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## CHAPTER 36 ZONING

### ARTICLE I. - IN GENERAL

#### Sec. 36-1. Authority.

This chapter is adopted under the authority granted by Wis. Stats. §§ 61.35 and 62.23.

(Prior Code, ch. 10, § 1.01)

#### Sec. 36-2. Purpose.

The purpose of this chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the village.

(Prior Code, ch. 10, § 1.02)

#### Sec. 36-3. Intent.

It is the general intent of this chapter to:

- (1) Regulate and restrict the use of all structures, lands, and waters;
- (2) Regulate lot coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- (3) Regulate population density distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services and utilities;
- (4) Provide suitable locations for residential housing for all persons without regard to race, color, religion, national origin, sex or economic status;
- (5) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (6) Secure safety from fire, flooding, pollution, contamination, and other dangers;
- (7) Stabilize and protect existing and potential property values;
- (8) Preserve and protect the beauty of the village;
- (9) Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters;
- (10) Further the maintenance of safe and healthful water conditions;
- (11) Control and regulate development of village floodplains and rivers to:
  - a. Protect life, health and property;
  - b. Minimize expenditures of public funds for flood control projects;
  - c. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
  - d. Minimize business interruptions and other economic disruptions;
  - e. Minimize damage to public facilities in the floodplain;
  - f. Minimize the occurrence of future flood blight areas in the floodplain;

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- g. Discourage the victimization of unwary land and homebuyers;
  - h. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
  - i. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use, or structure outside of the floodplain;
- (12) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (13) Implement those municipal, watershed, and regional comprehensive plans or components of such plans adopted by the village;
- (14) Provide for the administration and enforcement of this chapter; and to provide penalties for the violation of this chapter.

(Prior Code, ch. 10, § 1.03)

### **Sec. 36-4. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*A zones* means areas of potential flooding shown on the village's flood insurance rate map which would be inundated by the regional flood as defined herein. These numbers may be numbered as AO, AI to A99, or be unnumbered A zones. The A zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

*Accessory use, building or structure* means a use, building or structure on the same lot, with and subordinate to the main use, building, or structure, and customarily incidental thereto. An automobile, trailer, or other vehicle or part thereof, or other building used as a temporary or permanent dwelling or lodging place shall not be considered an accessory building or use.

*Active solar energy system* means a solar energy system that requires external mechanical power to move the collected heat.

*Altitude* means the angular distance from the horizon to the sun.

*Azimuth* means the angular distance between true south and the point on the horizon directly below the sun (also called "bearing").

*Basement* means a story partly or wholly underground. The height of a basement shall be the vertical distance between the surface of the basement floor and the floor next above it. A basement is not an earth sheltered space or house as such is defined elsewhere in this chapter.

*Building* means a structure having a roof supported by columns or walls for shelter, support, or enclosure of persons, animals, equipment, machinery or materials. When separated by division walls from the ground up without openings, each portion of such structure shall be deemed a separate building.

*Building, accessory.* See *Accessory use, building, or structure.*

*Building, height of,* means the vertical distance from the average curb level in front of the lot or the finished grade at the front building line, whichever is higher, to the highest point of the roof.

*Building, main,* means a building constituting the principal use of a lot.

*Channel* means those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

*Community living arrangement* means a facility licensed and operated under the authority of the state including group homes for children, foster homes, treatment foster homes, adult family homes, and community based residential facilities, but not including nursing homes or day care facilities.

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*Conditional use* means a special use which requires approval and a public hearing.

*Conventional energy system* means any energy system, including supply elements, furnaces, burners, tanks, boilers, related controls, and energy distribution components, which uses any source of energy other than solar energy. These sources include, but are not limited to, gas, oil, coal, and nuclear materials but exclude windmills.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, construction of or additions or substantial improvements to buildings, structures, or accessory uses, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

*District, basic use*, means a part of the village for which the regulations of this chapter governing the use and location of land and buildings are uniform (such as the residential, business or agricultural district classifications).

*District, overlay*. Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic use zoning district without disturbing the requirements of the basic use district. In the instance of conflicting requirements, the more strict of the conflicting requirement shall apply.

*Dwelling, one-family*, means a detached building designed for and occupied exclusively by one family.

*Dwelling, two-family*, means a detached or semi-detached building designed for and occupied exclusively by two families.

*Dwelling, multiple*, means a building or portion thereof designed for and occupied by more than two families, including tenement houses, townhouses, row houses, apartment houses and apartment hotels.

*Dwelling, secondary*, means a building designed for and occupied by one household, located on a lot upon which a one-family dwelling (the primary dwelling) is also located. The secondary dwelling is subject to the following conditions: the primary dwelling must be owner-occupied; the secondary dwelling may not have a building area of less than 900 square feet; it must be architecturally compatible with the primary dwelling; one additional off-street parking space must be provided; the two dwellings must share a single driveway; and the footprint of all buildings on the lot may not exceed 25 percent of the total lot area.

*Earth sheltered house (space)* means a dwelling in which at least 50 percent of the exterior building envelope is covered by earth, using the earth as a natural barrier to many of the undesirable climatic and manmade effects of the area, specifically designed to be used as living quarters.

*Energy storage facility* means equipment consisting of containers, heat exchangers, piping, and other transfer mechanisms (including fluids, gases, or solids), controls, and related structural support for transporting and storing collected energy (from solar energy systems), including structural elements designed for use in passive solar energy systems.

