temporarily submerged by water but not including new storm water management and/or water quality basins constructed for the development. Further division of a lot and/or property by a condominium plat does not change the density calculation of using the gross or net size of the original lot or property.
- (f) Building locations for multi-family dwelling units and single family detached dwelling units, also know as building setbacks, shall adhere to the standards within the tables of Section 17.48 and 17.48(A); however, the Plan Commission may set greater building setbacks as part of the Conditional Use Permit or Planned Unit Development approval for proper design, grading and drainage purposes, and appropriate amount of light, area and ventilation between lot lines and buildings. No principal buildings on the same property shall be closer than 30 feet.

- (g) The Village Planning Commission shall require architectural review of the development, and shall set architectural standards for the development as part of the Conditional Use Permit.
- (h) There shall be at least one (1) off street parking space per bedroom of each dwelling unit, along with at least one (1) off street quest parking space for every four (4) dwelling units, or fraction thereof. Nonetheless, there shall be no less than six (6) off street parking spaces per property and the Plan Commission may require additional off-street parking spaces if necessary for the type of dwelling units, on-site amenities and for any on-site staff. There shall be provided on every multi-family or single-family attached property a minimum of one (1) enclosed parking space per dwelling unit. Design of parking lots, parking spaces, and handicapped parking spaces shall adhere to the standards of Chapter 17. Exceptions to the amount of on-site parking spaces may be made via a Conditional Use Permit or Planned Unit Development for various forms of group quarters housing for senior citizens or health care facilities, as approved by the Village Board with recommendation from the Plan Commission, with the exception duly noted in the approval document.
- (i) Landscaping requirements are subject to the approval of the Planning Commission.
- (j) All other applicable standards of this Chapter 17, Chapter 18 (Land Division Ordinance), the entire Village of Dousman Municipal Code, and the State of Wisconsin Building Code, shall be adhered to as part of the Conditional Use Permit.
- (k) The uses allowed as a conditional use within GR General Residential District or the MF Multiple-Family Residential District are subject to applicable Federal, State and Village regulations and standards.

(23) PLANNED UNIT DEVELOPMENTS. (Rep. & recr. #222)

1. PLANNED MIX USED-USE DEVELOPMENT

- a. Allowance of a Planned Mixed-Use Development, as a Planned Unit Development through Conditional Use, is intended for the purpose of permitting developments that will derive maximum benefit from coordinated area site planning, diversified location of structures, and mixing of compatible uses of the residential, commercial/business, light industrial, and public use type provided such plan results in the provision of a safe and efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic design and location of public and private utilities and community facilities; and ensures adequate standards of construction and planning.

The unified and Planned Mixed-Use Development of a site, in a single or corporate ownership or control at the time of application, may be permitted in a Planned Mixed-Use Development conditional use with one or more principal uses of structures and related accessory uses and structures. The regulations within a Planned Mixed-Use Development need not be uniform throughout.

1. Planned Mixed-Use Development shall be permitted only within those areas of the Village classified as Planned Mixed-Use in Comprehensive Plan Land Use Plan.
2. The uses and accessory uses which may be included in a Planned Mix-Use development may include those uses listed of right and/or by conditional use in the SR-1 SINGLE FAMILY RESIDENTIAL DISTRICT, SR-2 SINGLE-FAMILY RESIDENTIAL DISTRICT, GR-GENERAL RESIDENTIAL DISTRICT, MF-MULTIPLE-FAMILY RESIDENTIAL DISTRICT, B-1 DOWNTOWN BUSINESS DISTRICT, B-2 HIGHWAY BUSINESS DISTRICT, I-1 LIGHT INDUSTRIAL DISTRICT, and PUBLIC PROPERTIES DISTRICT. Individual buildings without a Planned-Mixed Use Development may include a mixing of these uses.
3. Home occupation may be permitted in residential units contained within a Planned-Mixed Use Development provided they are conducted in full compliance with the terms and conditions as set forth for home occupations in Section 17.48(3) of the Village Code.
4. The general bulk, spatial, height, and architectural requirements within a Planned-Mixed Use Development shall be as set forth by the Planning Commission and Village Board as part of their use, building, site and architectural plans review and approval. The Planning Commission and Village Board shall take guidance from the bulk and spatial requirements of SR-1 SINGLE-FAMILY RESIDENTIAL DISTRICT, SR-2 SINGLE-FAMILY RESIDENTIAL DISTRICT, GR – GENERAL RESIDENTIAL DISTRICT, MF – MULTIPLE-FAMILY RESIDENTIAL DISTRICT, B-1 DOWNTOWN BUSINESS DISTRICT, B-2 HIGHWAY BUSINESS DISTRICT, L-1 LIGHT INDUSTRIAL DISTRICT AND PUBLIC PROPERTIES DISTRICT in attaching the appropriate bulk, spatial, height and architectural requirements uniquely and specifically throughout each Planned-Mixed Use Development.
5. Each Planned-Mixed Use Development shall contain a minimum of 5 contiguous acres of land. All of the requirements as set forth in Section 17.36(22)(b), (C), (d), (e), (f), (g), (h), and (i) shall apply fully to Planned Mixed-Use Developments

(a) Allowance of a Planned Unit Development, as a Conditional Use.

Allowance of a Planned Unit Development, as a conditional use pursuant to the regulations of this section, is intended to be created for the purpose of permitting developments that will: derive maximum benefit from the coordinated area site planning, diversified location of structures, and mixed compatible uses that result in the provision of a safe and efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic design and location of public and private utilities and community facilities; and ensure adequate standards of construction and planning. The unified and planned development of a site, in single or corporate ownership or control at the time of application, may be permitted in a Planned Unit Development conditional use with one or more principal uses of structures and related accessory uses and structures. The regulations within a Planned Development District need not be uniform throughout except for those types of intensity standards set forth below.

1. Each Planned Unit Development shall be consistent with land use intensity for the subject site as identified in the Village of Dousman Land Use Plan.
2. Each Planned Unit Development shall be approved only with the appropriate zoning district or districts of §17.43 through 17.57.
3. Each Plan Unit Development shall conform to the standards of the zoning district of which the site is zoned, and all applicable standards of this Zoning Code or Municipal Code; unless the conditional use approval specifically states the deviations to the standards allowed by the conditional use approval to support the basis for the Planned Unit Development as stated above.
4. Each Planned Unit Development shall be a minimum of 5 contiguous areas.

(b) Plan Commission and Village Board.

1. All Planned Unit Developments must be services by municipal sewer and water.
2. The proposed development is on conformance with the Village's comprehensive plan, is not contrary to the general welfare or economic balance of the community and benefits and increased amenities of the development justify the variation from the normal requirements of the district.

3. Any and all other requirement set by the Plan Commission and Village Board in the conditional use document for the Planned Unit Development are met.
4. The size, quality and architectural design of all buildings in the project are of such a quality, size and aesthetic value to justify the approval of the project.
5. The quality and design of site features; such as but not limited to landscaping, signage, lighting, adequate parking, proper traffic flow, control of outside storage, shielding of mechanical equipment in the project are of such a quality, size and aesthetic value to justify the approval of the project.
6. Provisions of facilities of the open space areas being provided are of such a quality, size and aesthetic value to justify the approval of the project.
7. All required plan and documents have been submitted and accepted by the Plan Commission and Village Board.

(c) Application Procedure.

1. Pre-application Conference. Prior to official submission of a preliminary application for a Planned Unit Development, the applicant shall meet with the Plan Commission for a pre-application conference to discuss the scope and nature of the proposed developments, review and local regulations and policies applicable to the project and consider the land use implications of the proposal.
2. Application. A petition for a Planned Unit Development shall be submitted to the Village Clerk by the owner or agent. Such petition shall be accompanied by a fee in accordance with the Village's established fee schedule and a development plan with the number of copies as set by the Village Clerk. The development plan shall include the following:
 - a. Data on the total size of the project including the area of open space, proposed number of residential units, projections of household sizes, marketability of the project and impact of the project on the municipal services, or for a commercial development, land coverage, floor area ration, size of anticipated commercial tenants, etc.

- b. Documents in the form of a traffic study that verifies that the proposed development will not have an adverse impact on the Village, county or state highways, if the Planned Unit Development has 25 or more dwelling units, or 40,000 square feet or more of retail, office or industrial space.
- c. Documentation as to the expected impact on the local school district. This documentation shall be forwarded to the local school district for their comments.
- d. The application shall include road design information, erosion and sediment control practices, stormwater retention facilities and information concerning the soils so the Village can be assured that the soil conditions are adequate to accommodate the structures and Village roads and whether any special precautions are necessary for basement construction. The Village may modify such proposals subject to conditions of approval as long as such modifications are consistent with good engineering practice and the approval of the Village Board.
- e. Upon request from the Plan Commission, the application shall include information regarding the impacts that the Planned Unit Development will have on the environment including, but not limited to, wetlands, surface water and groundwater to ensure that the environmentally sensitive areas within the Village are protected.
- f. All residents Planned Unit Developments shall provide permanent common open space. Open space may be in corporate ownership or in a private homeowners association, unless the open space is dedicated to the Village as park land pursuant to §18.08(2) of this Municipal Code, with an open space easement to assure that the open space shall be conveniently accessible to all residential dwellings within a Planned Unit Development, available to all occupants of the dwelling units for whom the use of the space is intended and shall provide a meaningful and useful area for such intended open space. It is the intent of this provision to ensure equitable distribution of various land uses to all owners and maintain the maximum of open space. Common open space does not include private lots, street right-of-way or lands determined unsuitable by the Village Board due to accessibility, common benefits or the intent of the provision. The presentation shall include what amenities are proposed in the common open space and if they are to be phases during the completion of the development.

- g. General summary of financial factors, such as value of the structure, estimated improvement costs, amounts proposed for landscaping and special features and total anticipated development costs of the project.
 - h. General outline of intended organizational structure related to property owners association, architectural review committee, deed restrictions and provisions or utilities and other services.
 - i. A project staging plan which outlines a timetable for project development including but not limited to road cutting, utility hookups, building construction, landscaping, open space and recreational area completion.
 - j. A draft developer's agreement outlining the terms and conditions of the development to be later approved by the Village Board.
 - k. Any other information as may be required by the Village Plan Commission or Village Board.
- (d) Construction Routes. A map of the development showing the access points to be used by construction vehicles during the course of construction and which shall become part of the conditional use agreement between the Village and the developer with such provisions for enforcement as provided on the contract.
- (e) Consultant, Engineering and Legal Fees. If the Village incurs consultant, engineering or legal fees to prepare or review any aspect of the proposed planned unit development, the Village will notify the petitioner of what portion of the fees shall be charged to the petitioner. All such charges shall be paid in full before issuance of the conditional use permit.
- (f) Financial Guarantee to Complete Construction of Improvements in the Planned Unit Development. A letter of credit in a Wisconsin financial institution or cash deposit or other satisfactory financial guarantee approved by the Village Attorney to cover the cost of all improvements in facilities agreed upon in the conditional use permit.
- (g) Possible Requirements. A preliminary and final subdivision plat, certified survey map and/or a condominium plan may be required.
- (h) Additional Requirements. The Plan Commission and Village Board may add any further additional requirements appropriate to each conditional use, as necessary.

- (i) Recording. The conditional use shall be recorded in the office of the Register of Deeds to affect the real estate upon which a conditional use is granted, which includes all homeowners association documents and deed restrictions and provisions for utilities and other services.

1. This conditional use shall expire if the project has not been commenced within 18 months or the conditional use grant unless extended by the Village Board. Commencement shall be defined as issuance of at least one full building permit or construction of a structure in accordance with approved plans.
2. Any violation of this conditional use will be subject to the enforcement procedures contained in this chapter or be revocation of the conditional use after hearing.

- (j) Subsequent Change or Addition. Any subsequent change or addition to an addition to an approved conditional use shall first be submitted for approval the Village Plan Commission and if, in the Commission's opinion, such change or addition is not substantial, it may recommend approval to the Village Board without public hearing. Without limitation to the Plan Commission's right to determine any change, substantial change in any of the following respects shall be automatically construed to be substantial:

1. An increase in the number of dwelling units from that shown in the approved conditional use.
2. A significant change in size, value or type of structure from that is indicated in the approved conditional use.
3. The addition of any principal use is not included in the approved conditional use. This does not include the addition of amenities by homeowners association, although, they must have Plan Commission approval.
4. A change in the basic concept of the site development which would significantly alter the relationship of uses or open space to adjoining property.

(24) PRIVATE CLUBS AND OUTDOOR FACILITIES, SUCH AS RECREATIONAL CAMPS, GOLF COURSES, BATHING BEACHES, RIDING ACADEMIES, RESORTS.

- (a) Location, building and site plans and plan of operation shall be submitted to and approved by the Plan Commission.
- (b) No such use shall be permitted on a lot less than 2 acres in area except in a restricted business or less restrictive district.
- (c) No building shall be located closer than 50 feet to the lot line.
- (d) Off-street parking shall be provided as required by the Plan Commission adequate to meet the particular needs of the proposed use.
- (e) No such use shall include the operation of a commercial facility, such as a bar restaurant, except as may be specifically authorized in the grant of the permit.

(25) PUBLIC AND SEMIPUBLIC BUILDINGS AND USES. Subject to the following, these uses shall be considered permitted uses in the Public Properties District:

- (a) The location, building and site plans and plan of operation shall be submitted to and approved by the Plan Commission.
- (b) Such use shall conform to the setback, height and double the offset requirements of the district in which it is located.
- (c) The height limitation may be extended to a maximum of 50 feet provided the minimum required setbacks and offsets shall be increased 2 feet for every additional foot of height in excess of the permitted maximum of that district.

(26) PUBLIC AND COMMERCIAL REFUSE DISPOSAL SITES. Subject to the following:

- (a) The location, building, site plan and plan of restoration shall be submitted to and approved by the Plan Commission, the Waukesha County Health Department and the DNR pursuant to the Wisconsin Administrative Code.

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- (b) Such plan shall be approved or disapproved upon consideration of the effects on topography, drainage, water supply, soil conditions, roads and traffic and present and ultimate land development and use.
- (c) Only sanitary landfill refuse disposal methods may be used subject to approval of Waukesha County and the DNE.

- (d) A responsible person shall be in attendance during the hours of operation, which hours shall be subject to the approval of the Village Board. No refuse disposal shall take place except during the specified hours of operation and with the attendant present.

- 1. A nonflammable fence with a gate which can be locked shall be erected to encompass the disposal site to prevent refuse disposal and scavenging during non-operating hours and the attendant shall retain the key.
- 2. Such fence and additional auxiliary portable fence, such as snow fence will minimize the nuisance of blowing paper shall be approved by the Village Board.

- (e) All existing refuse disposal operations shall be registered by the operator within 30 days after adoption of this chapter with the Village Clerk, submitting pertinent data relative to present operations, including the boundaries of the actual operation and ownership. A permit shall be granted to such existing operation subject to compliance with a plan of operation satisfactory to the approving bodies.

A plan of restoration shall be submitted to the Village by the operator within 1 year of the adoption of this chapter, together with a surety bond to insure restoration. Such operation and restoration plan shall not impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this chapter.

- (f) The minimum lot size is 40 acres.

(27) QUARRYING, AS DEFINED IN THIS CHAPTER. Subject to the following:

- (a) Procedure for Application.

- 1. Permit. No quarrying shall take place in any district until a conditional use permit has been received and approved by the Village Plan Commission and Village Board, except in a Quarrying or General Industrial District such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed 5 years, and may be renewed thereafter for periods not to exceed 3 years, provided application therefore shall be made at least 60 and no more than 120 days before expiration of the original permit. Application after such date shall be treated as an original application.
- 2. Application. Application for a conditional use permit shall be made on forms supplied by the Village Hall and shall be accompanied by a fee as may be established and periodically modified in accordance with the provisions of this chapter. Such fee shall be paid in cash, check or money order to the Village of Dousman.

- a. A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water require, its source and its disposition shall be made part of the description.
- b. A legal description of the proposed site with a map showing its location with indications of access roads, existing or proposed and of public highways adjacent to the site which will be affected by the operation.
- c. A topographic map of the area at a minimum contour interval of 5 feet extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides.
- d. A restoration plan as required by subpar. (c)5.

(b) Procedure for Action on Applications.

1. Referral to Plan Commission. The application and all data and information pertaining thereto shall be referred to the Plan Commission for public hearing and report and recommendation back to the Village Board within 30 days after the public hearing.
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2. Public Hearing. Within 30 days after an application has been filed, a public hearing shall be held at which all interested parties must be heard. In addition to the normal posting and publishing notice also shall be sent through the mail or otherwise placed in the hands of all landowners within a ½ mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least 10 days prior to the date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient. No hearing shall be required precedent to issuing a permit in a Quarrying District.
3. Action by Village Board. The Village Board shall, within 30 days after receipt of the recommendation of the Village Plan Commission, take action to approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of the public health, safety and welfare, and shall give particular consideration to the following factors in making their decision.
 - a. The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency.

- b. The effect of the proposed operation on drainage and water supply.
 - c. The possibility of soil erosion as a result of the proposed operation.
 - d. The degree and effect of dust and noise as a result of the proposed operation.
 - e. The practical possibility of restoration of the site.
 - f. The effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area.
 - g. The most suitable land use for the area with particular consideration for future residential value.
- 4. Additional Conditions. Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the Village.
 - 5. Renewals. The procedure as designed in pars. 3.a., b., c. and d. above shall apply to applications for renewal of a permit. Determination in regard to renewal shall be based particularly on an elevation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for the refusal shall be presented to the applicant in writing and made a part of the records of the Village.

(c) Requirements.

- 1. General Requirements.
 - a. No part of the quarrying operation shall be permitted closer than 1,000 feet nor shall any accessory access road, parking area or office building be permitted closer than 500 feet to a district zoned residential at the time of the grant of permit except with the written consent of the owners of all residentially zoned properties within 1,000 feet except in a Quarrying or Heavy Industrial District, but in no case shall such operation be permitted closer than 200 feet to a Residential District.
 - b. No quarrying operation shall be permitted except in an Industrial District, if more than 30 or more families reside within a band of $\frac{1}{2}$ mile wide around the perimeter of the proposed operation.

2. Setback Requirements. No part of the quarrying operations other than access roads shall be located closer than 200 feet, nor shall any accessory parking area, stockpile or office building be located closer than 100 feet to the base setback line along any street or highway.
3. Offset Requirements. No part of the quarrying operation shall be permitted closer than 200 feet, nor shall any accessory access road, parking area or office building be permitted closer than 50 feet to any property line except with the writing consent of the owner of the adjoining property, or except where the line is abutting a Quarrying, or Heavy Industrial District or abutting an existing quarrying operation but in no case shall such operation be closer than 20 feet to any property line except by agreement between abutting quarrying operations or be in conflict with the provisions of §17.09(5) relating to preservation of topography.

4. Operational Requirements.

- a. Fencing or other suitable barrier shall be erected and maintained around the site or around the portions of the site or around portions of the site where in the determination of the Village Board such fencing or barrier is necessary for the protection of the public and shall be of a type approved by the Village Board.
- b. All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust free condition by surfacing or treatment as directed by the Village Plan Commission, upon recommendation by the Village Planner.
- c. The crushing, washing, refining or other processing other than initial removal of material may be permitted as an accessory use only as specifically authorized under this term of the grant permit or as otherwise provided in a quarrying or industrial district.
- d. In stone quarries the production or manufacturing of veneer, stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of permit or as otherwise provided in a quarrying or industrial district.
- e. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation shall not be permitted except as otherwise provided in a quarrying or heavy industrial district.
- f. The washing of sand and gravel shall be prohibited In any operation where the source of water is of doubtful capacity or where the quantity of water required will, in the opinion of the Village Engineer seriously affect the water supply for other uses in the area.

- g. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Village Plan Commission to screen the operation so far as practical, from normal view to enhance the general appearance from the public right-of way and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding countryside. Such planting shall be started as soon as practicable, but no later than 1 year after quarrying operations have begun and shall be done according to the recommendations of the Village Plan Commission and Village Board.
- h. Except in a quarrying or heavy industrial district, quarrying operations shall not begin before the hour of 7a.m. and shall not continue after the hour of 6p.m. and no operation shall take place on Sundays or legal Holidays. 4/13/92

During periods of national or unusual emergency, time and hours of operations may be altered at the discretion of the Village Board and through the issuance of a special permit which shall be renewable at 30 intervals.

5. Restoration Requirements.

- a. In order to ensure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall prior to the issuance of a permit submit a plan for such restoration in the following form.
 - 1. An agreement with the Village whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the Village.
 - 2. A physical restoration plan showing the proposed contours after restoration, plantings and other special features of restoration and the method and manner by which such restoration is to be accomplished.
 - 3.
 - 4. A bond, written by a licensed surety company, a certified check or other financial guarantee satisfactory to the Village in an amount sufficient in the opinion of the Village Engineer to secure the performance of the restoration agreement.

5. Such agreement and financial guarantee shall be in a form approved by the Village Attorney.
 - b. In the event of the applicant's failure to fulfill this agreement, such bond, check or other financial guarantee shall be deemed forfeited for the purpose of enabling the Village to perform the restoration.
 - c. Restoration shall proceed as soon as practicable and at the order and direction of the Village Engineer. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than 2 years.
 - d. At any stage during the restoration, the plan may be modified by mutual agreement between the Village and the owner or operator.
 - e. Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility or unsightliness. In any case the finished grade of the restored area, except for rock faces, out-cropping's, water bodies or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.
 - f. Within 1 year after the cessation of the operation, all temporary structures (excepting fences), equipment, stockpiles, rubble heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.
 - g. In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of 1 ½ horizontal to 1 vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.
6. Exceptions.
 - a. The provisions of section shall not apply to the removal of sod.

- b. When the operation is limited to the removal of topsoil, the Plan Commission may, consistent with the intent of these regulations, modify any or all of the provisions of this section provided however, that in no case shall such operation be permitted closer than 10 feet from any property line or to a depth in excess of 18 inches or so as to adversely affect the drainage area.
- c. The provisions of this section shall not apply to an operation which is incident to legitimate use of the premises, provided, however, where such operation involves the commercial disposal of the material removed, the approval of the Plan Commission shall be required and such operation shall be limited to a maximum period of 6 months.
- d. In a heavy industrial district the Village any, consistent with the intent of these regulations, modify the provision relative to permitted hours of operation and where the character of terrain, surrounding development or other special conditions would justify, such modifications may permit a reduction in the required setback or offset. However, in no case shall the setback be less than 100 feet or the offset be less than 100 feet for quarrying operations or 20 feet for any accessory access road, parking area or office building except as may be otherwise provided by this subparagraph. 4/13/92

(d) Application to Existing Operations.

- 1. Permit. Within 60 days after the adoption of this chapter all existing quarrying operations shall be required to register with the Village Clerk submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A conditional use permit shall be granted to such existing operation subject to compliance with the operational requirements of this chapter where they can reasonable be applied under existing circumstances.
- 2. Plans for restoration. There shall be required within one year after adoption of this chapter the submission of a plan for restoration of the site of any existing quarrying operation as provided by subparagraph 3. above. The plan for restoration in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this chapter.
- 3. Renewal permit. Within 3 years after the date of this chapter any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this chapter.

(e) Application to Existing Operations.

(28) RESTAURANTS, SUPPER CLUBS, TAVERNS AND SIMILAR USES.

Subject to the following:

- (a) The location, building, site plan and plan of operation are submitted to be approved by the Village Plan Commission.
- (b) The minimum lot area shall be 2 acres with at least 1 200-foot minimum average width.
- (c) Off-street parking shall be provided within 200 feet of the building in which such use is occurring, but offset 20 feet from any side lot line of an adjacent property zoned agricultural and any residential zoning district. The amount of space required shall be in accordance with the requirements contained in the parking section of this chapter.
- (d) A planting screen of at least 6 feet in initial height shall be provided between any abutting residential district and the proposed use. Additional planting screens may be required by the Plan Commission.
- (e) The proposed building shall be offset at least 50 feet from any abutting residential district and 100 feet from any navigable body of water.

4/14/03

(29) SALVAGE YARDS. Sites used for storage or sale of salvageable materials or for the purpose of salvage, wrecking dismantling or demolition of salvageable materials subject to the following:

- (a) The location, building and site plans and plan of operation shall be submitted to and approved by the Village Plan Commission.
- (b) All requirements of the Wisconsin Administrative Code applicable to salvage yards shall be complied with.
- (c) The minimum lot size shall be 5 acres.
- (d) The yard shall be screened from view on all sides by a minimum 6-foot high solid fence with landscaping to break up the look of the fence.
- (e) The fence screening the yard shall have a 25-foot minimum side and rear fence.

(30) OTHER USES OR SITUATIONS. Other uses or situations not specifically provided for this section and which may be determined to be acceptable under the provisions of Section 17.16(3) and in the judgment of the Village Plan Commission and Village Board meet the intent of the conditional use as set forth in section 17.35.

(31) HORSE KEEPING AND HOUSING. (Cr. #297) The keeping and housing of domestic horses may be permitted as a Conditional Use subject to the following:

- (a) There shall be no more than one horse for the first 3 acres of land in contiguous ownership, and no more than one additional horse per each full one full acre of land thereafter.
- (b) The land to be so utilized shall be adjacent to or across from lands in the Town of Ottawa, or attached or annexed from the Town of Ottawa after June 3, 2004.
- (c) The land shall be zoned SR-1 Single Family Residential, SR-2 Single Family Residential, or SR-3 Single Family Residential.
- (d) The land shall be 3 acres or larger parcels or lots.
- (e) The land shall be regularly shaped with proper proportion of width and depth to provide for adequate outdoor space for the horse or horses, as determined by the Village Board.
- (f) The keeping and housing of domestic horses shall be accomplished with maximum effort of neatness and sanitation so as to not be detrimental to neighboring residential uses.
- (g) Any stable, barn or other structure that is proposed for the keeping and housing of horses shall be described in the Conditional Use application and shall be subject to the approval of the Village Board, and is permitted only if specifically so stated within the Conditional Use Order granted by the Village Board.
- (h) The Village Board may impose additional conditions for the protection of the public health, safety and welfare.

2/11/08

(32) ACCESSORY STRUCTURES AND USES. This conditional use is available in all zoning districts of the Village of Dousman. Continuation of an existing accessory building or accessory use, if only if otherwise prohibited by this Code, may be allowed under this subsection only in the following limited circumstances:

- (c) Applicability.
 - 1. The use or structure , or both (whichever or both is nonconforming) was legal and conforming immediately prior to the time the parcel was annexed or attached to the Village, per the laws existing in the municipality from which the parcel was annexed or attached; or

2. The structure was historically used as part of farming or agricultural operation.
 3. If the structure or use is legal nonconforming as classified and regulated by Section 17.27(2) of this Code, Section 17.27(3) shall apply.
- (d) Accessory Structure Size, Number and Location Modification. A conditional use order grant per this section may modify otherwise applicable requirements of this Code with regard to the following limited issues:
1. The size of a single accessory building.
 2. The total size of all accessory building on a lot
 3. The number of accessory buildings permitted on the lot.
 4. The accessory building(s) setback from a pre-existing property line. This does not include accessory building(s) setbacks from property lines created subsequent to February 18, 2010.
 5. Accessory building(s) location on the lot. This does not include accessory building(s) setbacks from property lines created subsequent to February 18, 2010.
- (e) Deed Restrictions. If the conditional use order allows the continuation of the accessory building or buildings, a deed restriction shall be placed on the property, prior to implementation of the action, indicating that the accessory building or buildings continue to be nonconforming, shall not be further expanded, and shall be removed within 90 days after request by the Village Board if any accessory building becomes dilapidated causing health and safety concerns or an undue hardship on surrounding property.

2/18/10

DISTRICTS

17.40 ANNEXATIONS. All territory annexed to the Village subsequent to the effective date of this chapter shall, except as provided below, be automatically placed in the Agricultural Land Preservation Transition District if more than 35 acres in size and single family residence if less than 35 acres in size, until definite boundaries and regulations are recommended by the Village Plan Commission and adopted by the Village Board, provided that the Village Board shall adopt definite boundaries and district regulations within 90 days from the date of the annexation. Annexations containing floodlands and shorelands shall be governed in the following manner:

1. Annexations containing shoreland and floodland until such time as the Wisconsin Department of Natural Resources (DNR) certified that amendments to this chapter meet the requirements of Ch. NR116, Wis. Adm. Code.
2. Pursuant to §61.353, Wis. Stats., any annexation of land after May 7, 1982, which lies within shorelands as defined herein that prior to annexation was subject to county shoreland zoning ordinance under Section 59.692, Wisconsin Statutes, shall be automatically placed in the SP-Shoreland Protection Overlay District. 6/16/14

17.41 ESTABLISHMENT OF DISTRICTS. For the purpose of the chapter, the Village is hereby divided into zoning districts designated as follows:

1. C-1, Conservancy District.
2. EFD, Existing Floodplain Development Overlay District.
3. A, Agricultural Land Preservation – Transition District.
4. RR, Rural Residential District.
5. SF-1, Single Family Residential District.
6. SR-2, Single Family Residential District
7. SR-3, Single Family Residential District
8. GR, General Residence District.
9. MF, Multiple-Family Residential District
10. B-1, Business District,
11. B-2, Highway Business District
12. LI, Light Industrial District.
13. HI, Heavy Industrial District
14. P. Public Properties District
15. FO, Floodway Overlay District.
16. FC, Floodplain Conservancy Overlay District
17. FF, Floodplain Fringe Overlay District
18. W, Quarrying District
19. FC, Floodplain Conservancy Overlay District.
20. FF, Floodplain Fringe Overlay District.
21. W, Quarrying District.

17.42 ZONING MAP.

- (1) DISTRICT MAP. The boundaries of all districts are shown on the zoning maps of the Village except the EFD District, which maps are made part of this chapter and all the notions, references and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth by such map were all fully described herein. Such maps shall be kept on file in the office of the Village Clerk.
- (2) DETERMINATION OF BOUNDARIES. Districts shall be determined by the measurement from and as shown on the official zoning map and in any question as to interpretation of such lines, the Plan Commission shall interpret the map according to the reasonable intent of this chapter.
 - (b) The district boundaries in all districts, except the C-1 Conservancy District and the floodplain districts, shall be construed to follow corporate limits; U.S. Public Land Survey lines; alleys, easements and railroad right-of ways or such lines extended.
 - (c) The boundaries of the Floodway District, Floodfringe District and General Floodplain District shall be as described in Section 17.59(1.5)(2) of this Chapter. 3/10/14
 - (d) Boundaries of the C-1 Conservancy District are based on the Wisconsin Wetland Inventory Map for the Village dated September 30, 1987 and stamped "FINAL" and include but are not limited to all shoreland-wetlands 5 acres or greater in area shown on that map.

17.43 CONSERVANCY DISTRICT.

- (1) DESIGNATION. This district shall include all areas that are considered wetlands, marshlands, swamps and floodplains and as defined in this chapter. In order to distinguish the wetlands within this district from other conservancy land, the final Wisconsin Wetlands Inventory Maps for Village of Dousman were utilized and are to be used for reference purposes. In the case of any dispute regarding a boundary between any wetland and any other conservancy designated land, the Plan Commission will consult with the Department of Natural Resources and coordinate the appropriate on-site investigation to determine the exact boundary. If the NDR staff concur with the Village Plan Commission that a particular area was incorrectly mapped as a wetland or conversely should have been mapped but was not, the Village Plan Commission shall have the authority to immediately deny or grant a permit in accordance with the regulations applicable to the correct zoning district designation as it may be modified by such field determination. A notation shall be made on the map indicating that such change has been made for future reference purposes.

(2) **PURPOSE AND INTENT.** This district is intended to preserve and protect environmentally sensitive lands by limiting the uses and intensity of uses that may be placed upon them to maintain safe and healthful conditions; to prevent water pollution; to protect fish spawning grounds and wildlife habitat; to preserve shore cover and natural beauty; and to control building and development in such conservancy/wetlands wherever possible. When development is permitted, it shall occur in a manner that minimizes adverse impacts upon the area in question. These lands are often in a natural, relatively undisturbed state and shall include wetlands, marshlands, swamps, floodlands and areas up to the ordinary high watermark along streams or other navigable waters.

(3) **USE REGULATIONS.**

(a) The following activities and uses are allowed without the issuance of a permit provided that no wetland alteration occurs:

1. Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating.
2. The harvesting of wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds in a manner that is not injurious to the natural reproduction of such crops.
3. The practice of silviculture including planting thinning and harvesting of timber.
4. The pasturing of livestock.
5. The cultivation of agricultural crops.
6. The construction and maintenance of duck blinds.

(b) The following uses are allowed without the issuance of a permit but require the approval of the Land Conservation Department staff and may involve wetland alterations only to the extent specifically provided below:

1. The practice of silviculture including limited, temporary water level stabilization measures which are necessary to alleviate abnormal wet or dry conditions that would otherwise have an adverse impact on the conduct of the existing silviculture activities.
2. The cultivation of cranberries including limited wetland alteration necessary for the purpose of growing and harvesting cranberries.

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3. The maintenance and repair of existing drainage systems, where permissible under §30.20, Wis. Stats., to restore preexisting levels of drainage including the minimum amount of filling necessary to dispose of dredge soil, provided that the filling is permissible under Ch. 30, Wis. Stats., and that dredged soil is placed on existing spoil banks where possible.
 4. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.
 5. The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on piling, including limited excavating and filling necessary for such construction or maintenance.
 6. The installation and maintenance of sealed tiles for the purpose of draining lands outside the wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon natural functions of the wetland.
 7. The maintenance, repair, replacement and reconstruction of existing highways and bridges including limited excavating and filling necessary for such maintenance, repair replacement and construction.
- (c) The following uses are allowed upon the issuance of a conditional use permit and may include wetland alterations only to the extent specifically provided below:
1. The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses otherwise permitted uses in wetland zoning provided that:
 - a. The road cannot as a practical matter be located outside the wetland.
 - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland.
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.
 - d. Road construction activities are carried out in the immediate area of the roadbed only.

- e. Any wetland alteration shall be necessary for the construction or maintenance of the road.
2. The construction and maintenance of nonresidential buildings provided that:
- a. The building is used solely in conjunction with a use permitted in the wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals.
 - b. The building cannot as a practical matter, be located outside the wetland.
 - c. The building does not exceed 500 sq. ft. in floor area.
 - d. Only limited filling or excavating necessary to provide structural support for the building allowed.
3. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scenic areas, game refuges, enclosed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps provided that:
- a. Any private development under this section shall be used exclusively for the permitted purpose.
 - b. Only limited filling and excavating necessary for the development of public boat launch ramps and swimming beaches or construction of park shelters, or similar structures is allowed.
 - c. The construction and maintenance of roads necessary for the uses permitted under this section are allowed only if such construction and maintenance meets the criteria in the previous section.
 - d. Wetlands alteration and game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preservation shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland value.
4. The construction and maintenance of electric or telephone transmission lines and water, gas or sewer lines and related facilities for the construction and maintenance of railroad lines provided that:

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- a. The transmission and distribution lines and related facilities for railroad lines cannot as a practical matter be located outside the wetland.
- b. Only limited filling or excavating necessary for such construction or maintenance is allowed.
- c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland.

5. PROHIBITED USES IN WETLANDS. Any use not listed in this section is prohibited unless the wetland or portion of the wetland has been rezoned by amendment of this chapter in accordance with the procedures outlines in §17.62(3).

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17.44 RESERVED. (Rep. #303)

17.45 A – AGRICULTURAL LAND PRESERVATION TRANSITION DISTRICT.

1. PURPOSE AND INTENT. The purpose of this district is to protect and encourage farming in areas that are anticipated to develop consistent with adopted plans for the community. This district will serve as a folding or transition zone enabling farmers to continue in the practice of farming and makes qualified farmers eligible to claim tax credits under the State of Wisconsin Agricultural Land Preservation Program. Because lands in this district are recognized as possessing development potential consistent with adopted plans for the community, it is the policy of the Village of Dousman to conduct a periodic comprehensive review of these districts at least every 5 years beginning in 1995. Additional stated purposes of the districts are as follows:

- (a) To preserve agricultural lands for production of food and fiber.
- (b) To preserve productive farms by preventing land use conflicts between incompatible uses.
- (c) To control the costs of public services through efficient extension of those services.

- (d) To maintain a viable agricultural base and associated agricultural support of systems.
- (e) To pace and shape development in the changing rural landscape by preventing premature development of lands intended to be served by municipal services or when such land is determined to be necessary for growth and development by the community and by virtue of other factors. 3/9/09
- (f) To implement the provisions of the Waukesha County Agricultural Land Preservation Plan.
- (g) To comply with the provisions of the Wisconsin Farmland Preservation Act which permits eligible landowners to receive tax credits under §17.09(11) Wis. Stats.

2. INCLUDED LANDS. Land to be included within the A Agricultural Land Preservation Transition District are as follows:

- (a) Lands historically exhibiting good crop yields or those capable of such good crop yields by virtue of their good soil characteristics.
- (b) Lands which have been demonstrated to be productive for dairyland, livestock raising and grazing and have records of good production levels.
- (c) Other lands which form an integral part of such farm operations.
- (d) Lands used for the production of specialty crops such as onions, herbs, sod, fruits and vegetables.
- (e) Lands which are capable of productive use through economically feasible improvements such as irrigation or tile draining when wetlands are not thereby disturbed or converted.
- (f) Lands suited for development but which for the present lie beyond recognized needs to provide land for growth and development in the near term but do lie in areas recognized needed growth and development in the long term.

3. PERMITTED USES.

- (a) General farming, including agricultural, dairying and floriculture forestry, livestock, grazing, hay baling, grain drying for grain origination on or in connection with a single farm operation, livestock raising, paddocks, stables, truck farming, viticulture, nurseries, sod farms, providing only that farm buildings housing animals, barnyards and feedlots, shall not be located within a floodland nor closer than 100 ft. to any navigable water course nor closer than 100 ft. to an existing adjacent dwelling or residentially zoned lot.

- (b) Farm dwellings for farm owners, which for the purpose of this ordinance, shall include residences to be occupied by a person who, or a family at least one member of 4/13/92 which, earns a substantial part of his livelihood from the farm operations on the farm parcel or is a parent or child of the operator (owner) of the farm. Each such additional dwelling shall be placed on a separately described parcel created under minor land division regulations of the Village subject to the following:
 - 1. The lots hereby created shall meet the requirements of the Rural Residence District which require a minimum lot area of one acre with 150 ft. of minimum average width per lot.
 - 2. Conveyance to person or persons other than those related to the farm operator shall be restricted by deed restrictions at the time of recording of the lands documents, until such time as the parcel becomes rezoned to a zoning district other than A Agricultural Land Preservation Transition District permitting single-family residences as a right.
- (c) Existing dwellings or dwellings remaining after the consolidation dwelling of a farm enterprise. Parcels thereby created as a result of consolidation shall be not less than one acre in size and shall meet the offset and setback requirements of the Rural Residence District. New non-farm dwellings are prohibited.
- (d) Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay stations, equipment housing and other similar necessary appurtenant facilities, radio and television stations and transmission towers and microwave radio relay towers.
- (e) Roadside stands. Only agricultural products raised on the property may be sold by the owner or tenant.
- (f) Home occupations. (Cr. #256) Home occupations are allowed in agricultural, rural residence, single family residential and general residential districts, subject to site plan/plan of operations review for the following requirements and Village Plan Commission approval:
 - 1. Only the members of the immediate family occupying the dwelling shall be engaged in the home occupation.
 - 2. The home occupation shall be conducted only within the enclosed area of the dwelling unit or the garage of a single-family or duplex unit, not multifamily apartments.
 - 3. There shall be no exterior alterations that change the character of the dwelling or exterior evidence of the home occupation other than those signs permitted in the district or offset the residential character of the neighborhood.