*Equal degree of encroachment* means the effect of any encroachment into the floodway must be computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic reach. This computation ensures that property owners up, down or across the river or stream will have the same rights of hydraulic encroachment. Encroachments are analyzed on the basis of the effect upon hydraulic conveyance, not upon the distance the encroachment extends into the floodway.

*Exception* means the use of property, including the use and location of buildings, the size of lots and the dimensions of required yards, otherwise not allowable under the terms of this chapter which is permissible by reason of special provisions of this chapter, or for which a special permit may be issued by the board of appeals under conditions specified in this chapter.

*Family* means any number of persons related by blood, adoption, or marriage, or not to exceed four persons not so related, living together in one dwelling as a single housekeeping entity.

*Flood insurance study* means an examination, evaluation, and determination of flood hazards, and if appropriate, corresponding water surface elevations; or an examination, evaluation, and determination of mudslide (i.e., mud flow) and/or flood-related erosion hazards. Such studies shall result in the publication of a flood insurance rate map showing the intensity of flood hazards in either numbered or unnumbered A zones.

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*Flood protection elevation* means a point two feet above the water surface elevation of the 100-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action, and obstructions of bridge openings.

*Flood stage* means the elevation of the floodwater surface above an officially established datum plane, which is mean sea level, 1929 adjustment, on the Federal Emergency Management Agency Floodway or firm map, or in any of the flood profiles established in conjunction with such maps.

*Frontage* means the smallest dimension of a lot abutting a public street measured along the street line.

*Garage, private*, means a structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicle of the families residing upon the premises.

*Home occupation* means a gainful occupation conducted by persons residing as members of the household only, within their place of residence; provided that the occupation does not exceed 30 percent of the area of any floor, that no article is sold or offered for sale on the premises, that no stock in trade is kept or sold, that no odors or noise are generated other than those commonly associated with domestic activities, that no sign is installed; that no more than one employee is present on the premises and that customers or members of the public do not come to the premises more frequently than six times per day.

*Insolation* means the total amount of solar radiation (direct, diffuse, and reflected) striking a surface exposed to the sky.

*Loading space* means an off-street space or berth on the same lot with a building, or contiguous to a group of buildings and abutting on or affording direct access to a public street for the temporary parking of a commercial vehicle while loading or unloading cargo.

*Lot* means a parcel of land having a frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this chapter.

*Lot, corner*, means a lot abutting on two or more streets at their intersection, provided that the interior angle of such intersection is less than 135 degrees.

*Lot, interior*, means a lot other than a corner lot.

*Lot, through*, means an interior lot having frontage on two nonintersecting streets, also known as a double frontage lot.

*Lot, width of*, means the least horizontal distance between the side lines of a lot, measured at the set back line of the required street yard.

*Lot lines* means the lines bounding a lot as defined herein.

*Nonconforming use* means a building or premises lawfully used or occupied at the time of the adoption of this chapter or amendment thereto, which use or occupancy does not conform to the regulations of this chapter or any amendments thereto.

*Official letter of map amendment* means official notification from the Federal Emergency Management Agency (FEMA), that a flood hazard boundary map or flood insurance rate map has been amended.

*Ordinary high-water mark* means 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.

*Parking lot* means a building or premises containing one or more parking spaces, open to the public free or for a fee.

*Parking space* means an unobstructed piece of ground or floor space sufficient for the temporary storage of one automobile. Each such parking space shall be located off the public street but accessible thereto, and shall be not less than 180 square feet in area, exclusive of the means of ingress and egress. A loading space is not a parking space.

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*Passive solar energy system* means a solar energy system that uses natural and architectural components to collect and store solar energy without using any external mechanical power.

*Permitted* means allowable and requiring of a permit.

*Road, private*, is defined by the state statutes.

*Roadside stand* means a structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises.

*Screening* means one or a combination of fencing, landscaping, berms, distance, or other acceptable alternative.

*Shoreland* means the lands within 1,000 feet of the ordinary high-water mark of Lake Michigan or within 300 feet of a navigable stream or the outer limit of the floodplain, whichever is greater.

*Shoreline* means the ordinary high-water mark as established by the state department of natural resources (DNR).

*Solar collector* means a device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.

*Solar energy* means radiant energy (direct, diffuse, and reflected), received from the sun.

*Solar energy system* means a complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system), Passive solar energy systems are included in this definition but not to the extent that they fulfill other functions such as structural and recreational.

*Solar skyspace* means the space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost-effective operation.

*Solar skyspace easement* means a right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar skyspace of an actual, proposed, or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar skyspace is described as the three-dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two methods.

*Statute* means a reference to a statute, law, act, ordinance, code, rule or any other form of governmental regulation refers to such regulation as it exists at the time applicable to the specific instance to which it is to be applied. The term "statute" includes all amendments, repeals, or other changes after the date of adoption of this chapter.

*Story* means that portion of a building included between the surface of a floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

*Story, half*, means a space under any roof except a flat roof, which, if occupied for dwelling purposes shall be construed to be a full story for the purposes of this chapter.

*Street* means a public right-of-way not less than 50 feet wide providing primary access to abutting properties.

*Street line* means a dividing line between a lot, tract or parcel of land and a contiguous street.

*Street yard* means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principle structure. Corner lots shall have two such yards.

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*Structural alterations* means any change in the supporting members of a building or any change in the roof structure or in the exterior walls.

*Structure* means anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground.

*Structure, minor*, means any small movable accessory erection or construction such as birdhouses, pet houses, play equipment, arbors, and opaque fences if such fences are under six feet in height, and not exceeding 35 square feet of floor area if it is a building. Minor structures do not require zoning permits.