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4. No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
 5. No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
 6. No sign exceeding 2 sq. ft. in area indicating the type of occupation carried on shall be used and such sign shall not be illuminated.
 7. Home occupations shall be limited to no more than 20% of the gross floor area of the residence.
 8. Such use shall not include the conduct of any retail or wholesale business on the property.
4. **CONDITIONAL USES.** (Cr. #256) Bed and breakfast facilities, animal hospitals, veterinarian clinics, commercial and hobby kennels, cemeteries and mausoleums for the burial of human remains, commercial greenhouses, commercial fish or bait ponds or hatcheries, feed lot operations, fur farms, pig farms, creameries, condenseries, commercial or customer grain drying operations, in-law units, laboratories for testing, experimental or analytical purposes, legal nonconforming uses, quarrying, as defined in this chapter and other uses or situations.
5. **PRINCIPAL BUILDING LOCATION.** (Rn. #256)
- (a) Setback. Minimum 50 feet.
 - (b) Side Yard. Minimum 50 feet.
6. **HEIGHT REGULATIONS**
- (a) Principal Building. Maximum 35 feet.
 - (b) Accessory Building. See Section 17.20(1)
- 8/20/12
7. **AREA REGULATIONS.**
- (a) First Floor. 900 square feet.
 - (b) Total. 1,200 square feet.
8. **LOT SIZE.** (Rn. #256)
- (a) Parcel Size. Minimum 35 acres, except as may be provided for those residual existing dwellings and parcels that result due to farm consolidation.
 - (b) Average Width. Minimum 600 feet, except as provided in pars. (3)(a) and (b).
- 9 **ACCESSORY BUILDINGS.** Accessory buildings in the Agricultural Land Preservation Transition District shall adhere to the regulations within Section 17.20. For the purpose of this Section 17.45, accessory buildings may include buildings and structures used for agricultural purposes generally called barns, stables or poultry houses.

17.46 RR – RURAL RESIDENCE DISTRICT.

- (1) PURPOSE. The purpose of the rural residence district is to allow for areas of low-density single-family development or lands where municipal utilities area not currently available but may be potentially provided at a future date.
- (2) PERMITTED USES.
 - (a) One-family dwellings.
 - (b) Telegraph, telephone and power transmission lines.
 - (c) Public parks and recreation areas.
 - (d) Signs pertaining to lease, sale of any building or land provided such signs do not exceed 12 square feet in area. A sign not exceeding 6 square feet in area may be maintained by the owner/occupant of any land or building for the purpose of displaying the name of the owner/occupant or for the purpose of warning against trespasses.
 - (e) General farming on not less than 20 acres.
 - (f) Horticultural.
 - (g) The following accessory buildings and uses, subject to the conditions specified:
 - 1. Private garages, when located on the same lot, and not involving the conduct of a business; provided, however, that no private garage shall be erected unless that principal building to which such garage is an accessory use has been erected or is to be erected simultaneously with such garage.
 - 2. Quarters for household or farm employees provided, however, that such quarters shall be occupied only by the individual employed full time on the premises and their families.
 - 3. Stables, barns or poultry houses provided that no building housing domestic livestock or poultry shall be closer than 50 feet to the lot line.
 - (h) The keeping of poultry or domestic livestock shall not be permitted on any lot less than 3 acres in area except under the following conditions.
 - 1. Where such use existed prior to the date of this chapter as a principal commercial or agricultural use, such use may be continued to the limitations regulating a nonconforming use.

2. Where such use existed prior to the date of this chapter as a legal accessory or incidental use to the principal use of the property such use may be continued only if there is no objection from any owner within 300 feet. Such objection shall be submitted in writing to the Village Board and a public hearing held thereon.
 3. Such use may be permitted on any lot provided that there shall first be filed with the Village Board, written consent of the owners of all property within 300 feet and further subject to termination after public hearing upon written complaint to the Village Boards by any owner within 300 feet of said property. When permitted, the keeping of poultry or domestic livestock shall be done under maximum practical conditions of neatness and sanitation so as not to be detrimental to the surrounding residential use and all fowl shall be kept confined or enclosed and not permitted to run at large.
 4. Keeping of hogs, male goats or fur bearing animals shall not be permitted on less than 20 acres.
 5. The keeping of usual household pets, but not the operation of kennels or hutches.
- (i) Home occupations. (rep. & recr. #256) Home occupations are allowed in agricultural, rural residence, single-family residential and general residential districts, subject to site plan/plan of operations review for the following requirements and Village Plan Commission approval:
1. Only the members of the immediate family occupying the dwelling shall be engaged in the home occupation.
 2. The home occupation shall be conducted only within the enclosed area of the dwelling unit or the garage of a single-family or duplex unit, not multifamily apartments.
 3. There shall be no exterior alterations that change the character of the dwelling or exterior evidence of the home occupation other than those signs permitted in the district or offset the residential character of the neighborhood.
 4. No storage or display of materials, goods, supplies, or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
 5. No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.

6. No sign exceeding 3 square feet in area indicating the type of occupation carried on shall be used and such sign shall not be illuminated.
 7. Home occupations shall be limited to no more than 20% of the gross floor area of the residence.
 8. Such use shall not include the conduct of any retail or wholesale business on the property.
- (3) **CONDITIONAL USES.** (Cr. #256) Bed and breakfast facilities, in-law units, legal nonconforming uses, planned unit development, private clubs and outdoor facilities, such as recreational camps, golf courses, bathing beaches, riding academies, and resorts, public and semipublic buildings and uses, and other uses or situations.
- (4) **PRINCIPAL BUILDING LOCATION.** (Rn. #256)
- (a) Setback. Minimum 30 feet.
 - (b) Side Yards. There shall be an aggregate side yard on both side of the main or principal building of 25 feet. Each side yard shall be at least 10 feet in width. If any lot of record on October 27, 1958, had a minimum average width of less than 100 feet the aggregate side yards may be reduced in proportion to the width of the lot. Example: A 90-foot lot shall have an aggregate side yard of $90/100 \times 25 = 22 \frac{1}{2}$ feet.
 - (c) Rear Yards. There shall be a rear yard setback of a minimum of 25 feet.
- (5) **HEIGHT REGULATIONS.** (Rn. #256)
- (a) Principal Buildings. Maximum 35 feet.
 - (b) Accessory Buildings. See Section 17.20(1).
- (6) **AREA REGULATIONS.** (Rn. #256)
- (a) Living Area; Minimum Required.
 1. No one story residence shall hereafter be constructed which has less than 1,200 feet of first floor living area. If the dwelling is constructed without a full basement, the minimum first floor area shall be increased by 100 square feet.

2. No 1 ½ or 2 story residence shall hereafter be constructed which has less than 900 feet of first floor living area nor with less than a total of 1,250 square feet of living area in a one-family dwelling. If the dwelling is constructed without a basement, the minimum total living area shall be increased by 100 feet.

4/14/03

(b) Lot Size.

1. Minimum Area. If no municipal sewer and water is available, lots shall be no less than 20,000 square feet and no such lot shall be less than 160 feet wide. When the regulations of the Wisconsin Administrative Code or other Village, State or county regulations require a larger lot than stated, such regulations shall govern.
2. Lot Layout. Every lot in the Rural Residential District shall be arranged together with the facilities constructed thereon to allow for future subdivision into lots of a size sufficient for economical provisions of municipal utilities. Such lot layouts shall allow for future lots to be no less than 10,000 square feet in area and no less than 75 feet in width.
3. How Construed. No provision in this district or this chapter shall be construed as a promise, intent, intention or plan to provide municipal utilities.

(7) ACCESSORY BUILDINGS. Accessory Buildings in the Rural Residence District shall adhere to the regulations within 17.20. For the purposes of this Section 17.46, accessory buildings may include buildings and structures used for agricultural purposes generally called barns, stables, or poultry houses.

17.47(A) SR – 1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

- (1) **PURPOSE.** The purpose of this district is to provide areas for smaller lot single-family dwelling development surrounding the central Village and within other appropriate areas of the Village served by sanitary sewer, consistent with the range of lot sizes identified as “Small-Lot Single-Family” and other policies of the Village of Dousman Comprehensive Plan.
- (2) **USE REGULATIONS.**
 - (a) Permitted Uses. The following uses are permitted within the SR-1 Single-Family Residential District, subject to applicable federal, state and Village regulations and standards.
 1. Single-Family Detached Dwelling.
 2. Adult Family Homes, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
 3. Community Living Arrangements, as defined in this Chapter 17, with a capacity for eight or fewer persons, subject to the provisions of Wisconsin State Statutes.
 4. Family Day Care Homes, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes..
 5. Foster Homes and Treatment Foster Homes, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes
 6. Public Parks and Public Recreation Areas.
 - (b) Accessory Uses Permitted.
 1. Gardening, including the noncommercial raising of vegetables and flowers or fruit including greenhouses which do not exceed 20 feet by 24 feet in size and must conform to the accessory building standards of Section 17.20.
 2. Parking facilities, including carports or other parking spaces for exclusive use of the residents of the premises.
 3. Other accessory buildings conforming to the standards of Section 17.20 clearly related to the residential use of the property, provided that no building shall be used as a separated dwelling.
 4. Keeping of Chickens, subject to Section 12.11 of the Village Municipal Code.
 - (c) Conditional Uses. The following uses are allowed in the SR-1 Single Family Residential District with a Conditional Use Permit approved by the Village Board and recommended by the Plan Commission after a public hearing, subject to Sections 17.35 and 17.36.

1. Bed and Breakfast Facilities.
2. Churches, Synagogues and other Buildings for Religious Assembly.
3. Community Living Arrangements with 16 or more occupants, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
4. Legal Nonconforming Uses.
5. Planned Unit Developments.
6. Private Clubs and Outdoor Facilities, such as recreational camps, golf courses, bathing beaches, riding academies and resorts.
7. Public and Semipublic Buildings and Uses
8. Single-Family Detached Dwelling within Northwest Development Area, with a lot size of between 10,000 and 12,000 square feet.

(3) HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES. Home occupations and professional home offices are permitted accessory uses in the SR-1 district, provided that:

- (a) The home occupation and/or professional home office shall be conducted entirely within the principal dwelling unit, except any operating vehicle used in the performance of the occupation off the premises of the dwelling unit may be wholly stored within a legal accessory building on the premises.
- (b) Only one (1) home occupation that produces a physical product shall be allowed within the dwelling unit.
- (c) Multiple home occupations and/or professional home offices that do not produce a physical product within the dwelling or premises, may be allowed within the dwelling unit; however, all home occupations and/or professional home offices combined shall not exceed 25 percent of the floor area of the principal dwelling unit.
- (d) All home occupations and/or professional home offices within the principal dwelling unit shall not employ more than a total of one (1) person not residing on the premises for all the home occupations or professional home offices on the premises.
- (e) The home occupations and/or professional home offices shall be clearly secondary and accessory to the use of the premises as a dwelling unit.
- (f) No alteration of the principal building shall be made which changes its character as a dwelling, involve construction features not customarily in a dwelling, or be inconsistent with the character of the residential neighborhood.
- (g) There shall be no outside storage of equipment, materials or product used in the home occupation and/or professional home office.

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- (h) No home occupation and/or professional home office shall create a public nuisance. No home occupation and/or professional home office shall create any offensive traffic, parking, noise, vibration, smoke, dust, electronic interference, odors, heat, lighting or glare spilling over the property line, or in greater volumes than would be normally expected in a residential neighborhood.
- (i) Adequate off-street parking facilities shall be provided adjacent, or reasonably adjacent, to the building served.
- (j) The primary function of the occupation shall not be the on-site sale or rental of goods. Retail sales shall be prohibited except for the on-line sales of products or goods produced or fabricated on the premises as a result of the home occupation and/or professional home office.
- (k) No outdoor storage of equipment or product shall be permitted.

(4) QUANTITATIVE STANDARDS OF THE SR-1 DISTRICT

	Northeast Development Area	All Other SR-1 District Zoned Properties
Lot Size		
Minimum Area	12,000 square feet (10,000 square feet with a Conditional Use)	15,000 square feet (See Note #1)
Minimum Width	80 feet	100 feet
Principal Building Distance from Property Lines		
Setback (Front or Street Yard)	30 feet minimum	30 feet minimum
Side	10 feet minimum each side	10 foot minimum one side, 25 feet minimum total both sides (See Note #2)
Rear	25 feet	25 feet
Maximum Building Height	35 feet	35 feet
Minimum Living Area		
One-Story Building or Total Multiple Level Building	1,300 square feet	1,500 square feet
First Floor with Multiple Levels	850 square feet	900 square feet
Total Without Basement	1,400 square feet	1,600 square feet
Maximum Lot Coverage (See Note #3)	40 Percent	40 Percent
Accessory Buildings	See Section 17.20	See Section 17.20

Notes to Quantitative Standards of the SR-1 District table:

1. Lots originally platted before November 30, 2000 shall remain conforming if a minimum size of 12,000 square feet.
2. For side yards on lots of record as of October 27, 1958 with a minimum average width of less than 100 feet, the aggregate side yards may be reduced proportionally to the size of the lot.
3. Maximum lot coverage includes the percentage of the lot area covered by the principal building, attached garage and any accessory buildings; but does not include the driveway, sidewalks, patio, deck, swimming pool or any other outdoor leisure or recreational feature (although the location and size of the other features not counted toward lot coverage may be regulated by other sections of this Chapter 17 or the Municipal Code).

17.47(B) SR – 2 SINGLE-FAMILY RESIDENTIAL DISTRICT.

a. **PURPOSE.** The purpose of this district is to provide areas for medium lot single-family dwelling development within areas of the Village served by sanitary sewer, consistent with the range of lot sizes identified as “Medium Lot Single-Family” in the Village of Dousman Comprehensive Plan.

b. **USE REGULATIONS.**

(a) Permitted Uses. The following uses are permitted within the SR-1 Single- Family Residential District, subject to applicable federal, state and Village regulations and standards.

1. Single-Family Detached Dwelling.
2. Adult Family Homes, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
3. Community Living Arrangements, as defined in this Chapter 17, with a capacity for eight (8) or fewer persons, subject to the provisions of Wisconsin State Statutes.
4. Family Day Care Homes, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
5. Foster Homes and Treatment Foster Homes, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
6. Public Parks and Public Recreation Areas.

(b) Accessory Uses Permitted.

1. Gardening, including the noncommercial raising of vegetables and flowers or fruit including greenhouses which do not exceed 20 feet by 24 feet in size and must conform to the accessory building standards of Section 17.20.
2. Parking facilities, including carports or other parking spaces for exclusive use of the residents of the premises.
3. Other accessory buildings conforming to the standards of Section 17.20 clearly related to the residential use of the property, provided that no building shall be used as a separated dwelling.
4. Keeping of Chickens, subject to Section 12.11 of the Village Municipal Code.

(c) Conditional Uses. The following uses are allowed in the SR-2 Single Family Residential District with a Conditional Use Permit approved by the Village Board and recommended by the Plan Commission after a public hearing, subject to Sections 17.35 and 17.36.

1. Bed and Breakfast Facilities.
2. Churches, Synagogues and other Buildings for Religious Assembly.

3. Community Living Arrangements with 16 or more occupants, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
4. Legal Nonconforming Uses.
5. Planned Unit Developments.
6. Private Clubs and Outdoor Facilities, such as recreational camps, golf courses, bathing beaches, riding academies and resorts.
7. Public and Semipublic Buildings and Uses

(3) HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES. Home occupations and professional home offices are permitted accessory uses in the SR-2 district, provided that:

- (a) The home occupation and/or professional home office shall be conducted entirely within the principal dwelling unit, except any operating vehicle used in the performance of the occupation off the premises of the dwelling unit may be wholly stored within a legal accessory building on the premises.
- (b) Only one (1) home occupation that produces a physical product shall be allowed within the dwelling unit.
- (c) Multiple home occupations and/or professional home offices that do not produce a physical product within the dwelling or premises, may be allowed within the dwelling unit; however, all home occupations and/or professional home offices combined shall not exceed 25 percent of the floor area of the principal dwelling unit.
- (d) All home occupations and/or professional home offices within the principal dwelling unit shall not employ more than a total of one (1) person not residing on the premises for all the home occupations or professional home offices on the premises.
- (e) The home occupations and/or professional home offices shall be clearly secondary and accessory to the use of the premises as a dwelling unit.
- (f) No alteration of the principal building shall be made which changes its character as a dwelling, involve construction features not customarily in a dwelling, or be inconsistent with the character of the residential neighborhood.
- (g) There shall be no outside storage of equipment, materials or product used in the home occupation and/or professional home office.
- (h) No home occupation and/or professional home office shall create a public nuisance. No home occupation and/or professional home office shall create any offensive traffic, parking, noise, vibration, smoke, dust, electronic interference, odors, heat, lighting or glare spilling over the property line, or in greater volumes than would be normally expected in a residential neighborhood.

(i) Adequate off-street parking facilities shall be provided adjacent, or reasonably adjacent, to the building served.

(j) The primary function of the occupation shall not be the on-site sale or rental of goods. Retail sales shall be prohibited except for the on-line sales of products or goods produced or fabricated on the premises as a result of the home occupation and/or professional home office.

(4) QUANTITATIVE STANDARDS OF THE SR-2 DISTRICT

Lot Size	
Minimum Area	15,000 square feet
Minimum Width	100 feet
Principal Building Distance from Property Lines	
Setback (Front or Street Yard)	30 feet minimum
Side	10 foot minimum one side, 25 feet minimum total both sides (See Note #1)
Rear	25 feet
Maximum Building Height	35 feet
Minimum Living Area	
One-Story Building or Total Multiple Level Building	1,650 square feet
First Floor with Multiple Levels	1,000 square feet
Total Without Basement	1,750 square feet
Maximum Lot Coverage*	40%
Accessory Buildings	See Section 17.20

Note to Quantitative Standards of the SR-2 District table:

1. Maximum lot coverage includes the percentage of the lot area covered by the principal building, attached garage and any accessory buildings; but does not include the driveway, sidewalks, patio, deck, swimming pool or any other outdoor leisure or recreational feature (although the location and size of the other features not counted toward lot coverage may be regulated by other sections of this Chapter 17 or the Municipal Code).

17.47(C) SR – 3 SINGLE-FAMILY RESIDENTIAL DISTRICT.

(1) **PURPOSE.** The purpose of this district is to provide areas for large lot single-family dwelling development to accommodate existing and new development areas planned to be part of the Village, consistent with the range of lot sizes identified as “Large-Lot Single-Family” in the Village of Dousman Comprehensive Plan.

(2) **USE REGULATIONS.**

(a) **Permitted Uses.** The following uses are permitted within the SR-1 Single-Family Residential District, subject to applicable federal, state and Village regulations and standards.

1. Single-Family Detached Dwelling.
2. Adult Family Homes, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
3. Community Living Arrangements, as defined in this Chapter 17, with a capacity for eight or fewer persons, subject to the provisions of Wisconsin State Statutes.
4. Family Day Care Homes, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
5. Foster Homes and Treatment Foster Homes, as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
6. Public Parks and Public Recreation Areas.

(b) **Accessory Uses Permitted.**

1. Gardening, including the noncommercial raising of vegetables and flowers or fruit including greenhouses which do not exceed 20 feet by 24 feet in size and must conform to the accessory building standards of Section 17.20.
2. Parking facilities, including carports or other parking spaces for exclusive use of the residents of the premises. Other accessory buildings conforming to the standards of Section 17.20 clearly related to the residential use of the property, provided that no building shall be used as a separated dwelling. Keeping of Chickens, subject to Section 12.11 of the Village Municipal Code.

(c) **Conditional Uses.** The following uses are allowed in the SR-3 Single Family Residential District with a Conditional Use Permit approved by the Village Board and recommended by the Plan Commission after a public hearing, subject to Sections 17.35 and 17.36.

1. Bed and Breakfast Facilities.
2. Churches, Synagogues and other Buildings for Religious Assembly.
3. Community Living Arrangements with 16 or more occupants as defined in this Chapter 17, subject to the provisions of Wisconsin State Statutes.
4. Legal Nonconforming Uses.
5. Planned Unit Developments.
6. Private Clubs and Outdoor Facilities, such as recreational camps, golf courses, bathing beaches, riding academies and resorts.
7. Public and Semipublic Buildings and Uses

(3) HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES. Home occupations and professional home offices are permitted accessory uses in the SR-3 district, provided that:

- (a) The home occupation and/or professional home office shall be conducted entirely within the principal dwelling unit, except any operating vehicle used in the performance of the occupation off the premises of the dwelling unit may be wholly stored within a legal accessory building on the premises.
- (b) Only one (1) home occupation that produces a physical product shall be allowed within the dwelling unit.
- (c) Multiple home occupations and/or professional home offices that do not produce a physical product within the dwelling or premises, may be allowed within the dwelling unit; however, all home occupations and/or professional home offices combined shall not exceed 25 percent of the floor area of the principal dwelling unit.
- (d) All home occupations and/or professional home offices within the principal dwelling unit shall not employ more than a total of one (1) person not residing on the premises for all the home occupations or professional home offices on the premises.
- (e) The home occupations and/or professional home offices shall be clearly secondary and accessory to the use of the premises as a dwelling unit.
- (f) No alteration of the principal building shall be made which changes its character as a dwelling, involve construction features not customarily in a dwelling, or be inconsistent with the character of the residential neighborhood.
- (g) There shall be no outside storage of equipment, materials or product used in the home occupation and/or professional home office.

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(h) No home occupation and/or professional home office shall create a public nuisance. No home occupation and/or professional home office shall create any offensive traffic, parking, noise, vibration, smoke, dust, electronic interference, odors, heat, lighting or glare spilling over the property line, or in greater volumes than would be normally expected in a residential neighborhood.

(i) Adequate off-street parking facilities shall be provided adjacent, or reasonably adjacent, to the building served.

(j) The primary function of the occupation shall not be the on-site sale or rental of goods. Retail sales shall be prohibited except for the on-line sales of products or goods produced or fabricated on the premises as a result of the home occupation and/or professional home office.

(4) QUANTITATIVE STANDARDS OF THE SR-3 DISTRICT

Lot Size	
Minimum Area	30,000 square feet
Minimum Width	140 feet
Principal Building Distance from Property Lines	
Setback (Front or Street Yard)	35 feet minimum
Side	15 foot minimum one side, 35 feet minimum total both sides
Rear	40 feet
Minimum Building Height	35 feet
Minimum Living Area	
One-Story Building or Total Multiple Level Building	1,800 square feet
First Floor with Multiple Levels	1,100 square feet
Total Without Basement	1,900 square feet
Maximum Lot Coverage*	35%
Accessory Buildings	See Section 17.20

Notes to Quantitative Standards of the SR-1 District table:

1. Maximum lot coverage includes the percentage of the lot area covered by the principal building, attached garage and any accessory buildings; but does not include the driveway, sidewalks, patio, deck, swimming pool or any other outdoor leisure or recreational feature (although the location and size of the other features not counted toward lot coverage may be regulated by other sections of this Chapter 17 or the Municipal Code).

17.48 GR – GENERAL RESIDENTIAL DISTRICT.

- 1) **PURPOSE.** The purpose of this district is to maintain existing single-family, two-family and multi-family properties zoned as General Residential District surrounding the central Village and to provide for the regulations of various forms of two-family, multi-family and group quarters housing on properties designated as “Low-Density Multi-Family” and “High-Density Multi-Family” within the Village of Dousman Comprehensive Plan. No new development areas or properties created for only single-family dwellings shall be zoned as General Residential District.

- 2) **USE REGULATIONS**

- (a) Permitted Uses. The following uses are permitted within the GR General Residential District, subject to applicable Federal, State and Village regulations and standards.

1. Single-Family Detached Dwelling.
 2. Two-Family Dwellings; one (1) principal building on one (1) lot.
 3. Adult Family Homes, as defined and licensed under Wisconsin State Statutes and subject to the provisions of Wisconsin State Statutes.*
 4. Community Living Arrangements, as defined in Wisconsin State Statutes, with a capacity for eight or fewer persons, subject to the provisions of Wisconsin State Statutes.*
 5. Family Day Care Homes as defined and licensed under Wisconsin State Statutes.*
 6. Foster Homes and Treatment Foster Homes, as defined and licensed under Wisconsin State Statutes and subject to the provisions of Wisconsin State Statutes.*
 7. Public Parks and Public Recreation Areas.

*A permitted use within a dwelling unit, with the type of dwelling allowed as wither a permitted use or a conditional use within the General Residential District.

- (b) Accessory Uses Permitted.

1. Only with a single-family detached dwelling, gardening, including the noncommercial raising of vegetable and flowers or fruit including greenhouses which do not exceed 20 feet by 24 feet in size and must conform to the accessory building standards of Section 17.20.
 2. Parking facilities, including carports or other parking spaces for exclusive use of the residents of the premises.
 3. Other accessory building conforming to the standards of Section 17.20 clearly related to the residential use of the property, provided that no building shall be used as a separated dwelling.
 4. Only with a single-family detached dwelling, the keeping of chickens, subject to Section 12.11 of the Village Municipal Code.

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(c) Conditional Uses. The following uses are allowed with a Conditional Use Permit approved by the Village Board and recommended by the Plan Commission after a public hearing, subject to Sections 17.35 ad 17.36.

1. Single-Family Attached Dwellings.
2. Two-Family Dwellings, multiple principal buildings within a unified development.
3. Multiple-Family Dwellings.
4. Active Adult Living Dwellings.*
5. Bed and Breakfast Facilities.*
6. Churched, Synagogues and Other Buildings for Religious Assembly. 7. Community Living Arrangements with over eight (8) Occupants.*
8. Nursing Homes.
9. Planned Unit Development.
10. Private Outdoor Clubs or Recreational Facilities, such as recreational camps, golf courses, bathing beaches, riding academies and resorts, when part of a unified development.
11. Private Indoor Clubs or Recreational Facilities, such as a health/exercise wellness center and meeting/party rooms, when part of a unified development.
12. Public and Semi-public Buildings and Uses.
13. Senior Alternative Housing.*
14. Senior Care Facilities.*
15. Senior Housing Units.*
16. Senior Independent Living.*

*A conditional use regardless if the use is within a building allowed as a permitted use.

3) HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES.

- (a) Home occupations and professional home offices are permitted accessory uses in the GR district, provide that: The home occupation and/or professional home office shall be conducted entirely within the principal dwelling unit, except any operating vehicle used in the performance of the occupation off the premises of the dwelling unit may be wholly stored within a legal accessory building on the premises
- (b) Only one (1) home occupation that produces a physical product shall be allowed within a single-family or two-family dwelling unit. Only professional home offices shall be allowed in a multi-family or single-family attached dwelling unit.

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- (c) Multiple home occupations and /or professional home offices that do not produce a physical product within the dwelling or premises, any be allowed within the dwelling unit; however, all home occupations and/or professional home offices combined shall not exceed 25 percent of the floor area of the principal dwelling unit.
- (d) All home occupations and/or professional home offices within the principal dwelling unit shall not employ more than one (1) person not residing on the premises for all the home occupations or professional home offices on the premises.
- (e) The home occupations and/or professional home offices shall be clearly secondary and accessory to the use of the premises as a dwelling unit.
- (f) No alteration of the principal dwelling shall be made which changes its character as a dwelling, involve construction features not customarily in a dwelling, or be inconsistent with the character of the residential neighborhood.
- (g) There shall be no outside storage of equipment or materials used in the home occupation and/or professional home office.
- (h) No home occupation and/or professional home office shall create a public nuisance. No home occupation and/or professional home office shall create any offensive traffic, parking, noise, vibration, smoke, dust, electronic interference, odors, heat, lighting or glare spilling over the property line, or in greater volumes than would be normally expected in a residential neighborhood.
- (i) Adequate off-street parking facilities shall be provided adjacent, or reasonably adjacent, to the building served.
- (j) The primary function of the occupation shall not be the on-site sales or rental of goods. Retail sales shall be prohibited except for the online sales of products or goods produced or fabricated on the premises as a result of the home occupation and/or professional home office.
- (k) No outdoor storage of equipment or product shall be permitted.

4) QUANTITATIVE STANDARDS OF GENERAL RESIDENCE DISTRICT

(a) Standards for Single-Family Detached and Two-Family Dwellings

	Single Family Detached (Permitted Use)	Two-Family Dwellings, one (1) principal building on one (1) lot (Permitted Use)	Two-Family Dwellings, multiple principal buildings within unified development (Conditional Use; See Note #1)
Maximum Density	Not Applicable	Not Applicable	See Section 17.36(22)
Lot Size			
Minimum Area	10,000 square feet	15,000 square feet	See Section 17.36 (22)
Minimum Width	75 feet	100 feet	150 feet, or as set by the Plan Commission

Principal Building Distance from Property Lines			
Setback (Front or Street Yard)	30 feet minimum	30 feet minimum	30 feet minimum, or as set by the Plan Commission
Side	10 feet minimum each side (See note #2)	10 feet minimum each side (See note #2)	15 foot minimum each side; 30 foot separation between principal buildings
Rear	25 feet	25 feet	25 feet, or as set by the Plan Commission
Maximum Building Height	35 feet	35 feet	35 feet
Minimum Living Area			
One-Story Building or Total Multiple Level Building	1,500 square feet	1,300 square feet per dwelling	See Section 17.36(22)
First Floor with Multiple Levels	1,000 square feet	900 square feet per dwelling	As set by the Plan Commission
Total Without Basement	1,600 square feet	1,400 square feet per dwelling	Not applicable
Maximum Lot Coverage (See Note #2)	40 percent	40 percent	As set by the Plan Commission

Noted to Quantitative Standards of the GR District Table (a):

1. "As set by the Plan Commission" means via the Conditional Use Permit review process to increase (and not decrease) or set the standards to improve the health, safety and welfare of residents of the development and to buffer neighboring residents or land uses.
2. For side yards on lots of record as of September 15, 1971 with an average minimum average width of less than 75 feet, the side yard may be reduced in proportion to the width of the lot.
3. Maximum lot coverage includes the percentage of the lot area covered by the principal building, attached garage and any accessory buildings; but does not include the driveway, sidewalks, patio, deck, swimming pool or any other outdoor leisure or recreational feature (although the location and size of the other features not counted toward lot coverage may be regulated by other sections of the municipal code.)

(b) Standards for Multi-Family and Single Family Attached Dwellings

	Multi-Family or Single-Family Attached, one (1) building on one (1) lot (Conditional Use)	Multi-Family or Single Family Attached in Unified Development, where Comprehensive Plan designates property as Low Density (Conditional Use; See Note #1)	Multi-Family or Single Family Attached in Unified Development, where Comprehensive Plan Designated property as High Density (Conditional Use; See Note #1)
Maximum Density (See Note #2)	See Section 17.36(22)	Six (6) Dwelling Units per Acre	Ten (10) Dwellings per Acre
Lot Size			
Minimum Area	See Section 17.36(22)	See Section 17.36(22)	See Section 17.36(22)
Minimum Width	100 feet	125 feet, or as set by the Plan Commission	150 feet, or as set by the Plan Commission
Principal Building Distance from Property Lines			
Setback (Front or Street Yard)	30 feet minimum	30 feet minimum	30 feet minimum or as set by the Plan Commission
Side	10 feet minimum each side	15 foot minimum each side; 30 foot separation between principal buildings	20 foot minimum each side; 30 foot separation between principal buildings
Rear	25 feet	30 feet, or as set by the Plan Commission	30 feet, or as set by the Plan Commission
Maximum Building Height	35 feet	35 feet	45 feet
Minimum Living Area			
One-Level Dwelling	See Section 17.36(22)	See Section 17.36(22)	See Section 17.36(22)
First Floor with Multiple Levels	As set by Plan Commission if applicable	As set by Plan Commission if applicable	As set by Plan Commission if applicable
Maximum Lot Coverage (See Note #3)	40 percent	40 percent	As set by Plan Commission

Notes to Quantitative Standards of the GR District Table (b)

“As set by the Plan Commission” means via the Conditional Use Permit review process to increase (and not decrease) the standards to improve the health, safety and welfare of residents of the development and to buffer neighboring residents or land uses.

1. When group quarters with conditional use approve are not designed as the traditional dwelling unit (with separate rooms for living, kitchen, bath and bed space), and when the density of the development is measured by number of beds, exceptions may be made to allow greater densities under conditions of the Conditional Use Permit or Planned Development Approval.

2. Maximum lot coverage includes the percentage of the lot area covered by the principal building, attached garage and any accessory buildings, but does not include the driveway, sidewalks, patio, deck, swimming pool or any other outdoor leisure or recreational feature (although the location and size of the other features not counted toward lot coverage may be regulated by other sections of the municipal code).

5) **ACCESSORY BUILDING; EXCEPTIONS.** Accessory buildings in the General Residential District shall adhere to the regulations within Section 17.20, and the following additional requirements and exceptions also apply.

(a) Size Limits; Waiver. The total square footage of accessory building(s) shall be a maximum of 864 square feet, unless the Village Plan Commission approved additional square footage as follows. Upon application from property owner, the Plan Commission may grant approval for additional square footage of accessory building(s) at any duly noticed meeting of the Village Plan Commission. If granted, the accessory building(s) shall meet the setback, height and location requirements that apply to principle buildings, except as stated in (b), below. Any such approval granted by the Plan Commission shall be memorialized in a document signed by the property owner, in a form approved by the Village that is recorded in the office of the Waukesha County Register of Deeds. When considering the larger square footage, the Plan Commission shall give due consideration to the following:

1. The larger square footage building is necessary to park vehicles or storage of property maintenance equipment that is consistent with the principal use of the property or size of the property.
2. The larger square footage building is consistent with the character and suitability for the development of the neighborhood in which the building question is proposed to be located.
3. The larger footage building is not contrary and detrimental to the character and suitability of the neighborhood.

(b) Location Requirements; Waiver. Accessory building(s) may be allowed in the front yard upon Plan Commission approval as follows. Upon application from a property owner, the Plan Commission may grant approval for the accessory building(s) in the front yard at any duly noted meeting of the Village Plan Commission. Any such approval granted by the Plan Commission shall be memorialized in a document sign by the property owner, in a form approved by the Village that is recorded in the office of the Waukesha County Register of Deeds. When considering the location waiver, the Plan Commission shall give due consideration to the following:

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1. The property on which the accessory building is located is part of a unified development with coordinated site design of buildings and traffic patterns.
2. The principal use of property is approved as a conditional use on which the accessory building is located.
3. The principal building or buildings served by the accessory building is located at a sufficient distance from the street or highway which will allow the accessory building to be located near the street or highway with coordinated site design.
4. The accessory building location conforms to the street yard setback of The GR District.
5. The location of the accessory building in the front yard is consistent with the character and suitability for the development of the neighborhood in which the building in question is proposed to be located.
6. The location of the accessory building in the front yard is not contrary and detrimental to the character and suitability of the neighborhood.

17.48(A) MF-MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

1. **PURPOSE.** The purpose of this district is to allow higher density multiple-family development to create appropriate alternative housing for broad cross-sections of the population within the areas so identified within the Village of Dousman Comprehensive Plan.

2. **USE REGULATIONS**

- a. Permitted Uses. The following uses are permitted within the GR General Residential District, subject to applicable Federal, State and Village regulations and standards.

1. Adult Family Homes, as defined and licensed under Wisconsin State Statutes and subject to the provisions of Wisconsin State Statutes. *
2. Community Living Arrangements, as defined in Wisconsin State Statutes, with a capacity for eight or fewer persons, subject to the provisions of Wisconsin State Statutes. *
3. Family Day Care Homes as defined and licensed under Wisconsin State Statutes. *
4. Foster Homes and Treatment Foster Homes, as defined and licensed under Wisconsin State Statutes and subject to the provisions of Wisconsin State Statutes. *
5. Public Parks and Public Recreation Areas.

*A permitted use within a dwelling unit, with the type of dwelling allowed as a conditional use within the Multiple-Family Residential District.

- b. Accessory Uses Permitted.

1. Parking facilities or other parking spaces for exclusive use of the residents of the premises.
2. Other accessory buildings conforming to the standards of Section 17.20 under the General Residential standards, clearly related to the residential use of the property, provided that no accessory building shall be used as a separated dwelling.

- c. Conditional Uses. The following uses are allowed with a Conditional Use Permit approved by the Village Board and recommended by the Plan Commission after a public hearing, subject to Sections 17.35 and 17.36.

1. Multiple-Family Swellings.
2. Active Adult Dwellings. *

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3. Community Living Arrangements with over eight (8) Occupants. *
4. Planned Unit Developments.
5. Private Outdoor Clubs and Recreational Facilities, within a unified development of multiple-family dwellings.
6. Private Indoor Clubs or Recreational Facilities, such as a health/exercise wellness center and meeting/party rooms, when part of a unified development.
7. Public and Semipublic Buildings and Uses.
8. Senior Alternative Housing. *
9. Senior Care Facilities. *
10. Senior Housing Units. *
11. Senior Independent Living. *

*A Conditional Use Permit required in addition to the conditional use for the multiple-family structure.

3. HOME OCCUPATIONS AND HOME OFFICES. Home occupations are not permitted within the Multiple-Family Residential District. Professional home offices are permitted accessory uses in any dwelling within the Multiple-Family Residential District, provided that;
 - a. The professional home office shall be conducted entirely within the principal dwelling unit, except any operating vehicle used in the performance of the occupation off the premises of the dwelling unit may be wholly store within legal accessory building on the premises.
 - b. Multiple professional home offices that do not produce a physical product within the dwelling or premises may be allowed within the dwelling unit; however, all professional home offices combined shall not exceed 25 percent of the floor area of the principal building.
 - c. Professional home offices within the principal dwelling unit shall not employ more than a total of one (1) person not residing on the premises for all professional home offices on the premises.
 - d. The professional home offices shall be clearly secondary and accessory to the use of the premises as a dwelling unit.
 - e. No alteration of the principal dwelling shall be made which changes its character as a dwelling, involve construction features not customarily in a dwelling or be inconsistent with the character of the residential neighborhood.
 - f. There shall be no outside storage of equipment or materials used in the home occupation and/or professional home office

ZONING CODE 17.48(A)

- g. No professional home office shall create a public nuisance. No professional home office shall create any offensive traffic, parking, noise, vibration, smoke, dust, electronic interference, odors, heat, lighting or glare spilling over the property line, or in greater volumes than would be normally expected in a residential neighborhood.
- h. Adequate off-street parking facilities shall be provided adjacent, or reasonably adjacent, to the building served.
- i. The primary function of the occupation shall not be the on-site sales or rental of goods. Retail sales shall be prohibited.
- j. No outdoor storage of equipment or product shall be permitted.