*Structure, temporary*, means a movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

*Variance* means a departure from the terms of this chapter as applied to a specific building, structure or parcel of land, which the board of appeals may lawfully permit, and not in strict conformity with the regulations of this chapter.

*Vision clearance* means an unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

*Wetland* means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and which has wet soils indicative of wet conditions.

*Yard* means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

*Yard, rear*, means a yard extending the full width of the lot between the rear lot line and the nearest part of the main building, excluding uncovered steps. In the case of irregular or triangular lots, where none of the lines bounding the rear of the lot are at an angle of less than 45 degrees to the front lot line, the rear lot line shall be a line 15 feet long, within the lot, parallel to the front lot line or the main chord thereof, and at the maximum distance from the front lot line.

*Yard, side*, means a yard extending from the street yard, or the front lot line if there be no street yard, to the rear yard, being the minimum horizontal distance between a building and the side lot line.

(Prior Code, ch. 10, § 8.02; Ord. No. 16-01, § 2, 1-14-2016)

### **Sec. 36-5. Jurisdiction.**

The jurisdiction of this chapter shall include all lands and waters within the corporate limits of the village.

(Prior Code, ch. 10, § 1.04)

### **Sec. 36-6. Compliance.**

No structure, development, land, water, or air shall be used and no structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit, except minor structures, and without full compliance with the provisions of this chapter and all other local, county, and state regulations.

(Prior Code, ch. 10, § 1.05)

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### **Sec. 36-7. Abrogation and greater restrictions.**

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

(Prior Code, ch. 10, § 9.01)

### **Sec. 36-8. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the village and shall not be construed to be a limitation or repeal of any other power now possessed by the village. If any provision could be construed either to regulate the use of property or to exclude such use from regulation, the provision shall be construed as regulating such use.

(Prior Code, ch. 10, § 9.02)

### **Sec. 36-9. Zoning administrator duties and authority.**

- (a) The zoning administrator shall issue or deny all permits required by this chapter.
- (b) The zoning administrator shall, with the aid of the village police department and the village attorney, investigate all complaints, give notice of violations, issue orders to comply with the zoning ordinance, and assist in the prosecution of ordinance violators.
- (c) The zoning administrator and his duly appointed deputies may enter at any reasonable time onto any public or private lands or waters to make a zoning inspection. If, however, he is refused entry after presentation of his identification, he shall procure a special investigation warrant in accordance with Wis. Stats. § 66.0119 except in cases of emergency.

(Prior Code, ch. 10, § 1.05)

### **Sec. 36-10. Adoption of village comprehensive plan.**

- (a) Pursuant to Wis. Stats. §§ 62.23 and 61.35, the village is authorized to prepare and adopt a comprehensive plan as defined in Wis. Stats. § 66.1001(1)(a) and (2).
- (b) The village board adopted written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan, as required by Wis. Stats. § 66.1001(4)(a).
- (c) The village cooperated with Racine County and the Southeastern Wisconsin Regional Planning Commission to prepare a multi-jurisdictional comprehensive plan for the county that will serve as the comprehensive plan for the village and for Racine County. The village plan is documented in the report titled "A Multi-Jurisdictional Comprehensive Plan for Racine County: 2035," and information specific to the village is set forth throughout the report.
- (d) The plan commission of the village, by a majority vote of the entire commission recorded in its official minutes, approved a resolution recommending to the village board the adoption of the plan, and the board duly noticed and held at least one public hearing on the comprehensive plan, in compliance with the requirements of Wis. Stats. § 66.1001(4)(d). After such hearing, the village board formally adopted the plan as the village comprehensive plan.

(Prior Code, ch. 21, §§ 1—6)

**Secs. 36-11—36-38. Reserved.**

## **ARTICLE II. - ALLOWABLE LAND USES AND PERMIT REQUIREMENTS**

### **Sec. 36-39. Types of permitted uses.**

- (a) *Principal uses.* Only those principal uses specified for a district, their essential services, and the uses on the conditions specified in this chapter shall be permitted in that district.
- (b) *Accessory uses.* Accessory uses and structures are permitted in any district but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include storage; parking facilities; gardening; private swimming pools; and private emergency shelters.
- (c) *Temporary uses.* Storage pods are considered a permitted temporary use for up to 60 days; an extension of the original permit may be approved for an additional 60 days. Construction dumpsters are permitted with the issuance of a building permit for new construction and are permitted for up to one year with the issuance of a building permit for remodeling projects.

(Prior Code, ch. 10, § 2.01)

### **Sec. 36-40. Conditional, special, unclassified, unspecified and temporary uses.**

- (a) Conditional uses and their accessory uses are considered as special uses which require approval and a public hearing if there is approval, all in accordance with this chapter. Refer to articles IV through VI of this chapter for conditional uses allowable in each basic and overlay zoning district.
- (b) Any development within 50 feet of any existing or mapped county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road shall be deemed to be a conditional use. Such development shall be specifically reviewed in accordance with this chapter.
- (c) Unclassified or unspecified uses may be permitted after the plan commission has made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the district.
- (d) Temporary uses such as real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the plan commission.

(Prior Code, ch. 10, § 2.02)



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### Sec. 36-41. Summary table of land uses and permit requirements.

#### Approval Requirements for Permitted and Conditional Uses and Other Miscellaneous Permit Requirements

• = Always required, ° = May be required

	Zoning Administrator	Village Clerk	Building Inspector	Architectural Review	Plan Commission	Village Board	Board of Appeals	Village Engineer	DNR, Other State
<i>Permitted Uses</i>									
Single-family dwelling	•		•	•					
Residential accessory building	•		•	•					
Attached residential building up to three units in R-4	•		•	•					
Home occupation	•								
Multifamily dwelling in PDO	•		•	•	•	•			
Farm dwellings in A-1	•		•	•					
Agricultural crops, roadside stands in A-1	•								
Walking areas, picnic areas, open space in PC-1	•								
Existing education, research, religious, charitable, museums in I-1	•		•	•					
Retail, office, financial establishments in B-1	•		•	•					
Signs related to establishments in B-1	•								
Signs up to four feet by four feet, for rent, for sale, etc.	•								
Satellite dish 36" diameter or smaller	•								
Hiking, fishing in EPO	•								
Hunting, fishing, wild crops in GFO	•								
Unclassified, undefined uses	•		°	°	•				
<i>Conditional Uses</i>									
Private recreational uses in R-1, R-2 and R-3	•				•	°			
Secondary dwellings in R-1	•		•	•	•	°			
Attached residential building with four to seven units in R-4	•		•	•	•	°			
Sewerage lift stations	•				•	°		°	
Poultry, livestock, horses, farm animals in A-1	•				•	°			
Public or private recreational uses in PC-1	•				•	°			
Alteration of any natural condition in PC-1	•				•	°			
Recreation building or structure in PC-1	•		•	•	•	°			
Apartment hotels in B-1	•		•	•	•	°			
Personal services establishments in B-1	•		•	•	•	°			
Clinics, restaurants in B-1	•		•	•	•	°			
Schools, places of worship, research, public buildings in I-1	•		•	•	•	°			
Boating, wild crops in EPO	•								
Solar energy systems	•		•	°	•	°			
Satellite dish greater than 36-inch diameter	•								
Special structures	•		°	°			•		
Architectural projections	•		°	•			•		
Swimming pool	•	•	•	•					
Security fence	•					•			
Temporary use	•		°	°	•	°			
Any use in shoreland-wetland district	•				•				•
<i>Miscellaneous Approval Requirements</i>									
Certificates of compliance	•		•					°	
Planned development project	•			•	•	•			
Change of zoning district boundary	•				•	•			
Variance	•						•		

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(Prior Code, ch. 10, § 2.03)

### **Secs. 36-42—36-70. Reserved.**

## ARTICLE III. - SITE PLANNING AND GENERAL DESIGN STANDARDS

### **Sec. 36-71. Building and use restrictions.**

- (a) *Public nuisance.* No provisions of this chapter shall be construed to bar an action to enjoin or abate the use or occupancy of any land, buildings or other structures as a nuisance under appropriate state law or village ordinance.
- (b) *Public utilities.* No provisions of this chapter shall be construed to prohibit the customary and necessary construction or maintenance of overground or underground public utilities, neighborhood service lines, and mechanical appurtenances thereto, where reasonably necessary for the preservation of the public health, safety, convenience and welfare.
- (c) *Use regulation.* The use of existing buildings, subject to rights of nonconforming existing use, the use of buildings erected, converted, enlarged or established herein or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
- (d) *Location of building on a lot.* Every building erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one main building on a lot in R-1, R-2, R-3, A-1, and PC-1 districts except as otherwise specifically provided in this chapter and except that more than one main building may be allowed on a lot in the R-4, B-1, I-1, I-2 and PDO districts.
- (e) *Building and construction permits required.* In addition to the provisions of this chapter, construction permits must also comply with village building regulations.
- (f) *Existing permits issued.* Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part hereof for which a building permit has been issued before the effective date of the ordinance from which this chapter is derived and the construction of which shall have been started within six months from the date of such permit, or within three months from the date of adoption of the ordinance from which this chapter is derived, whichever shall be sooner.

(Prior Code, ch. 10, § 3.01)

### **Sec. 36-72. Area regulations.**

No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.

(Prior Code, ch. 10, § 3.02)

### **Sec. 36-73. Height regulations.**

The district height limitations stipulated elsewhere in this chapter may be exceeded, but such modification shall be in accord with the following:

- (1) *Architectural projections.* Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues, chimneys, antennas (not to include satellite dishes), solar energy collectors, and equipment used for the mounting and operation of such collectors are exempt

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from the height limitations of this chapter, except that any such structure which exceeds the height limitation by more than ten feet shall be a conditional use.

- (2) *Special structures.* Special structures, such as lighthouses, elevator penthouses, scenery lofts, radio, and television antennas are exempt from the height limitations of this chapter, except that any such structure which exceeds the height limitation by more than ten feet shall be a conditional use. Any such structure, aerial or tower, if located within three miles of the boundary line of an airport, may not exceed the height limitations of the district in which it is located without the prior approval of the board of appeals. Such approval shall be granted only if the board finds that such excess height will not be likely to endanger aircraft, property or human life.
- (3) *Agricultural structures.* Agricultural structures shall not exceed 35 feet in height.
- (4) *Solar access.* No structure should significantly impair solar access of buildings or solar collection locations.
- (5) *Differing grades.* Where a lot abuts upon two or more streets which have different average established grades for purposes of height measurement, the higher of such average grades shall control for a distance of 120 feet measured perpendicular to the street line of the street with the higher average established grade.
- (6) *Through lots.* On through lots which extend from street to street, the allowable height of the main building may be measured from the mean elevation of the finished grade along the end of the building facing either street.
- (7) *Basement.* A basement shall be counted as a story for purposes of allowable height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet, or if it is used for dwelling purposes.