4. QUANTITATIVE STANDARDS OF THE MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Maximum Density	Fifteen (15) Dwelling Units per Acre; see Section 17.36 (22) for additional standards for density
Lot Size	
Minimum Setback	2 Acres (87,120 square feet)
Minimum Width	300 feet
Principal Building Distance from Property Lines	
Setback (Front or Street View)	40 feet minimum
Side	25 feet; 30 feet separation between principal buildings
Rear	40 feet
Maximum Building Height	45 feet
Maximum Living Area	See Section 17.36 (22)
Maximum Lot Coverage (See Note #1)	40%
Accessory Buildings	See Section 17.20 – See General Residential District Standards

5. ACCESSORY BUILDING; EXCEPTIONS. Accessory buildings in the Multiple Family Residential District shall adhere to the regulations within Section 17.20 for the General Residential District, and additional requirements and exceptions pursuant to Section 17.48(5).

17.49 DOWNTOWN BUSINESS DISTRICT.

- (1) **PURPOSE.** The purpose of the B-1 Downtown Business District is to promote the establishment and retention of business uses to serve the local Village residents.
- (2) **USE REGULATIONS; PERMITTED USES.** In the B-1 Downtown Business District retail and service establishments shall be permitted provided the location, building site plan and plan of operation have been submitted to and been approved by the Village Plan Commission as in keeping with the character of the Downtown area.

The Village Plan Commission may reduce or waive any requirements in this district from any other section of this code in keeping with the spirit and intent of the Zoning Code.

- (a) Animal hospital and vet clinic.
- (b) Art shop, antique shop.
- (c) Automobile service establishment, public garage and parking lot.
- (d) Bakery.
- (e) Banks and financial institution.
- (f) Barbershop, beauty parlor.
- (g) Bowling alley, pool and billiard parlor.
- (h) Business and professional offices.
- (i) Clothing store, department store, dress shop, dry goods store, millinery shop, shoe sales and repair shop that utilize 3,000 square feet of floor area or less.
- (j) Drug store, ice cream shop, pharmacy.
- (k) Florist shop.
- (l) Grocery store, delicatessen, fruit and vegetable market, meat and fish market that utilize 5,000 square feet of floor area or less.
- (m) Furniture store, office equipment store, and upholstery shop that utilize 2,000 square feet of floor area or less.
- (n) Hardware store, home appliance store, paint store, plumbing and heating store and electrical store and sporting goods store that utilize 3,000 square feet of floor area or less.
- (o) Jewelry store and watch repair shop.
- (p) Laundromat and dry cleaning drop off establishment employing not more than 5 persons.
- (q) Optical store.
- (r) Photographer and photographer supply.
- (s) Printing shop.

- (t) Residential units; attached above or at rear of same building with another business use, maximum of two (2) residential units, with a minimum living area of 550 square feet per residential unit. 5/14/18
- (u) Restaurants, barbecue stand, café, cafeteria, caterer, lunchroom and taverns.
- (v) Tailor shop and clothes pressing business.
- (w) Telephone and telegraph office.
- (x) Any similar subject to the approval of the Village Plan Commission.
- (3) **CONDITIONAL USES.** Arcades and other amusement places, churches, synagogues and other building for religious assembly, drive-in restaurants, legal nonconforming uses, public and semi-public buildings and uses, and other uses or situations.
- (4) **SIGNS, BILLBOARDS.** Signs billboards and other outdoor advertising signs and structures advertising the business conducted or articles sold on the premises are subject to §17.24.
- (5) **PRINCIPAL BUILDING LOCATION.** (Rep. & recr. #276)
 - (a) Setback. Minimum 0 feet.
 - (b) Side Yards. Minimum 0 feet, provided, however that buildings adjacent to residential districts shall have a rear yard of no less than 15 feet.
 - (c) Rear Yards. Minimum 0 feet, provided, however, that buildings adjacent to residential districts shall have a rear yard of no less than 15 feet.
- (6) **HEIGHT REGULATIONS.**
 - (a) Principal Building. (Am. #212) Buildings erected or altered for business uses shall not exceed 35 feet without the express permission of the Village Plan Commission and architectural approval.
 - (b) Accessory Buildings. See Section 17.20(1)
- (7) **AREA REGULATIONS.**
 - (a) Attached Living Area. In accordance with the table outlined in the multifamily conditional use section of this chapter.
 - (b) Detached Living Area. In accordance with single0family residential district requirements.
 - (c) Lot. Area.
 - 1. Lot size minimum: 20,000 square feet.
 - 2. Lot width minimum: 120 feet.
 - (d) Open Space. No minimum.
- (8) **ACCESSORY BUILDINGS.** Accessory buildings in the Downtown Business District shall adhere to the regulations within Section 17.20.

17.50 HIGHWAY BUSINESS DISTRICT B-2. (Cr. #256)

- (1) **PURPOSE.** This district is intended to provide for the development, at appropriate locations of needed commercial services consisting primarily of neighborhood and regional retail stores, shops, markets and individual service establishments catering to the need of the surrounding local and regional residential community.
- (2) **USE REGULATIONS.**
 - (a) Permitted Uses. Any of the following retail and customer service establishments: Appliance stores, bakery shops, bank or savings and loan offices, clinics, clothing or dry goods stores, confectionery stores, delicatessens, drug stores,, furniture stores, grocery stores and super markets that utilize more than 5,000 square feet of floor area, hardware stores, hobby shops, hospitals and clinics, ice cream and candy stores, jewelry stores, liquor stores meat and fish markets, music and radio stores, newsstands, notion or variety shops, pharmacies, optical stores, private commercial recreational facilities, radio and television services and repair shops, restaurants, retail sales stores utilizing more than 3,000 square feet of floor area, self-service and pick-up laundry and dry cleaning establishments, shoe stores, sporting goods and bait shops, tailor or dressmaker shops, tobacco shops, and nay similar use subject to the approval to the Village Plan Commission per §17.20.
 - (b) Conditional Uses. Arcades and other amusement places, automobile service stations, etc., drive-in restaurants, legal nonconforming uses, motels and hotels, planned unit development, private clubs and outdoor faculties, such as recreational camps, golf courses, bathing beaches, riding academies and resorts, public and semipublic buildings and uses, and other uses or situations.
- (3) **PRINCIPAL BUILDING LOCATION.**
 - (a) Setback. Minimum 30 feet.
 - (b) Side Yard. Minimum 10 feet.
 - (c) Rear Yard. Minimum 30 feet.

HEIGHT REGULATIONS.

- (a) Principal Building. Maximum 35 feet.
 - (b) Accessory Buildings. See Section 17.20(1)
- (4) **AREA REGULATIONS.**
 - (a) Lot Size.
 1. Minimum area: 30,000 square feet.
Minimum average width: 120 feet.
 - (b) Open Space.
 1. Minimum area: 40 percent.

17.51 LIGHT INDUSTRIAL DISTRICT.

(1) **PURPOSES.** The Light Industrial District is intended to encourage the establishment of manufacturing wholesale business establishments which are clean, quiet and are free of objectionable elements such as noise, odor, dust, glare or smoke.

(2) **USE REGULATIONS.** (Am. #256)

(a) **Permitted Uses.**

1. Automobile repair shops, including body shops, Welding, upholstery and the repair and enclosed storage of automotive accessories, but not automobile wrecking yards and farm machinery sales and services.
2. Cleaning, dyeing and pressing establishments and laundries, except bag cleaning.
3. Enameling and painting.
4. Knitting mills and manufacture of products from finished fabrics.
5. Laboratories.
6. Machine shop, blacksmithing, sheet metal and welding.
7. Manufacture and bottling of nonalcoholic beverages.
8. Manufacture of cigarettes, cigars and smoking tobacco.
9. Manufacture of drugs and cosmetics.
10. Manufacture of goods from leather, but not the tanning of hides or manufacture of leather.
11. Manufacture of goods from plastic.
12. Manufacture of jewelry.
13. Manufacture of products from paper, but not the manufacture of paper or pulp.
14. Manufacture of products from wood, but not the manufacture of paper, pulp or plastic or sawing of logs.
15. Manufacture of sporting goods, home and office appliances and supplies.
16. Mini warehouse.
17. Processing, packing and manufacturing of food, but not meat and meat products, fish and fish products, sauerkraut and cabbage by-products or the vining of peas.
18. Railroad lines and structures.
19. Storage and warehousing of fuel, building materials and contractors yards, except the storage of wrecked and dismantled vehicles, junk, explosive or inflammable gases or liquids.
20. Wholesale business dealings in articles or commodities not inherently dangerous or offensive in the form dealt with.
21. Any similar use subject to the approval of the Village Plan Commission shall be considered a conditional use.

- (3) **CONDITIONAL USES.** (Cr. #256) Automobile service stations, etc., commercial greenhouses, commercial fish or bait ponds or hatcheries, contractor's yards, laboratories for testing, experimental or analytical purposes, legal nonconforming uses, planned unit development restaurants, supper clubs, taverns and similar uses, and other uses or situations.
- (4) **PRINCIPAL BUILDING LOCATION.** (Rn. #256)
 - (a) Setback. 30 feet.
 - (b) Side Yard.
 - 1. 25 feet.
 - 2. Any side yard adjacent to a residence district shall not be less than 50 feet.
 - (c) Rear Yard.
 - 1. Not less than 25 feet.
 - 2. Any rear yard adjacent to a residence district shall not be less than 50 feet.
 - 3. No side yard adjacent to a residence district shall be used for parking purposes unless they are is landscaped and screened with ornamental shrubbery approved by the Building Inspector according to The Village Plan Commission standards.
- (5) **HEIGHT REGULATIONS.** (Am. #212; Rn. #256)
 - (a) Principal Building. Buildings erected or altered for business uses shall not exceed 35 feet without the express permission of the Plan Commission with architectural approval.
 - (b) Accessory Building. See Section 17.20(1)
- (6) **AREA REGULATIONS.** (Rn. #256)
 - (a) Lot Size Minimum. One acre.
 - (b) Lot Width Minimum. 150 feet.
 - (c) Open Space. On new industrial parcels no more than 60% of the subject parcel shall be impervious surfaces consisting of roof tops and paved or gravel areas and 40% of the subject parcels shall be vegetated.
- (7) **ACCESSORY BUILDINGS.** Accessory buildings in the Light Industrial District shall adhere to the regulations within Section 17.20.

17.52 HEAVY INDUSTRIAL DISTRICT. (Rn. #256)

- (1) **PURPOSE.** The Heavy Industrial District is intended to encourage the development of major manufacturing, processing and warehousing operations which may require extensive community facilities.
- (2) **USE REGULATIONS.** In the district no lands or buildings shall be used unless the location, site plan or plan of operation have been submitted and approved by the Village Plan Commission. Subject to the above, the following uses shall be permitted in this district:
 - (a) Any use permitted in the Light Industrial District.
 - (b) Gasoline and gas storage plant, processing, packing or manufacturing of meat or meat products, fish or fish products, sauerkraut and cabbage by-products packing factories, stock yards and slaughter houses, provided the location, plan, site plan and plan of operation have been approved by the Village Plan Commission after public hearing. The Commission shall determine that such use shall not be detrimental to the neighborhood by reason of noise, dust, smoke, odors, or other nuisance conditions.
 - (c) Any other commercial or industrial use, except the following:
 1. Acid manufacturing.
 2. Glue manufacturing, fat rendering or distillation of bones.
 3. Cement, lime, gypsum or plaster of Paris.
 4. Explosive manufacture or storage.
 5. Fertilizer manufacture.
 6. Garbage incineration or the reduction of garbage, rubbish or offal or dead animals.
 7. The refinery or manufacture of inflammable liquids or gases.
 8. Tanning or leather
- (3) **CONDITIONAL USES.** (Cr. #256) Automobile service stations, etc., commercial greenhouses, contractor's yards, laboratories for testing, experimental or analytical purposes, legal nonconforming uses, mobile home parks and camps, public and commercial refuse disposal sites, quarrying, as defined in this chapter, salvage yards, and other uses or situations.
- (4) **PRINCIPAL BUILDING LOCATION.** (Rn. #256)
 - (a) Setback. Minimum 30 feet.
 - (b) Side Yards.
 1. 25 feet.
 2. If use is adjacent to a residential district, the side yard shall not be less than 50 feet.

- (c) Rear Yards.
 - 1. 25 feet.
 - 2. If use is adjacent to a residential district, the rear yard shall not be less than 50 feet.
 - 3. No side yard or rear yards adjacent to a residential district shall be used for parking purposes.
 - 4. Side yards and rear yards adjacent to residential district shall be landscaped and screened with ornamental shrubbery approved by the Building Inspector according to standards set by the Village Plan Commission.
- (5) HEIGHT REGULATIONS. (Am. #212: Rn. #256)
 - (a) Principal Building. Buildings erected or altered for business uses shall not exceed 35 feet without the expressed permission of the Plan Commission with architectural approval.
 - (b) Accessory Building. See Section 17.20(1)
- (6) AREA REGULATIONS. (Rn. #256)
 - (a) Minimum Lot Size. 1.5 acres.
 - (b) Minimum Width. 175 feet.
 - (c) Open Space. On newly created heavy industrial parcels no more than 60% of the subject parcel shall be impervious surfaces consisting of roof tops, paved parking areas or graveled areas and 40% of the subject parcel shall be in vegetative cover.
- (7) ACCESSORY BUILDINGS. Accessory buildings in the Heavy Industrial District shall adhere to the regulations within Section 17.20

17.53 PUBLIC PROPERTIES DISTRICT. (Rn. #256)

- (1) **PURPOSE.** (Am. #256) The Public Properties District is established to allow for public uses, public utilities, lands and similar areas that are owned, controlled, regulated, used or proposed to be used by the Village or other public body, including schools.
- (2) **USE REGULATIONS.** The following uses shall be permitted in this district subject to the site plan being submitted and approved by the Village Plan Commission and compliance with Section 17.50(5)(g) of this chapter.
 - (a) Parks and recreational areas.
 - (b) Public utility and public service uses such as wastewater treatment facilities, wells, towers and similar municipal utilities.
 - (c) Public parking lots and public parking ramps.
 - (d) Municipal structures, garages and accessories.
 - (e) Other public buildings, schools, lands, grounds and uses. (Am. #256)
- (3) **CONDITIONAL USES.** (Cr. #256) Other uses or situations
- (4) **SPECIAL PERMITS.** (Rn. #256) Lands and buildings within this district may be used on a temporary basis for private and commercial uses. Such uses might consist of carnivals, rentals of public buildings for private gatherings, use of public buildings for temporary commercial displays or trade fairs and similar functions. Permit s for such temporary private use of public property shall be approved by the Village Board.
- (5) **PRINCIPAL BUILDING LOCATIONS.** (Rn. #256)
 - (a) Setback. 30 feet.
 - (b) Offset. To be established by the Village Plan Commission according to individual use, configuration of subject parcel and potential conflicts with surrounding uses.
- (6) **ACCESSORY BUILDINGS.** Accessory buildings in the Public Properties District shall adhere to the regulations within Section 17.20.

17.54 RESERVED. (Rep. #303)

17.55 RESERVED. (Rep. #303)

17.56 RESERVED. (Rep. #303)

17.57 Q – QUARRYING DISTRICT. (Rn. #256)

(1) USE REGULATIONS; PERMITTED USES.

(a) Any use permitted in the A Agricultural Land Preservation Transition District.

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(b) Quarrying subject to the provisions of Section 17.13(6)(z) except that the establishment of a quarrying district shall be construed to have determined the appropriateness of quarrying use in such area, and the grant of the permit shall be conditioned only on compliance with the standards and regulations as set out in Section 17.36(26).

(c) The following related operations where accessory to the permitted quarrying operation subject to the regulations of Section 17.36(26).

1. The manufacture of concrete building blocks or other similar blocks.
2. Production of ready-mix concrete and asphalt.

(2) PRINCIPAL BUILDING LOCATION.

(a) Setbacks.

1. Quarrying Operations. As required by Section 17.36(26)
2. Other permitted Uses. Minimum 50 feet.

(b) Offsets.

1. Quarrying Operations. As required by Section 17.36(26)
2. Other Permitted Uses. Minimum 20 feet.

(3) HEIGHT REGULATIONS.

(a) Principal Building. Maximum 35 feet.

(b) Accessory Building. See Section 17.20(1)

(4) AREA REGULATIONS.

(a) Living Area: Minimum Required for Residence Purposes.

1. First Floor. 900 feet.
2. Total, One-Family. 1,000 square feet.
3. Total, Two-family. 1,800 square feet.

(b) Lot Size.

1. Minimum Area. 3 acres.
2. Minimum Average Width. 200 feet.

(c) Open Space. One acre minimum per family.

(5) ACCESSORY BUILDINGS. Accessory buildings in the Quarrying District shall adhere to the regulations within Section 17.20.

17.58 SF – SHORELAND PROTECTION OVERLAY DISTRICT

- (1) **PURPOSE.** The Shoreland Protection Overlay District is intended to describe the lands and regulations pertaining to shoreland that has been or will be annexed to the Village after May 7, 1982, that prior to annexation was subject to county shoreland zoning ordinance under Section 59.692, Wisconsin Statutes pursuant to responsibility for the protection of shoreland properties provided to municipalities by Wisconsin Statutes Sections 61.35 and 61.353. Furthermore, the regulations promote appropriate use of properties surrounding shoreland area while accomplishing the following:
 - a. Promote the health, safety and general welfare of the public by buffering floodplains and wetlands surrounding bodies of water needed for the conveyance and filtering of stormwater by preserving the natural landscape of the floodplains, wetlands and buffer.
 - b. Protect persons and property from undue hardship by controlling the placement of buildings an appropriate distance away from floodplains and wetlands surrounding bodies of water.
- (2) **DEFINITIONS.** Specific terms and phrases within this Section 17.58 shall have the definitions as referenced below:
 - a. Shoreland as defined as “Shorelands” in Section 17.04.
 - b. Principal Building as defined as “Building Principal” in Section 17.04.
 - c. Accessory Building as defined as “Accessory Building” in Section 17.04.
- (3) **District Boundaries.** The Shoreland Protection Overlay District requirements of this Section 17.58 are standards that apply pursuant to Section 61.353, Wisconsin Statutes, to shoreland annexed to the Village of Dousman after May 7, 1982, that prior to annexation was subject to a county shoreland zoning ordinance under Section 59.692 Wisconsin Statutes. The requirements of this SP-Shoreland Protection Overlay District may be more restrictive than the underlying zoning district or districts placed on a property; however, the Shoreland Protection Overlay District requirements do not supersede the standards of the floodplain zoning districts of Section 17.59. Portions of lands within the Shoreland Protection Overlay District may be underlying zoning district of C-1 Conservancy. In all cases the more restrictive standards apply. Outside of the district boundaries of the Shoreland Protection Overlay District, the standards of the underlying zoning district apply.

- (4) Mapping of District Boundaries. The Shoreland Protection Overlay District boundary shall apply to all properties within the Village of Dousman as described in Section 17.58(3) whether mapped or not on the official zoning map of the Village of Dousman. When information is available regarding ordinary high-water mark of navigable waters for properties through prior or new engineering studies the Village Board shall strive to at least annually update the zoning map with the Shoreland Protection Overlay District boundary. The mapping of district boundaries also includes the following:
 - a. The mapped SF, Shoreland and Floodplain Protection Overlay District as of June 16, 2014 shall be changed to the SP, Shoreland Protection Overlay District.
 - b. Any shoreland annexed to the Village of Dousman as described in Section 17.58(3) shall be automatically placed in the Shoreland Protection Overlay District.
 - c. The Shoreland Protection Overlay District does not include lands adjacent to an artificially constructed drainage ditch, pond to any storm water management basin not hydrologically connected to a natural navigable body of water.
- (5) Determination of Navigability. Determination of navigability and ordinary high-water mark location shall be made by the Village of Dousman Zoning Administrator. Lakes, ponds, and flowages shall be presumed to be navigable if listed in the Wisconsin Department of Natural Resources Surface Water Data or shown on the United States Geological Survey quadrangle maps or other zoning base maps. Rivers and streams shall be presumed to be navigable if designated as continuous waterways or intermittent waterways shown on the United States Geological Survey quadrangle maps. To assist in determination of navigability, the Zoning Administrator shall utilize engineering studies and the assistance of the Wisconsin Department of Natural Resources for a final determination of navigability or ordinary highwater mark.
- (6) Building Location within the Shoreland Protection Overlay District.
 - a. Principal Building Location:
 1. All principal buildings shall be located a minimum distance of 50 feet from the ordinary high-water mark or a minimum of 20 feet from a mapped floodplain or wetland boundary, whichever distance is greater from ordinary high-water mark. In its review of conditional use permit applications or site plan submittals required by this code, the Village of Dousman Plan Commission may increase the minimum distance for a principal building from a mapped floodplain or wetland due to the size or use intensity of the building, the need to further buffer a sensitive environmental area or the need to provide an increased area for storm water run-off and water quality from the principal building.