(Prior Code, ch. 10, § 3.03)

### **Sec. 36-74. Yard and setback regulations.**

- (a) *Yard counted once.* No part of a yard or other open space provided about any building for the purposes of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.
- (b) *Side yard.* Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum width and depth for such yards and courts in the two districts which abut the district boundary line.
- (c) *Fences.* Residential fences may be installed on the property lines in residential districts but shall not exceed a height of six feet; shall not exceed a height of four feet in the street yard and shall not be closer than two feet to any public right-of-way. Security fences may be installed on the property lines in all districts except residential districts, but shall not exceed ten feet in height, shall be ornamental and equal to or more than 85 percent open in nature, and shall be subject to site plan review and approval by the village board.
- (d) *Accessory uses and structures.* Accessory uses and up to two detached accessory structures in residential districts are permitted in the rear and side yards only; they shall not be closer than ten feet to the principal structure, shall not exceed 15 feet in height (measured from existing yard grade to the peak of the roof), shall not occupy more than 20 percent of the rear yard area, and shall not be closer than 15 feet to any lot line, except for structures with a maximum footprint of 150 square feet or less in area which shall not be closer than five feet to any lot line. The composite total square feet of all detached accessory structures shall not exceed a maximum of 720 square feet of ground area covered. Accessory structures are not permitted in any utility, drainage, or preservation easement without prior written approval of the holder of said easement.
- (e) *Parking.* Off-street parking is permitted in all yards of the B-I Business District, but shall not be closer than 25 feet to any public right-of-way and 25 feet from any residential district.

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- (f) *Utilities.* Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.
- (g) *Landscaping.* Landscaping and vegetation are exempt from the yard requirements of this chapter.
- (h) *Boathouses.* Boathouses accessory to residential uses may be located within a shore yard but shall be no closer than 20 feet to the average annual high-water elevation of the stream, lake, pond, or wetland. (This distance may be varied by the board of appeals in accordance with division 4 of article IX of this chapter. In no case, however, shall boathouses be allowed to project beyond the shoreline); shall not exceed one boathouse on the premises for each shoreland lot; shall not exceed 250 square feet in horizontal area covered; and shall not be closer than 15 feet to any side lot line.
- (i) *Shore yards.* Shore yards may be reduced to the average of the shore yards existing on the abutting properties of the subject site but shall not be reduced to less than 50 feet.
- (j) *Street yards.* Building additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
- (k) *Yards to be open.* Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard and side yard, architectural projections such as eaves, sills, belt courses, cornices, chimney and flues, and ornamental features projecting not more than 36 inches; and apparatus needed for the operation of active and passive solar energy systems, including, but not limited to, overhangs, movable insulating walls and roofs, detached solar collectors, reflectors and piping, provided that no such solar energy apparatus shall project into any yard more than 36 inches.
- (l) *Projection into yard.* Open or enclosed fire escapes, fire towers, and uncovered stairs and landings may project into a required yard not more than five feet and into a required court not more than 3½ feet, provided they are so located as not to obstruct light and ventilation.

(Prior Code, ch. 10, § 3.04; Ord. No. 16-01, § 1, 1-14-2016)

### **Sec. 36-75. Motor vehicle and parking regulations.**

- (a) *Parking stalls.* In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the following number of stalls required:
  - (1) Places of worship, auditoriums, and other public gathering places: one stall for each four seats.
  - (2) Secondary and elementary schools: Two stalls for each three employees plus a reasonable number of stalls for student and other parking.
  - (3) Single-family dwellings: Three stalls for each household.
  - (4) Multiple-family dwellings as follows:
    - a. One bedroom or efficiency: Two stalls for each dwelling unit.
    - b. Two bedrooms: Two stalls for each dwelling unit.
    - c. Three bedroom: Three stalls for each dwelling unit.
  - (5) Business, governmental, professional, and commercial uses: one stall for each 250 square feet of floor space.
- (b) *Stall size.* Each parking stall or space shall be not less than nine feet in width for single-family residential uses, ten feet for all other uses, and not less than 180 square feet in area exclusive of the space required for ingress and egress.
- (c) *Parking and storage of vehicles.*
  - (1) Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests.

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- (2) In single-family residence districts, outdoor parking of vehicles shall be on all-weather surfaces, except for vehicles of temporary guests.
- (3) Commercial vehicles other than automobiles, vans, and pickup trucks used in a business or trade and used for transportation to and from a place of employment of a resident may not be parked on a residential property, except when delivering goods or services to such property. No commercial vehicle exceeding two tons rated capacity shall be stored in any residential garage.
- (4) Outdoor storage of automobiles, boats, manufactured homes, trailers, campers, snowmobiles, recreational vehicles, tractors, or other vehicles shall not be permitted except as follows:
  - a. One boat (and trailer), camper, camper trailer, utility trailer or recreational vehicle may be stored, between April 1 to October 31, behind the rear building line of the principal structure, between the side building lines of such structure and not less than 15 feet from the rear lot line. Only one such vehicle shall be permitted for any lot at any one time.
  - b. Boats launched from any lot abutting on Lake Michigan, and trailers for moving such boats, may be stored within the shore yard, behind the rear building line of the principal structure, and not less than 15 feet from the nearest side yard lot line.
  - c. Snowmobiles may be stored, between December 15 to March 15, behind the rear building line of the principal structure, between the side building lines extended and not less than 15 feet from the rear lot line. Not more than two may be stored.
  - d. A permit for temporary outside storage of vehicles or trailers not permitted by subsections (c)(4)a, b and c of this section may be issued for any single-family residential lot for a period of up to five consecutive days. No more than four permits may be granted per property within the same calendar year.
- (5) Storage of vehicles in any B-1, I-1 and I-2 district shall be limited to those vehicles that are accessory to the uses permitted in each district and shall be screened to minimize the visual impact on the public and adjacent properties as determined by the zoning administrator.

(Prior Code, ch. 10, § 3.05; Ord. No. 16-02, § 1, 1-14-2016)

### **Sec. 36-76. Exterior lighting.**

- (a) *Applicability.* The standards of this section apply to all outdoor night-lighting sources, except for streetlights located within public rights-of-way.
- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Foot-candle* means a unit of measure for illumination. A unit of illumination on a surface that is one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

*Full cut-off fixture* means a light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a 90 degree horizontal plane from the base of the fixture.

*Horizontal foot-candle or luminance* means the measurement of brightness from a light source, usually measured in foot-candles or lumens, which is taken through a light meter's sensor at a horizontal position.

*Light trespass* means light from an artificial light source that is intruding into an area where it is not wanted or does not belong.

*Lumens* means a unit of illumination, being the amount of illumination of a unit area of spherical surface, due to a light of unit intensity placed at the center of the sphere.

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*Outdoor lighting intensity.* When outdoor lighting is proposed or evaluated, the lighting for activities shall be evaluated for compliance with the standards as described in subsections (c) through (f) of this section.

- (c) *Illumination only.* Outdoor lighting shall be used for the purpose of illumination of ground, architecture, and landscape only.
- (d) *Light design and adjustment.* Light sources shall be designed and adjusted so that no light or glare shall be transmitted or reflected in a concentration or intensity that is detrimental to persons or that interferes with the lawful use of surrounding properties or streets. Compliance shall be achieved by utilizing fixture shielding, directional control designed into fixtures, fixture location, height, or aim, or a combination of these or other factors:
  - (1) *Ground area illumination.*
    - a. Outdoor lighting emitting more than 1,800 lumens (except motion detector activated lighting) shall be full cutoff and fully shielded.
    - b. Bulbs in outdoor light fixtures emitting from 600 to 1,800 lumens may be installed in fixtures that are not full cutoff and may be visible from the property line; provided, however, that such bulbs shall be frosted glass or covered by frosted glass or other similarly translucent material.
    - c. A spotlight or floodlight of less than 1,800 lumens need not be full cutoff or fully shielded if its center beam is aimed at a point not beyond any property lines and no less than 45 degrees below horizontal, is used for security lighting purposes only, and is motion detector activated and cycles off within five minutes after the cessation of motion within its field of view.
  - (2) *Landscape or architectural illumination.* Any light source of 1,200 lumens or more used for illuminating architectural features or landscaping shall be sufficiently shielded so as not to be directly visible from off-site.
- (e) *Height of light fixtures.* The height of freestanding outdoor lighting fixtures shall not exceed the following height except as a conditional use:

District	Height
Residential (R-1 through R-4)	20 feet
Suburban agricultural (A-1)	20 feet
Park and conservancy (PC-1)	20 feet
Institutional (I-1 or I-2)	20 feet
Business (B-1)	30 feet

- (f) *Light trespass standards.* All areas containing outdoor lighting (except public street lighting) shall limit light trespass onto adjacent property, when measured at any point along a property line, to the requirements set forth below.

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District Adjoining Subject Property	Maximum Light Spillage to Adjoining Lots Measured in Foot-candles
Residential (R-1 through R-4)	0.20
Suburban agricultural (A-1)	0.20
Park and conservancy (PC-1)	0.20
Institutional (I-1 or I-2)	0.50
Business (B-1)	0.50

(Prior Code, ch. 10, § 3.06)

**Sec. 36-77. Reduction or joint use.**

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

(Prior Code, ch. 10, § 3.07)

**Sec. 36-78. Site grading.**

- (a) *First floor elevation.* The elevation of the first floor of all structures shall be high enough to allow surface water to drain away from the building foundation.
- (b) *Drainage toward street.* Site grading shall be designed to direct surface water across the street property line.
- (c) *Drainage across property lines.* Site grading shall be designed so that surface flow across side and rear property lines is no greater than natural flow existing prior to construction.

(Prior Code, ch. 10, § 3.08)

**Sec. 36-79. Site restrictions.**

- (a) *Unsuitable site.* No land shall be used or structure erected where the land is held unsuitable for such use or structure by the plan commission by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this village. "Aesthetics" may only constitute grounds for prohibiting the use if such use will substantially depreciate the value of property in the neighborhood or impose a visual effect upon neighbors or passersby which is clearly obnoxious to the prevailing taste of the community. The plan commission, in applying the provisions of this section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The

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applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. The plan commission may affirm, modify, or withdraw its determination of unsuitability.

(b) *Requirements.*

- (1) All lots shall abut upon a public street or private road (as defined in state statutes), and each lot shall have a minimum frontage of 33 feet. All lots shall also have a minimum width at the required minimum street yard setback line as prescribed for the particular zoning district in which the lot is located.
- (2) No zoning permit shall be issued for building a structure on a lot which abuts a public street dedicated to only a portion of its proposed width.
- (3) Where a lot abuts a more restrictive district, the street yards on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.