2. The principal building may be located a distance less than required in Section 17.58(6)(a)(1) if the principal building is constructed or placed on a lot immediately adjacent on each side to a lot containing a principal building and the principal building is constructed or placed within a distance equal to the average distance of the principal buildings on adjacent lots from the ordinary high water mark. However, the minimum distance from the ordinary high-water mark shall not be less than 35 feet.
3. The minimum distance requirements of Section 17.58(6)(a)(1) and (6)(a)(2) shall not allow a principal building to be placed closer to a property line than allowed within the underlying zoning district.

b. Accessory Building Location:

1. All accessory buildings shall be located a minimum distance of 50 feet from the ordinary high-water mark or a minimum of 10 feet from a mapped floodplain or wetland boundary, whichever distance is greater from the ordinary high-water mark. In its review of condition use permit applications or site plan submittals required by this Code, the Village of Dousman Plan Commission may increase the minimum distance for an accessory building from a mapped floodplain or wetland due to size or use intensity of the building, the need to further buffer a sensitive environmental area or the need to provide an increased area for storm water run-off and water quality from the building.
2. The minimum distance requirements of Section 17.58(6)(b)(1) shall not allow an accessory building to be placed closer to a property line than allowed within the underlying zoning district.

(7) Other Minimum Distance Requirements within the Shoreland Protection Overlay District.

- a. All other man made development or construction on a property, such as a parking lot, parking lot access drive, sidewalk or paved trail, playground equipment, utility or telecommunication equipment, retaining wall, etc., shall be located a minimum distance of 35 feet from ordinary high water mark or a minimum of 10 feet from a mapped floodplain or wetland boundary, whichever distance is greater from the ordinary high water mark. In its review of conditional use permit applications or site plan submittals required by this Code, the Village of Dousman Plan Commission may increase in the minimum distance for the other man made development from a mapped floodplain or wetland due to size or use intensity of the development, the need to further buffer a sensitive environmental area or the need to provide an increased area for storm water run-off and water quality from the building.

- b. The minimum distance requirements of Section 17.58(7)(a) shall not allow a man-made development or construction to be placed closer to a property line than allowed within the underlying zoning district.
- (8) Required Buffer Zone and Maintenance within the Shoreland Protection Overlay District.
- a. Any person or entity who owns shoreland property containing vegetation shall maintain a vegetative buffer zone along the entire shoreline of their ownership and extending 35 feet inland from the ordinary high water mark of the navigable water, except as provided for a Section 17.58(8)(b) and (8)(c).
 - b. If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove the vegetation. If owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.
 - c. Any person or entity required to maintain or establish a vegetative buffer zone may remove all of the vegetation in part of the buffer zone in order to establish a viewing or access corridor that is no greater than 30 feet wide for every 100 feet of shoreline frontage extending no more than 35 feet inland from the ordinary high water mark.
 - d. Notwithstanding the requirements of Sections 17.58(7)(a) and (7)(b), any man made development or construction that enhances the recreational and/or open space use and enjoyment of the buffer area may be allowed if permitted by the Wisconsin Department of Natural Resources, or allowed by the Village Zoning Administrator of the Wisconsin Department of Natural Resources does not permit jurisdiction, provided the development or construction is allowed in the underlying zoning district, any floodplain zoning district or the C-1 Conservancy District. Such development or construction activity may include a wood chip path, stone or wood steps on a steep slope, boardwalk, wood or stone sitting bench, canoe launch, boat dock or bird feeder.
- (9) State of Deed Restrictions and Enforcement. Nothing herein shall be interpreted to abrogate private deed restrictions or covenants that may be more restrictive than this ordinance. The Village Zoning Administrator shall be responsible for enforcement of this Section 17.58 with assistance from the Village Clerk, Village Attorney, Village Engineer and Village Planner.

SECTION 3. LIMITED CONTINUATION.

Any violation that occurred under the zoning provisions hereby repealed or modified shall continue to be a violation of this Code, and shall be subject to the penalties and remedies described herein, and such prior zoning provisions shall continue in effect for such purpose. Such violations are not waived or forgiven by the adoption of new ordinances in the Village. The effective date of any provision of this Code that has been repealed and recreated with identical or substantially identical regulatory text, shall be the date that the regulatory text at issue was initially adopted, regardless of numbering changes, codification changes, or other changes that might have been made that do not impact upon the regulatory effect on the particular issue, provided that there has been no substantive lapse in the effectiveness of the regulation. (Example: If an ordinance adopted in 1955 established a 10 foot setback on a particular lot; in 1969 such 10 foot setback was renumbered; in 1985 such 10 foot setback text was changed to add offset language; in 2010 the entire code was repealed and recreated with this provision unchanged; and at no point from 1955 to present was there a time when the 10 foot setback did not apply on such lot; then the 10 foot setback effective date shall be interpreted to be 1955.)

6/16/14

17.59 FLOODPLAIN DISTRICTS AND STANDARDS

1.0 STATUTORY AUTHORIZATION, FINDING OF FACTS, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23 and the requirements in s. 87.30, Stats.

1.2 FINDING OF FACT

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

1.3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

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

1.4 TITLE

This ordinance shall be known as the "Floodplain Districts and Standards for the Village of Dousman, Wisconsin.

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This ordinance regulates all areas of special flood hazard identities as zones A, AO, AH, A1-30 or AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable

(2) OFFICIAL MAPS & REVISIONS

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH or AO on the Flood Insurance Rate Maps (FIRMS) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subd. (b) below. These maps and revisions are on file in the office of the Village Clerk, 118 S. Main Street, Dousman, WI 53118.

1. .OFFICIAL MAPS: Based on the Flood Insurance Study (FIS) Flood Insurance Rate Map (FIRM), panel numbers 55133C0144H, 55133C0161H, 55133C0162H, 55133C0163H, 55133C0164H, 55133C0277H, 11/5/14 and 55133C0276J dated 10/19/23

2. Flood Insurance Study (FIS) volumes, 55133CV001D, 55133CV002D, 55133CV003D, 55133CV004D, 55133CV005D, for Waukesha County, dated 10/19/23. Approved by : DNR and FEMA

a. (OFFICIAL MAPS): Bases on other studies, Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

1. Waukesha County and Incorporated Areas Flood Storage Districts Panel 9, dated 10/19/23, approved by the DNR.

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

The flood hazard areas regulated by this ordinance are divided into three districts as follows:

(a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s. 5.1(5).

(b) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or when floodway limits have been determined according to s. 5.1(5), within A Zones shown on the FIRM.

(c) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas as AH and AO zones on the FIRM.

(d) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using criteria in subd. (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 Amendments. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevation from a FIRM, FEMA must approve any map amendment or revision pursuant to s.8.0 Amendments.

- (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (b) Where flood profiles do not exist for projects, including any boundary of Zone A or AO, the location of the boundary shall be determined by the map scale.

(5) REMOVAL OF LANDS ROM FLOODPLAIN

- (a) Compliance with the provision of this ordinance shall be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0 Amendments.
- (b) The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of natural Resources and Federal Emergency Management Agency. A complete Letter of Map Revision is a record of this approval. The floodplain administrator shall not sign a community acknowledgment form unless all criteria set forth in the following paragraphs are met.

1. The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation.

2. The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F.

(c) Removal of land from the floodplain may also occur by operation of ss.87.30(1)(3), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44C.F.R.70.

(6) COMPLIANCE

- a. No structure or se within regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarges, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- b. Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with s. 9.0.
- c. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Floodplain Administrator. Use, arrangements, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with s. 9.0.

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by laws, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats. Applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies. Although exempt from local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards. If a local transportation project is located within Zone A floodplain and is not a WisDOT project under s. 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Floodplain Administrator that the proposed project is a culvert replacement or bridge replacement under 20' span at the same location, the project is exempt from a DNR permit under s. 30.123(6)(d), the capacity is not decrease, the top road grade is not raised, and no floodway data is available from federal, state or other source. If floodway data is available in the impacted area from a federal, state or other source that existing data must be utilized by the applicant in the analysis of the project site.

(8) ABROGATION AND GREATER RESTRICTIONS

- (a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 61.35 or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(9) INTERPRETATION

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by manmade or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(11) SEVERABILITY

Should any portion of this ordinance be declared unconditional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Waukesha County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR116, Wis. Adm. Code and 44 CFR-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

- 1). If a proposed building site is on a flood-prone area, all new construction and substantial improvements shall:
 - b. be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - c. be constructed with flood-resistant materials;
 - d. be constructed by methods and practices that minimize flood damages; and
 - e. Mechanical and utility equipment must be elevated to or above the flood protection elevation.
- 2). If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that:
 - a. such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
 - b. public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - c. adequate drainage is provided to reduce exposure to flood hazards

All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 7.1(2)

2.1 HYDRAULIC AND HYDROLOGIC ANALYSIS

(1) No floodplain development shall:

- (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
- (b) Cause any increase in the regional flood height due to floodplain storage are lost.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 8.0 Amendments are met.

2.2 WATERCOURSE ALTERATIONS

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 2.1 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 8.0 Amendments, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT

Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to s. 8.0 Amendments.

2.4 PUBLIC OR PRIVATE CAMPGROUNDS

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

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

- (6) All mobile recreational vehicles placed on site must meet one of the following:
- a. Be fully licensed, if required, and ready for highway use; or
 - b. Not apply any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or
 - c. Meet the requirements in either s. 3.0, 4.0 or 5.1 for the floodplain district in which the structure is located.

A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices and has no permanently attached additions.

- (7) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit consistent with 2.4(6) and shall ensure compliance with all the provisions of this section;
- (8) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (9) The campground shall have signs clearly at all entrances warning of the flood hazard and the procedure for evacuation when a flood warning is issued; and
- (10) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.
- (11) Standards for structures in a campground:
- a. All structures must comply with section 2.4 or meet the applicable requirements in ss. 3.0, 4.0 or 5.1 for the floodplain district in which the structure is located;
 - b. Deck/landing-a-portable landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be address within written agreement with the municipality compliant with section 2.4(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - c. Decks/patios that are constructed completely at the grade may be allowed but must also comply with the applicable shoreland zoning standards.

- d. Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground of camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 2.4(4).
- e. Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 2.4(4).

(12) A land use permit shall be obtained as provided under 7.1(2) before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated.

3.0 FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY

This section applies to all the floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.1(5)

3.2 PERMITTED USES

The following open space uses are allowed in the Floodway District and the floodway area of the General Floodplain District if:

- They are not prohibited by any other ordinance;
- They meet the standards in s. 3.3 and 3.4; and
- All permits or certificates have been issued according to s. 7.1.

(1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).

(4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.

- (5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
- (7) Public utilities, streets and bridges that comply with s. 3.3(3).
- (8) Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department approved campgrounds that meet the applicable provisions of local ordinances and Ch. SPS 383, Wis. Adm. Code.
- (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR811 and NR812, Wis. Adm. Code.
- (10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b) Wis. Adm. Code.
- (11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complied with the regulations for the floodplain area occupied.

3.3 STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY

(1) GENERAL

- (a) Any development in the floodway shall comply with s. 2.0 and have a low flood damage potential.
- (b) Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to s. 2.1 and 7.1(2)(c). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
- (c) Any encroachment in the regulatory floodway is prohibited unless the data submitted for subd. 3.3(1)(b) above demonstrated that the encroachment will cause no increase in flood elevations in flood events up to the base flood any location or removes the encroached area from the regulatory floodway as provided in s. 1.5(5).

(2) STRUCTURES

Structures accessory to permanent open space uses, including utility and sanitary facilities or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (a) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- (b) Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards.

1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 2. Have structural components capable of meeting all provisions of Section 3.3(2)(g) and;
 3. Be certified by a registered professional engineer or architect, through the use of Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 3.3(2)(g),
- (c) Must be anchored to resist floatation, collapse, and lateral movement;
- (d) Mechanical and utility equipment must be elevated, or flood proofed to or above the flood protection elevation; and
- (e) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (f) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets s. 3.3(2)(a) through 3.32(2)€ and meets or exceeds the following standards:
1. The lowest floor must be elevated to or above the regional flood elevation;
 2. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 3. The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
 4. The use must be limited to parking, building access or limited storage.
- (g) Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the flowing floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood.
1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures of debris buildup;
 2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Section 3.4(4) and 3.4(5);

3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
5. Placement of utilities to or above the flood protection elevation.

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

Public utilities, streets and bridges maybe allowed by permit, if:

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
- (b) Construction meets the development standards of s. 2.1

(4) FILLS OR DEPOSITION OF MATERIALS

Fills or deposition of materials may be allowed by permit, if:

- (a) The requirements of s. 2.1 are met;
- (b) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable and all other requirements have been met;
- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulk heading; and
- (d) The fill is not classified as a solid or hazardous material.

3.4 PROHIBITED USES

All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses;

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;

- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

4.0 FLOODFRINGE DISTRICT (FF)

4.1 APPLICABILITY

This section applies to all Floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.1(4)

4.2 PERMITTED USES

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.

4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE

S. 2.0 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 6.0 Nonconforming Uses;

(1) RESIDENTIAL USES

Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of s. 6.0 Nonconforming Uses;

- (a) All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet s.1.5(5).

- (b) Notwithstanding s.4.3(1)(a), a basement or crawlspace floor may be placed one foot above regional flood elevation for CRS communities if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. NO floor of any kind is allowed below the regional flood elevation;
- (c) Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in sub. (d).
- (d) In development where existing street or sewer line elevations make compliance with sub. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 - 1. The municipality has written assurance from police, fire and emergency services that rescue, and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - 2. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.

(2) ACCESSORY STRUCTURES OR USES

In addition to s.2.0, new construction and substantial Improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(3) COMMERCIAL USES

In addition to s.2.0, any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.s(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES

In addition to s2.0, any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s 7.7. Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) STORAGE OF MATERIALS

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or flood proofed in compliance with the s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

(a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 7.5.

(b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

All sewage disposal systems shall be designed to minimize or eliminate infiltration or flood water into the system, pursuant to s. 7.5(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(8) WELLS

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 7.5(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

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

(10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.

(11) MANUFACTURED HOMES

- a. Owners or operators of all manufactures home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval, and file an evacuation plan, indicating vehicular access and escape routes with local emergency management authorities.
- b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 1. Have the lowest floor elevated to the flood protection elevation; and
 2. Be anchored so they do not float, collapse or move laterally during a flood.
- c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s.4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles must be either on site for less than 180 consecutive days to be either:

- a. fully licensed and ready for highway use; or
- b. shall meet the elevation and anchoring requirements in s.4.3(11)(b) and (c).

A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

5.0 GENERAL FLOODPLAIN DISTRICT

5.1. GENERAL FLOODPLAIN DISTRICT (GFP)

(1) APPLICABILITY

The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in s. 1.5(2)(a).

(2) FLOODWAY BOUNDARIES

For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified is s.1.5(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to s.5.1(5). IF the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of s3.0. IF the development is located entirely within the floodfringe, the development is subject to the standards of s.4.0.

(3) PERMITTED USES

Pursuant to s. 5.1(5), it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the floodway (s.3.2) and Floodfringe (s. 4.2) Districts are allowed within the General Floodplain District, according to the standards of s. 5.1(4), provided that all permits or certificates required under s. 7.1 have been issued.

(4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

Section. 3.0 applies to floodway areas, determined to pursuant to 5.1(5); 4.0 applies to floodfringe areas, determined to pursuant to 5.1(5).

(a) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:

1. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade, plus one additional foot on freeboard; or
2. If the depth is not specified in the FIRM, to or above three feet above the highest adjacent natural grade.

(b) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.

(c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures

(d) All development ins zones AO and AH shall meet the requirement of s.4.0 applicable to flood fringe areas.

(5) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

Upon receiving an application for development within zone A, or within zone AE where floodway has not been delineated on the Flood Insurance Rate Maps, the zoning administrator shall:

a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain distort limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.

b) Require the applicant to furnish any of the following information deemed necessary by the Department to elevate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.

1. A Hydrologic and Hydraulic Study as specified in s. 7.1(2)(c).

2. Plan (Surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
3. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

5.2 FLOOD STORAGE DISTRICT

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

(1) APPLICABILITY

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

(2) PERMITTED USES

Any use or development which occurs in a flood storage district must meet the applicable requirements in s. 4.3.

(3) STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS

- a. Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- b. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- c. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per s. 8.0 Amendments of this ordinance.
- d. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

6.0 NONCONFORMING USES

6.1 GENERAL

(1) APPLICABILITY

- a. The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with s.87.30, Stats. and NR116.12-14, Wis. Adm. Code and 44 CFR 59-97., these standards shall apply to all modifications or additions to any nonconforming use or structure which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.
- b. As permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value, and a list of the costs of those activities associated with changes to those buildings.

(2) CONDITIONAL CONTINUANCE

The existing lawful use of a structure or its accessory use which is not on conformity with the provisions of this ordinance may continue subject to the following conditions:

- (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;

- (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would be equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating the lowest floor protection elevation are excluded from the 50% provisions of this paragraph;
- (e) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s.4.3(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- (f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1).
- (g) Except as provided in sub.(h), if any nonconforming or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

- (h) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to start of construction.