(Prior Code, ch. 10, § 3.09)

**Secs. 36-80—36-101. Reserved.**

### **ARTICLE IV. - GENERAL ZONING DISTRICTS AND REQUIREMENTS**

**Sec. 36-102. Establishment; general zoning districts.**

- (a) *Intent.* It is an intent of this chapter that the basic character of the village as an attractive, predominately single-family residential community be preserved but that other land uses be permitted where desirable and properly planned and controlled. The basic zoning districts are created to provide the basic uses which are seen as generally consistent with that intent. It is recognized that there are existing uses and possible future uses of lands within the village which are not permitted by the provisions governing the basic zoning districts or which require special regulation. The overlay zoning districts are created to enable specific individual evaluation of all such uses. See article V of this chapter for details of overlay zoning districts.
- (b) *Basic zoning districts.* For the purpose of this chapter, the village is hereby divided into eight basic zoning districts as follows:
- (1) Estate Residence District: R-1.
  - (2) Single-Family Residence District: R-2.
  - (3) Single-Family Residence District: R-3.
  - (4) Multiple-Family Residence District: R-4.
  - (5) Suburban Agricultural District: A-1.
  - (6) Business District: B-1.
  - (7) Park and Conservancy District: PC-1.
  - (8) Institutional District: I-1 and I-2.
- (c) *Map.* The boundaries of the districts are hereby established as shown on the map entitled "District Map for the Village of Wind Point, Racine County, Wisconsin," on file at the office of the administrator, which map accompanies this chapter and is made part of this chapter. All notations and references shown on the district map are as much a part of this chapter as though specifically described herein.
- (d) *District boundaries.* The district boundaries are either streets, lot lines, or streams unless otherwise shown, and where the designation on the district map indicates that the various districts are



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approximately bounded by a street, lot line or stream, such lot line or the centerline of such street, or centerline of the main channel of such stream shall be construed to be the district boundary line.

- (e) *Use of scale.* In un-subdivided property, the location of the district boundary lines shown on the official zoning district map shall be determined by the zoning administrator using the scale on the map.

(Prior Code, ch. 10, § 4.01)

### **Sec. 36-103. Single-family residence districts, R-1 through R-3.**

- (a) *Uses.* In the single-family residence districts, no building or premises shall be used and no building shall be erected, moved or structurally altered, unless otherwise provided for in this chapter, except for one or more of the following uses:

(1) *Permitted uses.*

- a. Single-family dwellings.
- b. Accessory buildings.
- c. Telephone, telegraph and power transmission poles, and lines and necessary mechanical appurtenances, and customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business.
- d. Home occupations incidental to the residential use of the premises and not effecting any substantial change in the character of the premises or of the neighborhood. See section 26-4 for a definition of "home occupation."
- e. Community living arrangements (eight or fewer persons).

(2) *Conditional uses.*

- a. Sewerage lift stations.
- b. Recreational uses for the private use of the residence, involving any permanent or quasi-permanent structure or improvement. Some examples are: courts of any type, swimming pools, and ball fields.
- c. Any uses within 400 feet of the shoreline of Lake Michigan or within 100 feet of the shoreline of any navigable stream or the outer limit of the floodplain, whichever is greater.
- d. Secondary dwellings, but only in the R-1 District. See section 26-4 for a definition of "secondary dwelling."
- e. Community living arrangements (nine to 16 persons).

- (3) *Special conditions.* Lots or land on which there is an existing residence shall not be subdivided or transferred in such a way as to cause the parcel on which it stands to fail to comply with the lot, area and yard requirements of the R-1, R-2 and R-3 single-family residential districts. Existing residences may be expanded and repaired in compliance with the applicable requirements of the single-family residential districts, but no new residences may be built.

- (b) *Area, height, building size and yards.*

- (1) *Estate Residence District, R-1.* In the Estate Residence District, R-1, the height of buildings, the minimum dimensions of yards and the minimum lot area shall be as follows:
- a. Lot width, minimum: 200 feet at setback line.
  - b. Lot area, minimum: 1½ acres.
  - c. Building height, maximum: 2½ stories.
  - d. Yards:

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1. Side, minimum: 25 feet.
  2. Street, minimum: 25 feet.
  3. Rear, minimum: 30 feet.
  4. Shore, minimum: 100 feet.
- (2) *Single-Family Residence District, R-2.* In the Single-Family Residence District, R-2, the size and height of buildings, the minimum dimensions of yards and the minimum lot area shall be as follows:
- a. Lot width, minimum: 100 feet at setback line.
  - b. Lot area, minimum: 20,000 square feet.
  - c. Building height, maximum: Two stories.
  - d. Yards:
    1. Side, minimum: 15 feet.
    2. Street, minimum: 25 feet.
    3. Rear, minimum: 30 feet.
    4. Shore, minimum: 100 feet.
- (3) *Single-Family Residence District, R-3.* In the Single-Family Residence District, R-3, the size and height of buildings, the minimum dimensions of yards and the minimum lot area shall be as follows:
- a. Lot width, minimum: 100 feet at setback line.
  - b. Lot area, minimum: 15,000 square feet.
  - c. Building height, maximum: Two stories.
  - d. Yards:
    1. Side, minimum: 15 feet.
    2. Street, minimum: 25 feet.
    3. Rear, minimum: 30 feet.
    4. Shore, minimum: 100 feet.