1. Residential Structures

- a. Shall have the lowest floor, including basement, elevated to one foot above the base floor elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 7.5(2)
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- e. In AO Zones, with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.1(4)
- f. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures

- a. Shall meet the requirements of s. 6.1(2)(h)1a-f.
- b. Shall either have the lowest floor, including basement, elevated tor above the regional flood elevation; or, together with the attendant utility and sanitary facilities, shall meet the standards in s. 7.5(1) or (2).
- c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.1(4)

- (3) A nonconforming historic structure maybe altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 3.3(1), flood resistant, materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1(2)(h) 1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.
- (4) Notwithstanding anything in this chapter to the contrary, modifications, additions, maintenance, and repairs to a on conforming building shall not be prohibited based on cost and the building's nonconforming use shall be permitted to continue if:
 - a. Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
 - b. The lowest floor of the nonconforming building, including the basement, is elevated to one foot or above the regional flood elevation;
 - c. The nonconforming building is permanently changed to conform to the applicable requirements of 2.0;
 - d. If the nonconforming building is in the floodway, the building is permanently changed to conform to the applicable requirements of 3.3(1), 3.3(2)(b) through , 3.3(3), 3.3(4), and 6.2. Any development in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4);
 - e. If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of 4.3 and 6.3;
 - f. Repair or reconstruction of nonconforming structures and substantial improvements of residential buildings in zones A1-30, AE and AH must have the lowest floor (including basement) elevated one foot above the base flood elevation;
 - g. Repair or reconstruction of nonconforming structures and substantial improvements of non-residential buildings in zones A1-30, AE and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:

- I. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of s.6.1(4)(g) above.
 - II. The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed;
- h. Fully enclosed areas below the lowest floor of repair or reconstruction of nonconforming structures and substantial improvements in zones A1-30, AE and AH that are usable solely for parking of vehicles, building access, or storage , must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Subsequent improvements to repaired or reconstructed nonconforming structures must not increase the degree of their nonconformity. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:
- I. A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area.
 - II. The bottom of all openings must be no higher than one foot above the adjacent grade.
 - III. Openings may be equipped with screens, louvers, valves, or other coverings of they permit the automatic entry and exit of floodwaters;
- i. Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- j. Manufactured homes that are placed or substantially improved within zones A1-30, AE and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is one foot above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- k. Recreational vehicles placed on sites within zones A1-30, AH, and AE must either:
 - I. Be on site for fewer than 180 consecutive days; or
 - II. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - III. Meet the elevation and anchoring requirements for manufactured homes in s.6.1(4)(i) above;
- l. In a regulatory floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including repair or reconstruction of nonconforming structures, substantial improvement, or other development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity.
- m. In zone A, the community must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring repair or reconstruction of nonconforming structures, substantial improvement, and other development to meet ss.6.1(4)(f) through (l) (inclusive) above. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;

- n. In zones A1-30 or AE where a regulatory floodway has not been delineated on the FIRM, repair or reconstruction of nonconforming structures, substantial improvements, or any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4). Subsequent improvements to repair or reconstruct nonconforming structures must not increase the degree of their nonconformity;
- o. In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified in feet on the FIRM (at least 3 feet if no depth number is specified). Subsequent improvements to repair or reconstructed nonconformity structures must not increase the degree of their nonconformity; or
- p. In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth is specified), or (together with attendant utility and sanitary facilities) be structurally dry-proofed to that level according to the standard specified in 6.14(4)(g) above. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity.

6.2 FLOODWAY DISTRICT

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
 - (a) Has been granted a permit or variance which meets all ordinance requirements;
 - (b) Meets requirements of s. 6.1;
 - (c) Shall not increase the obstruction to flood flows or regional flood height;
 - (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation; and
 - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply;

1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 4. The use must be limited to parking, building access or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and ch. SPS 383, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

6.3 FLOODFRINGE DISTRICT

- (1) Modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of s. 4.3 except where s. 6.3(2) is applicable.
- (2) Where compliance with the provisions of sub. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustments/Appeals, using the procedures established in s. 7.3, may grant a variance from the provisions of sub. (1) for modifications or additions using criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (a) No floor is allowed below the regional flood elevation for residential or commercial structure;
 - (b) Human lives are not endangered;

- (c) Public facilities, such as water or sewer, shall not be installed;
 - (d) Flood depths shall not exceed two feet;
 - (e) Flood velocities shall not exceed two feet per second; and
 - (f) The structure shall not be used for storage of materials as described in s. 4.3(5).
- (3) All new private sewage disposal systems, or additions to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, 7.5(3) and ch. SPS 383, Wis. Adm. Code.
- (4) All new wells, or additions to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 7.3(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

6.4 FLOOD STORAGE DISTRICT

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in Section 17.59(5.2)(3) are met.

10/13/14

7.0 ADMINISTRATION

The Zoning Administrator, Plan Commission and the Board of Appeals of the Village of Dousman has been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.69(2) or 62.23(7), Stats., these officials shall also administer this Section 17.59.

7.1 ZONING ADMINISTRATOR

(1) DUTIES AND POWERS

The Zoning administrator with the assistance of the Village Engineer is authorized to administer this ordinance and shall have the following duties and powers:

- (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (d) Keep records of all official actions such as:
 - 1. All permits issued, inspections made, and work approved;
 - 2. Documentation of certified lowest floor and regional flood elevations;
 - 3. Floodproofing certificates.

4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
5. All substantial damage assessment reports for floodplain structures.
6. List of nonconforming structures and uses.

(e) Submit copies of the following items to the Department Regional office;

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
2. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(f) Investigate, prepare reports and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the report shall also be sent to the Department Regional office.

(g) Submit copies of amendments to the FEMA Regional Office.

(2) LAND USE PERMIT

A land use permit shall be obtained before any new development, repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(a) GENERAL INFORMATION

1. Name and address of the applicant, property owner and contractor;
2. Legal description, proposed use, and whether it is new construction or a modification:

(b) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

1. Location, dimensions, area and elevation of the lot,
2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street center lines;
4. Location of any existing or proposed on-site sewage systems or private water supply systems;
5. Location and elevation of existing or future access roads;

6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and
9. Data to determine if the proposed development will cause an obstruction to flow or increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(1).

(c) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE
DEVELOPMENT

All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

1. Zone A floodplains:

a. Hydrology

- i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Adm. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.

b. Hydraulic modeling

The regional flood elevation shall be based in the standards in ch. NR 116.07(4), Wis. Adm. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:

- i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
- ii. Channel sections must be surveyed.
- iii. Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.

- iv. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
- v. The most current version of HEC-RAS shall be used.
- vi. A survey of bridge and culvert openings and the top of the road is required at each structure.
- vii. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of reach if greater than 500 feet.
- viii. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flood data as high-water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
- ix. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

c. Mapping

A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
- ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided

2. Zone AE Floodplains

a. Hydrology

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Adm. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.

b. Hydraulic model

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Adm. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:

i. Duplicate Effective Model

The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within .01 foot.

ii. Corrected Effective Model

The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HECRAS for Department review.

iii. Existing (Pre-Project Conditions) Model.
The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

iv. Revised (Post-Project Conditions) Model.

The Revised (Post-Project Conditions) Model shall incorporate by the proposed development. This model shall reflect proposed conditions.

v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

- vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to this in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

c. Mapping

Maps and associated engineering data shall be submitted to the Department for review which meets the following conditions:

- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs),
- ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
- iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) EXPIRATION

All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

(3) CERTIFICATE OF COMPLIANCE

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

- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (b) Application for such certificate shall be concurrent with the application for a permit;
- (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest to the floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of 7.5 are met.
- (e) Where applicable pursuant to s.5.1(4), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
- (f) Where applicable pursuant to s.5.1(4), the applicant must submit certifications by a registered professional engineer ot architect that the structural design and methods of construction meet accepted standards of practice as required by s. 5.1(4).

(4) OTHER PERMITS

Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineering under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

7.2 ZONING AGENCY

1. The Village of Dousman Plan Commission shall:

- (a) Oversee the functions of the office of the zoning administrator; and
- (b) Review and advise the governing body on all proposed amendments to this ordinance, maps and text.
- (c) Publish adequate notice pursuant to Ch. 985, Stats., specifying the date, time, place, and subject of the public hearing.

2. The Plan Commission or the Zoning administrator shall not:

- (a) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
- (b) Amend the text or zoning maps in place of official action by the governing body.

7.3 BOARD OF APPEALS

The Board of Appeals, created under s. 62.23(7)(e), Stats. for villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the board.

(1) POWERS AND DUTIES

The Board of Appeals shall:

- (a) Appeals – Hear and decide appeals where it is alleged there is an error in any order requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
- (b) Boundary Disputes – Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
- (c) Variances – Hear and decide, upon appeal, variances from the ordinance standards.

(2) APPEALS TO THE BOARD

- (a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provide by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice – The board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional Office at least 10 days in advance of the hearing.

2. Hearing – Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to s. 7.3(3);
- b. Decide variance applications according to s. 7.3(4); and
- c. Decide appeals of permit denials according to s. 7.4

(c) DECISIONS: The final decision regarding the appeal or variance application shall:

1. Be made within reasonable time;
2. Be sent to the Department Regional office within 10 days of decision;
3. Be a written determination signed by the chairman or secretary of the Board;
4. State the specific facts which are the basis for the Board's decision;
5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) BOUNDARY DISPUTES

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If non exist, other evidence may be examined;
- (b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and

- (c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0 Amendments.

(4) VARIANCE

- (a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance will cause unnecessary hardship;
2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
3. The variance is not contrary to the public interest; and
4. The variance is consistent with the purpose of this ordinance in s. 1.3

- (b) In addition to the criteria in sub. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

1. The variance shall not cause any increase in the regional flood elevation;
2. The applicant has shown good and sufficient cause for issuance of the variance;
3. Failure to grant the variance would result in exceptional hardship;
4. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
6. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
7. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(c) A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district;
2. Be granted for a hardship based solely on an economic gain or loss;
3. Be granted for a hardship which is self-created
4. Damage toe rights of the property values of other persons in the area;
5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.0 Amendments;
6. Allow alteration of a historic structure, including its use, which would preclude its continued designation as an historic structure.

(d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

7.4 TO REVIEW APPEALS OF PERMIT DENIALS

(1) The Board shall review all data related to the appeal. This may include:

- (a) Permit application data in s. 7.1(2);
- (b) Floodway/floodfringe determination data in s 5.1.(5);
- (c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator; and
- (d) Other data submitted with the application, or submitted to the Board with the appeal.

(2) For appeals of all denied permits the Board shall:

- (a) Follow the procedures of s. 7.3;
- (b) Consider zoning administrator recommendations; and
- (c) Either uphold the denial or grant the appeal.

(3) For appeals concerning increases in regional flood elevation the Board shall:

- (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after mending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 8.0 Amendments; and
- (b) Grant the appeal where the Board agrees with the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

7.5 FLOODPROOFING STANDARDS FOR NONCONFORMING STRUCTURES OR USES

- (1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the development standards in ss.2.0, 3.0, 4.0 or 5.1.
- (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - (a) Certified by a registered professional engineer or architect; or
 - (b) Meets or exceeds the following standards:
 1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one foot above the grade; and
 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (3) Floodproofing measures shall be designed, as appropriate, to:
 - (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (b) Protect structures to the flood protection elevation;
 - (c) Anchor structures to foundations to resist flotation and lateral movement;
 - (d) Minimize or eliminate infiltration of flood waters; and
 - (e) Minimize or eliminate discharges into flood waters.
 - (f) Placement of essential utilities to or above the flood protection elevation; and
 - (g) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

4. The use must be limited to parking, building access or limited storage.

7.6 PUBLIC INFORMATION

- (1) Place marks on structures to show depth of inundation during regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) Real estate transfers should show what floodplain district any real property is in.

8.0 AMENDMENTS

Obstruction or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1.

- (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 8.1.

8.1 GENERAL

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 8.2 below. Action which require an amendment to the ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in 1.5(2)(b);
- (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;

- (6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

8.2 PROCEDURES

Ordinances amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities and villages or 59.69, Stats., for counties. The petitions shall include all data required by ss. 5.1(5) and 7.1(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

9.0 ENFORCEMENTS AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall upon conviction, forfeit to the municipality a penalty of not less than \$25.00 and not more than \$50.00, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

10.0 DEFINITIONS

Unless specifically defines, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The definitions below shall apply only to this Section 17.59.

1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
2. AH ZONES – See “AREA OF SHALLOW FLOODING”.
3. AO ZONES – See “AREA OF SHALLOW FLOODING”.
4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
5. ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
6. AREA OF SHALLOW FLOODING – A designated AZ, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
7. BASE FLOOD – Means the flood having a 1% chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
8. BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
9. BREAKAWAY WALL – A wall that is not part of the structural support of the building and is intended through its designs and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
10. BUILDING – See STRUCTURE.

11. **BULKHEAD LINE** – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
12. **CAMPGROUND** – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
13. **CAMPING UNIT** – Any portable device, no more than 400 square feet in area used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
14. **CERTIFICATE OF COMPLIANCE** – A certification that the construction and the use of the land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
15. **CHANNEL** – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
16. **CRAWLWAYS or CRAWL SPACE** – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
17. **DECK** – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
18. **DEPARTMENT** – The Wisconsin Department of Natural Resources.
19. **DEVELOPMENT** – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

20. DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
21. ENCROACHMENT – Any fill, structure, equipment, or use of development in the floodway.
22. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The deferral agency that administers the National Flood Insurance Program.
23. FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
24. FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
- The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior;
 - The sudden increase caused by an unusually high-water level in a natural body of water accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- 25 FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average of once un a specified number of years or as a percent (%) chance of occurring in any given year.
- 26 FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- 27 FLOOD HAZARD BOUNDARY MAP – A map designated approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

- 28 FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and determination of the local flood hazard areas. IT provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- 29 FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- 30 FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 31 FLOODPLAIN MANAGEMENT – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 32 FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- 33 FLOODPROOFING – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- 34 FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD)
- 35 FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 36 FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 37 FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- 38 HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.

- 39 HEARING NOTICE – Publication or posting meeting the requirements of CH. 985, Stats. For appeals, a Class 1 notice, published once at least a week (7days) before hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7days) before hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 40 HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- 41 HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 42 HISTORIC STRUCTURE – Any structure that is either:
- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior s meeting the requirements for individual listing on the National Register;
 - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
 - Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified wither by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- 43 INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional floods elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributed to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 44 LAND USE – Any nonstructural use made of unimproved or improved real state. (also see Development)
- 45 LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

- 46 **LOWEST FLOOR** – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.
- 47 **MAINTENANCE** – The act or process of restoring to original soundness, including redecoration, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
- 48 **MANUFACTURED HOME** – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term “manufactured home” includes a mobile home but does not include a “mobile recreational vehicle”.
- 49 **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION** – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
- 50 **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING** – A parcel of land divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- 51 **MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING** – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 52 **MOBILE RECREATIONAL VEHICLE** – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of “mobile recreational vehicles.”
- 53 **MODEL, CORRECTED EFFECTIVE** – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
- 54 **MODEL, DUPLICATE EFFECTIVE** – A copy of the hydraulic analysis used in the effective FIS and referred to as effective model.

- 55 MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- 56 MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modification that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
- 57 MODEL, REVISED (POST-PROJECT) – A modification of the existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- 58 MUNICIPALITY or MUNICIPAL – The Village of Dousman, Waukesha County, Wisconsin
- 59 NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean seal level datum, 1988 adjustment.
- 60 NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.
- 62 NEW CONSTRUCTION – For floodplain management purposes, “new construction” means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the “start of construction” commenced on or after effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- 63 NONCONFORMING STRUCTURE – An existing lawful structure or building which is not on conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower that the flood protection elevation, the structure is nonconforming.)
- 64 NONCONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- 65 OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any further development will cause an increase in regional flood height.

- 66 OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and DEMA.
- 67 OPEN SPACE USE – Those having a relatively low flood damage potential and not involving structures.
- 68 ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- 69 PERSON – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 70 PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- 71 PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- 72 REASONABLY SAFE FROM FLOODING – Means base flood waters will inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 73 REGIONAL FLOOD – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a 1% chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- 74 START OF CONSTRUCTION – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling, nor does it include the installation of streets, and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- 75 STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 76 SUBDIVISION – Has the meaning given in s. 236.02(12), Wis. Stats.
- 77 SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would be equal or exceed 50% of the equalized assessed value of the structure before the damage occurred.
- 78 SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50% of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continues designation as a historic structure.
- 79 UNNECESSARY HARDSHIP – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 80 VARIANCE – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 81 VIOLATION – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- 82 WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.

- 83 WATER SURFACE PROFILE – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used regulating floodplain areas.
- 84 WELL – Means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

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ADMINISTRATION AND ENFORCEMENT

17.60 VILLAGE PLAN COMMISSION.

- (1) ESTABLISHMENT. See §1.06(3)(a)-(e) of this Municipal Code.
- (2) ORGANIZATION. After all members of the Village Plan Commission have been appointed, the Village Clerk shall give each member a written notice of the appointment and shall fix the time and place of the first meeting, which shall be not less than 5 and no more than 10 days thereafter. At such meeting, the Village Plan Commission shall organize, the Village President shall serve as chairman and the Village Clerk shall serve as secretary. A vice-chairman shall be elected from the membership of the Village Plan Commission (see also Section 1.06(3)(f) 1-3 of the Municipal Code.
- (3) POWERS AND DUTIES. See Section 1.06(3)(g) of this Municipal Code and §62.23, Wis. Stats.
- (4) MATTERS AND REFERRED TO. The Village Board shall refer to the Village Plan Commission for its consideration and report before final action is taken thereon on the following matters:
 - (a) Any proposed amendments to this chapter.
 - (b) The location and architectural design of any public building.
 - (c) The location of any statue or other memorial.
 - (d) The location except an extension, alteration, vacation, abandonment, change of use, sale, acquisition or lease of land for any street, alley or other public way, park, playground, airport, area for parking vehicles or other memorial or public grounds.
 - (e) The location, extension, abandonment or authorization for any public utility, whether publicly or privately owned.
 - (f) All plats of land in the Village or here within the territory over which the Village is given platting jurisdiction by Ch. 236, Wis. Stats.
 - (g) The location, character and extent or acquisition, leasing or sale of lands for public or semi-public housing, slum clearance, relief or congestion or vacation camps for children.

(5) MISCELLANEOUS POWERS.

- (a) The Village Plan Commission may make reports and recommendations relating to the plan and development of the Village to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens.
- (b) The Village Plan Commission may recommend to the Village Board and Village President programs for public improvements and financing thereof.
- (c) All public officials shall upon request furnish to the Village Plan Commission within a reasonable time such available information as it may require for its work.
- (d) The Village Plan Commission, its members and employees in the performance of its functions, may enter upon any land, make examinations and surveys, comment, place and maintain necessary monuments and marks thereon.
- (e) In general, the Village Plan Commission shall have such powers as may [be] necessary to enable it to perform its functions and promote municipal planning.
- (f) In exercising any powers conferred upon, the Village Planning Commissions shall give due consideration to the character and suitability for the development of the neighborhood in which the building or use in question is proposed to be located and to those attributes of the proposed use that would be detrimental to the character and suitability for development of such neighborhoods, such as; noise, smoke, dust, dirt, odorous or noxious gases and the like.
- (g) For the purpose of promoting compatible development, stability of property values and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure in the Business Light and Heavy Industrial Districts or Public Properties District and the Building Inspector should issue no building permits, occupancy permits or use permits in the Business, Light and Heavy Industrial Districts or Public Properties District without first obtaining the approval of a detailed site plan, architectural plan and plan of operations from the Village Plan Commission.
- (h) Mapping Disputes. (Cr. #256) The following procedure shall be used by the Village Plan Commission in settling disputes of Conservancy District or Floodland District boundaries:

1. Conservancy District Disputes. Whenever the Village Plan Commission is asked to interpret a shoreland Conservancy District boundary where an apparent discrepancy exists between the Village's final wetland inventory map and actual field conditions, the Village shall contact the DNR to determine if the wetland inventory map is in error.

If the DNR staff concurs that the particular area was incorrectly mapped as a wetland, the Village Plan Commission shall initiate appropriate action to rezone the property within a reasonable amount of time.

2. Floodland Disputes. When the Village Plan Commission is asked to interpret a floodland boundary where an apparent discrepancy exists between the federal flood insurance study and actual filed conditions, the following procedures shall be used. The floodland boundary shall be determined by use of the flood profiles contained in an engineering study or, where such information is not available, by experience flood maps or any other evidence available to the Village Plan Commission. The person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the Village Plan Commission shall proceed to petition the Village Board or a map amendment.

17.61 BOARD OF APPEALS.

- (1) **ESTABLISHMENTS.** (Rep. & recr. #226) There will be a Board of Appeals consisting of 5 members appointed by the Village President subject to confirmation by the Village Board, for staggered terms of 3 years. Members shall be compensated for their services in the amount of \$25.00 per Zoning Board of Appeals meeting attended as a member of the Zoning

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Board of Appeals. Members shall be removable by the Village President for cause upon written charges and after public hearing. The vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Village President may appoint for a 3-year term, 2 alternate members of such Board in addition to the 5 members above-provided who shall act with full power only when a member of the Board refuses to vote because of conflict of interest or is absent. The above provisions with regard to removal and the filling of vacancies apply to such alternates. Such alternates shall be compensated in the amount of \$25.00 per Zoning Board of Appeals meeting attended as an alternate Zoning Board of Appeals member.

- (2) **MEETING.** The Village Board shall adopt rules for the conduct of the business of the Board of Appeals in accordance with the provisions of this chapter. The Board of Appeals may adopt further rules as necessary to carry into effect the regulations of the village Board. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, fill in the vote of each member upon each question or if absent indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and which shall be a public record.

- (3) **APPEALS.**

- (a) How filed. Appeals to the Board of Appeals may be taken by any person aggrieved by any staff decision. All final Village Plan Commission decisions may also be appealed to the Village Board. All final decisions of the Village Board may also be appealed to the circuit court. Village Plan Commission recommendations and decisions are not staff decisions as referred herein. Such appeals shall be taken within 20 days as provided by the rules of the Board by filing with the Board of Appeals a notice of appeal in forms provided by the Village specifying the ground thereof, together with the proper fee as established under §17.63(2)(b) of this chapter. The person or body from whom the appeal is taken shall receive a copy of the appeal form and shall transmit to the Board of Appeals, all papers constituting the records upon which the action appealed from was taken.

- (b) Stay. An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Board of Appeals after the notice of the appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause eminent peril to life or

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property. In such cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Appeals or by the court of record on sue cause on application or notice to the officer from which the appeal is taken and due shown.

- (c) Hearing and Appeal. Each appeal shall be heard within 309 days from the time at which notice of the appeal is filed with the Board. Hearings shall be held in the Village Hall or other designated place. All appeals shall be decided within 30 days after completion of the hearing thereon.
- (d) Notice of Hearing of Appeal. Prior to the hearing of an appeal or a variance application, public notice thereof shall be given by the secretary of the Board of Appeals by advertising in the official newspaper at least once and not less than 7 days before the date set for such hearing. At least 3 copies of such notice shall be posted within 300' radius of the lands affected by the appeal or variance application. Written notice thereof shall also be given by the secretary of the Board of Appeals to the Building Inspector and the appealing and all interested parties. Such notice shall be giving not less than 7 days before the date set for such hearing, either by mail or by personal service, as the Board shall determine. The Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in the shoreland portion of the Conservancy District or to the floodland regulations and a copy of all shoreland conservancy and floodland appeals to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10 days prior to any public hearings.

Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to variances to shorelands conservancy regulations or to floodland regulations and a copy of all decisions to shoreland conservancy and floodlands appeals shall be transmitted to the DNR within 10 days of the date of such action.

- (e) Decisions. Decisions on any appeal shall be made within 30 days after the completion of the hearing thereon. A copy of all decisions relating to variances, to shoreland conservancy regulations or to floodland regulations and a copy of all decisions to shoreland conservancy and floodland regulations and a copy of all decisions to shoreland conservancy and floodland appeals shall be transmitted to the DNR within 10 days of the date of such action

(4) POWERS.

(a) Given Board. The Board of Appeals shall have the following powers as defined by statute:

1. To hear and decide appeals when it is alleged that there is an error in any order requirement, decision or determination by the Building Inspector.
2. To hear and decide special exceptions to the terms of this chapter upon which such Appeal Board is required to pass under this chapter.
3. To authorize upon appeal and in specific cases such variances from the terms of this chapter as will not be contrary to the public interest while 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. To permit in appropriate cases and subject to appropriate conditions and safeguards in harmony with the purpose and intent of the chapter, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare. (see definition of variance in §17.04)
4. To hear and decide applications for interpretation or the zoning regulations and location of the boundaries of the zoning districts after review and recommendation by the Village Plan Commission. Pursuant to the procedures set forth in this chapter, the Board of Appeals may determine the location of disputed floodland boundaries.
5. Grant a permit for the extension of a district boundary for a distance of not more than 25 feet, only when the boundary of a district divides a lot in single ownership at the time of enactment of this chapter or amendments thereto.

(b) Additional Requirements. In making its determination, the Board of Appeals shall consider whether the proposed exception or variance would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social, or economic effects and may impose such requirements and conditions with respect to location, construction, maintenance and operation in addition to any which may be stipulated in this chapter as the Board may deem necessary for the protection of the adjacent properties, the public interest and welfare.

- (c) Performing Standards. In order to reach a fair and objective decision, the Board may utilize and give recognition to appropriate performance standards which are available in model codes or ordinance or which have been developed by planning, manufacturing, health, architectural and engineering research organizations.
- (d) Finding. No variance to the provisions of this chapter shall be granted by the Board of Appeals unless it makes a finding that the evidence presented and that all the following facts and conditions exist and so indicate in the minutes of its proceedings:
 - 1. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use or conditional use in that particular district.
 - 2. There shall be exceptional,, extraordinary or unusual circumstances or conditions applying to the lot or parcel structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would be of so general or recurrent nature as to suggest that this chapter should be changed.
 - 3. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 - 4. The variance shall not create a substantial detriment to adjacent property and shall not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
 - 5. It shall be shown that the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - 6. No variance shall be granted in a floodland district where:
 - a. Filling and development contrary to the purpose and intent of the Floodway District and Floodway Conservancy District would result.

- b. A change in the boundaries of the Floodway District, Floodplain Conservancy District or the Floodplain Fringe Overlay District would result.
 - c. A lower degree of flood protection than 2 feet above the 100year recurrence interval flood for the particular area would result.
 - d. Any action contrary to the provisions of Ch. NR. 116, Wis, Adm. Code, would result.
- (e) Decision. (Rn. #256) The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector and Village Plan Commission.
- 1. Conditions may be placed upon the zoning permit ordered or authorized by this Board.
 - 2. Variances, substitutions or use permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.
 - 3. Applicants receiving variances in floodlands shall be notified in writing by the Board of Appeals that increased flood insurance premiums and risk to life and property may result from the granting of the variance. The Board shall keep a record of the notification in its files.
- (f) Required Vote. (Rn. #256) The concurring vote of 4 members of the Board 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 in favor of the applicant on any matter upon which it is required to pass under this ordinance or effect any variation there from. Grounds of every such determination shall be stated in writing.
- (g) Further Appeal. Any persons aggrieved by any decision by the Board of Appeals or any taxpayer or any officer, department, board or bureau of the Village may appeal from the decision of the Board of Appeals within 30 days of the filing of the decision in the office of the Board of Appeals (Village Clerk) in the manner provided in §62.23(e)10., Wis. Stats., in the Circuit Court of Waukesha County.

(h) Non-liability.

1. If any application of this chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in such judgment.
2. The Village does not guarantee, warrant, or represent that only those areas designated floodlands shall be subject to periodic inundation and hereby asserts that there is no liability on the part of the Village Board, its agencies or employees for any flood damage, sanitation problems or structural damages that may occur as a result or reliance upon in conformance with this chapter.

17.62 SPECIAL EXCEPTIONS. (cr. #256)

- (1) **APPROVAL REQUIRED.** Where a certain development or use is of such a special nature, or such a unique situation, or its effect is so dependent upon actual contemporary circumstances as to make impractical the absolute predetermination of permissibility or listing of specific standards which would be automatically applied in each case to determine permissibility, an application for a special exception regarding matters identified in subsection (2), below may be made to the Board of Appeals. In such case, the Board of Appeals may grant a special exception to one or more of the zoning code requirements identified in subsection (2), below, if after a public hearing, the Board of Appeals determines that there is or will be compliance with the standards or conditions set forth in this section. In order to approve a special exception, the Board of Appeals does not necessary require the demonstration of an unnecessary hardship or practical difficulty.
- (2) **LIMITED JURISDICTION.** The Board of Appeals shall have no authority to grant a special exception to any of the requirements of this zoning ordinance except as described herein. The Board of Appeals authority to grant special exceptions is limited to the following issues:
 - (a) In all districts, the Board of Appeals may by special reduce the otherwise applicable street setback requirement by not more than 25%.
 - (b) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable side yard requirement by not more than 25%.
 - (c) In all districts, Board of Appeals may by special exception reduce the otherwise applicable side yard requirement by not more than 25%.
 - (d) In all districts, Board of Appeals may by special exception reduce the otherwise applicable open space requirement by not more than 25%.
 - (e) In all districts, Board of Appeals may by special exception reduce the otherwise applicable side F.A.R. requirement by not more than 25%.
 - (f) The Board of Appeals shall have such additional special exception authority as may be specifically granted to the Board of Appeals by this Zoning Code. No such authority shall be implied, but shall apply only if described in this Zoning Code by reference to the Board of Appeals by name and specifically authorizes a "special exception".
- (3) **PROCEDURES.** The following procedure shall be followed by the Board of Appeals when considering the granting of special exceptions to the Zoning Code:

- (a) Petition Made. A PETITION FOR SPECIAL EXCEPTION SHALL BE MADE TO THE Board of Appeals for consideration.
 - (b) Filing a Petition. Such petition shall be prepared and submitted on printed forms provided for this purpose and shall be filed with the Village Clerk.
 - (c) Data Required. In addition to all information required on the petition form, the petitioner shall supply the flowing:
 - 1. A plot map drawn to a scale of not less than 100 feet to the inch showing the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land and the principal use of all properties within 300 feet of such land.
 - 2. The names and addresses of the owners of all properties within 300 feet of any part of the land included in the proposed change.
 - 3. A detailed description of the intended development or use.
 - 4. Any further information as required by the Village staff or Board of Appeals to facilitate the making of an evaluation of such request, such as a site plan depicting proposed buildings, parking, traffic impact, landscaping treatment, drainage, sanitary sewer, erosion control and other factors as would be pertinent including the impact on public facilities.
 - (d) Hearing. The Board of Appeals shall hold a public hearing upon receipt of such petition. Notice of the time and place of such hearing shall be a Class 1 notice per Wisconsin Statutes.
 - (e) Fee. Any petition shall be accompanied by a fee as set from time to time by the Village Board to defray the cost of publication, notification, and holding a public hearing, administrative expenses and expenses of Board members. The petitioner shall also pay to the Village all costs incurred for legal planning, engineering, and administrative work necessary to administer the application and oversee the development.
- (4) **BASIS OF APPROVAL.** An application for a special exception may be approved, denied, or approved with conditions. If approved, the Board of Appeals must determine that the approval, except as elsewhere herein expressly provided, shall not:
- (a) Be inconsistent with or contradictory to the purpose, spirit or intent of the zoning ordinance;

- (b) Violate the spirit or general intent of this chapter;
 - (c) Be contrary to the public health, safety, or welfare, but rather shall promote the public health, safety and welfare;
 - (d) Be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, traffic congestion, odor or other similar factors;
 - (e) For any other reason, cause substantial adverse effect on the property values and general desirability of the neighborhood; and
 - (f) Be a use which is incompatible to the surrounding land uses.
- (5) DETERMINATION. The action of the Board of Appeals shall be stated in writing and shall include findings of fact setting forth the basis upon which the special exception is granted, utilizing and referring to the criteria set forth above. A copy of the Board of Appeal's action shall be made a permanent part of the Village records. If a special exception is not approved, the reasons therefore will be included in such record. If approved, such special exceptions shall not be approved except by the majority vote of the members of the Board of Appeals present and voting.

17.63 CHANGES AND AMENDMENTS. (Rn. #256)

(1) **AUTHORITY.** Subject to the provisions of §62.23(7), Wis. Stats., the Village Board may from time to time after first submitting the proposal to the Village Plan Commission for report, and after notice and public hearing as hereafter provide, amend, supplement, or change the boundaries of districts or the regulations as established herein or which may be subsequently established. Such proposal may be initiated by the Board on this won motion, by recommendation of the Village Plan Commission, or by petition of one or more property owners of the property in question.

(2) **PROCEDURE.**

(a) Filing a Petition. All petitions for any change in the text or map of the zoning ordinance submitted by any person or agency other than the Village Board of the Plan Commission shall be prepared in triplicate on printed forms provided for that purpose by the Village. Such petition shall be filed with the Clerk and shall be accompanied by a fee as regulated in the Village's adopted fee schedule and payable to the Village to defray the cost of advertising, investigation and possible changes in the text or map of the zoning ordinance.

(b) Date Required. In addition to all information required on the petition form the petitioner shall supply the following:

1. A plot map drawn in triplicate to a scale no smaller than 100 feet to the inch for tracts less than 10 acres and no smaller than 200 feet to the inch for tracts of 10 acres or more, showing the land in question, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land and principal use of all properties within 100 feet of such land.
2. The names and addresses of the owners of all properties within 300' of any part of the land included in the proposed change.
3. Any further information which may be required by the Village Plan Commission to facilitate the making of a comprehensive report to the Village Board, including a detailed description of the intended new use.

(c) Referral. (Am. #256)

1. The Village Clerk shall transmit without delay one copy of such petition to the Village Plan Commission for investigation, research and report to the Village board.

2. The Village Plan Commission shall conduct a study and investigation and where deemed desirable, an informal hearing, and report its recommendation to the Village Board.

(d) Official Hearing. The Village Board shall schedule a public hearing with the Village Plan Commission upon the petition in the manner provided by this chapter.

(e) Action.

1. As soon as possible after such public hearing the Village Board shall act to approve, modify and approve or disapprove the proposed change or amendment.
2. The Village Board shall not take action without having first heard the recommendation of the Village Plan Commission.
3. Should the Village Board not concur in the recommendation of the Village Plan Commission, it shall refer the matter to the Village Plan Commission for reconsideration before taking final action.
4. An approved change shall be by appropriate ordinance and necessary changes in the zoning map or text shall be made promptly.

(f) Protest. In case of protest against a change duly signed and acknowledged by the owners of 20% or more either of the area of and included in such proposed changes or by the owners of 20% or more of the land immediately adjacent and extending 100 feet there from or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, an amendment shall not become effective except by the favorable vote of three-fourths of the members of the Village Board.

(3) RESERVED. (Rep. #303)

17.64 PUBLIC HEARING.

(1) PURPOSE. In order that owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by this chapter.

(2) PROCEDURE.

(a) Posting and Publishing. (Rep. & recr. #286)

1. Notice.

a. Notice of the proposed change and hearing thereon shall be given by publication in the official paper once a week for 2 consecutive weeks, the last of which shall be at least one week before the hearing. In the cases of petitions requesting changes in the zoning district classifications of any property, or conditional use, the Village Clerk shall mail notice of the public hearing to owners of all lands within 300 feet of any part of the land included in such proposed change or conditional use, at least 10 days before such public hearing. The failure of such notice to reach any property owner provided such failure is not intentional shall not validate any amended ordinance or conditional use. Such mail notice shall not be required where the Village Board determines that the changes are of a comprehensive nature that notice shall involve extensive administrative effort and expense and is not necessary for a reasonable notification of affected property owners. At least 10 days prior to written notice of changes in the district plan shall also be given to the Clerk to any municipality whose boundaries are within 1,000 feet of land to be affected by the proposed change.

b. In addition to all notices required under subsection (a) above, the Village Clerk shall, on behalf of the Village Board, maintain a list and give notice as required under Wis. Stats. §66.23(7)(d)(a) and 66.1001(4)(f) to those persons who have submitted a written request to receive notice of any proposed zoning action that affects the allowable use of the person's property. The notice shall be by mail or in any reasonable form that is agreed to be the person and the Village Board. The Village Clerk shall, on behalf of the Village Board, maintain a list of such persons. The Village Clerk shall also, on behalf of the Village Board, charge each person on such list who receives a notice a fee established by the Village's official fee schedule.

Such fee shall not be in excess of the approximate cost to the Village to provide notice to defray the cost of notification given under this section. An ordinance or amendment that is subject to this subdivision may take effect even if the Village Board fails to send notice that is required by this subsection.

2. Information. Such notice shall state the time and place of such public hearing and the purpose for which the hearing is held, and shall include:
 - a. For a proposed amendment(s) that have the effect of changing the allowable use of the property within the Village include either a map showing the property affected by the amendment(s) or a description of the property affected by the amendment(s) or a description of the property affected by the amendments and a statement that a map may be obtained from the Village Clerk;
 - b. In the case of a map change, a brief description of the area involved; and
 - c. In the case of text changes, a description of the proposed change in sufficient detail for general public identification. Reference shall be made to the fact that the detailed descriptions are available for public inspection at the Village Clerk's office.
3. Petitions. Petitions not involving zoning changes where such hearing is required by the provisions of this chapter as a result of the request for other than a zoning change or appearance before the Board of Appeals, shall be presented to the Clerk in writing and shall be accompanied by a map and description clearly identifying the property involved and by a fee as established by the Village's official fee schedule to defray the cost of notification and holding the public hearing.
4. Informal Hearing. Hearings not specifically required under provisions of this chapter may be noticed as deemed appropriate by the body holding the hearing.

(b) Fee Schedule. The fees referred to in other sections of this chapter shall be established by the Village Board in a fee schedule as may from time to time be established, amended or modified by resolution. Processing fees are related to costs involve in the handling of 8/14/06 conditional use petitions, appeals to the Board of Appeals in the zoning amendments, special use permits, building and occupancy permits and site plan approval.

(c) Special Meetings. If a petitioner requests a special meeting, other than a regular Village Plan Commission or Village Board meeting, all costs incurred will be the responsibility of the petitioner.

17.65 ENFORCEMENT OFFICER.

- (1) **BUILDING INSPECTOR DESIGNATED.** The Building Inspector is hereby designated as the enforcement officer for the provisions of this chapter under the direction of the Village Board. For such duties he may be provided with assistance of such additional persons as the Board may direct.
- (2) **DUTIES.** The Building Inspector shall perform the following duties:
 - (a) Issue the necessary building, occupancy and use permits, provided provisions of this chapter and the Building Code have been complied with.
 - (b) Keep an accurate record of all permits, numbered in the order of issuance, in a record book provided by the Village for this purpose and located in the Village Hall.
 - (c) Assist the Village Clerk in maintenance of accurate records and maps of this chapter and any amendments or changes thereto.
- (3) **AUTHORITY.** In the enforcement of this chapter the Building Inspector shall have the power and authority for the following:
 - (a) At any reasonable time and for any proper purpose, to enter upon any public or private premises and make inspection thereof. In case of finding violation of a provision of this chapter, notify in writing of the actual violation, the owner of the property on which the violation has taken place and the Village Board, indicating the nature of the violation and action necessary to correct it.
 - (b) Upon reasonable cause or question as to proper compliance, to revoke any building or occupancy or use permit and issue a stop order requiring the cessation of any building alteration, or use which is in violation of the provisions of this chapter, such revocation to be in effect until reinstated by the Building Inspector or the Board of Appeals.
 - (c) In the name of the Village and with the authorization of the Village Board, to commence any legal proceedings necessary to enforce the provisions of this chapter or the Building Code, including the collection of forfeitures provided for herein.

17.66 VIOLATIONS AND PENALTIES.

- (1) **PENALTIES.** (Am. #256) Any person, firm, company or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be subject to a forfeiture of not less than \$25.00 and not to exceed the sum of \$500.00 for each offense, together with the costs of the action, and in default of the payment thereof, shall be imprisoned on the County Jail of Waukesha County, for a period of not to exceed 6 months or until such forfeiture and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such.
- (2) **ENFORCEMENT BY INJUNCTION.** Compliance with the provisions of this chapter may also be enforced by injunctive order at the suit of the Village or one or more owners of real estate situated within the area affected by the regulations of this chapter. It shall not be necessary to prosecute for fine or imprisonment before resorting to injunctive procedures.
- (3) **DECLARED NUISANCES.** Any building erected, structurally altered or placed on a lot or any use carried on in violation of the provision of this chapter is hereby declared to be a nuisance per se and the Village may apply to any court of competent jurisdiction to restrain or abate such nuisance.

4/14/03