(Prior Code, ch. 10, § 4.02)

### **Sec. 36-104. Multiple-Family Residence District, R-4.**

- (a) *Uses.* The R-4 Multiple-Family Residence District is intended to allow a higher density residential development designed specifically for duplexes or single-family dwellings in clusters or groups. Therefore, in this district, no building or premises shall be used and no building shall be erected, moved, or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
- (1) *Permitted uses.* Attached residential structures, with no more than three units per building.
  - (2) *Conditional uses.* Attached residential structures with four to seven units per building; common area, including recreational facilities, associated with permitted or conditional residential use.
- (b) *Area, height, building size and yards.* In the Multiple-Family Residence District, R-4, the size and height of buildings, the minimum dimension of yards and the minimum lot area shall be as follows:
- (1) Lot width, minimum:

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- a. 1½ story row house: 120 feet at setback line.
  - b. Duplex: 100 feet at setback line.
  - c. Detached one-family dwelling: 65 feet at setback line.
- (2) Lot area, minimum:
- a. Row house: 4,000 square feet.
  - b. Detached one-family dwelling: 8,000 square feet.
  - c. Duplex: 10,000 square feet.
- (3) Building height, maximum: 35 feet.
- (4) Yards:
- a. Side, minimum for exterior property lines of development: 30 feet.
  - b. Side, minimum between buildings:
    1. 1½ story: Ten feet from side lot line.
    2. Two-story: 15 feet from side lot line.
  - c. Street, minimum: 30 feet.
  - d. Rear, minimum: 25 feet.
  - e. Shore, minimum: 100 feet.

(Prior Code, ch. 10, § 4.03)

### **Sec. 36-105. Suburban Agricultural District, A-1.**

- (a) *Uses.* In the Suburban Agricultural District, A-1, no building or premises shall be used and no building shall be erected, moved or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
- (1) *Permitted uses.* Floriculture, orchards, plant nurseries, raising of cook grain crops, feed crops, tree fruits, nuts, berries, vegetables. In addition, farm dwellings for those resident owners and laborers actually engaged in a principal use are accessory uses to the farm operation that shall comply with all the lot and yard provisions of the R-3 Single-Family Residence District. Not more than one roadside stand on any one farm shall be permitted as an accessory use.
  - (2) *Conditional uses.* Poultry, horses (not to exceed five), raising of other livestock or farm animals providing such uses are for the use of the resident owners.
- (b) *Area, height, building size and yards.* In the Suburban Agricultural District, A-1, the height, the minimum dimension of yards and the minimum area shall be as follows:
- (1) Farm area, minimum: Ten acres.
  - (2) Building height, maximum: 35 feet.
  - (3) Yards:
    - a. Side, minimum: 50 feet.
    - b. Street, minimum: 50 feet.
    - c. Rear, minimum: 50 feet.
    - d. Shore, minimum: 50 feet.

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(Prior Code, ch. 10, § 4.04)

### **Sec. 36-106. Park and Conservancy District, PC-1.**

In the Park and Conservancy District, PC-1, no building or premises shall be used and no building or structure shall be erected, moved or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:

- (1) *Permitted uses.* Public and existing private recreational uses, private recreational uses not including structures or improvements, such as walking areas and private picnic areas or unimproved play areas, open spaces, wetlands, conservancy areas.
- (2) *Conditional uses.* Extension of any existing or creation of any new public or private recreational use. Alterations of any existing natural condition. Any recreational building or structure.

(Prior Code, ch. 10, § 4.05)

### **Sec. 36-107. Business District, B-1.**

- (a) *Uses.* In the Business District, B-1, no building or premises shall be used and no building or structure shall be moved or structurally altered, unless otherwise provided in this chapter.
  - (1) *Permitted uses.* Retail establishments selling and storing only new merchandise, barber and beauty shops, business offices, professional offices, and financial institutions.
  - (2) *Permitted accessory uses.* Signs that advertise businesses located on the premises.
  - (3) *Conditional uses.* Clinics, confectioneries, delicatessens, restaurants, apartment hotels, personal service establishments.
- (b) *Area, building height and yards.* In the Business District, B-1, the size and height of buildings, the minimum dimension of yards and the minimum lot area shall be as follows:
  - (1) Lot width, minimum: 200 feet.
  - (2) Lot area, minimum: Two acres.
  - (3) Building height, maximum: 45 feet.
  - (4) Yards:
    - a. Street, minimum: 40 feet.
    - b. Rear, minimum: 40 feet.
    - c. Side, minimum: 25 feet.
    - d. Shore, minimum: 100 feet.

(Prior Code, ch. 10, § 4.06)

### **Sec. 36-108. Institutional District, I-1.**

- (a) *Uses.* In the Institutional District, I-1, no buildings or premises shall be used and no building or structure shall be moved or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
  - (1) *Permitted uses.* Educational, research, religious, philanthropic, charitable facilities and museums.
  - (2) *Conditional uses.* Uses not identified as permitted.

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- (b) *Area, building height and yards.* In the I-1 District, minimum lot sizes, height, and yards shall be as follows:
- (1) Lot width, minimum: 200 feet.
  - (2) Lot area, minimum: Three acres.
  - (3) Building height, maximum: 45 feet.
  - (4) Gross square footage of all buildings, maximum: Not to exceed 50 percent of lot area.
  - (5) Yards:
    - a. Street, minimum: 50 feet.
    - b. Rear, minimum: 50 feet.
    - c. Side, minimum: 50 feet.
    - d. Shore, minimum: 100 feet.

(Prior Code, ch. 10, § 4.07)

### **Sec. 36-109. Institutional District, I-2.**

- (a) *Uses.* The Institutional District, I-2, is intended to designate those uses allowed on institutional property owned by the village. In the Institutional I-2 District, no buildings, structures, or premises shall be used and no building or structure shall be moved or structurally altered, unless otherwise provided for in this chapter, except for one or more of the following uses:
- (1) *Permitted uses.* Municipal functions, including, but not limited to, public works and utilities, law enforcement, administration, recreation, communication facilities/towers, and other functions that accomplish the village's goals.
  - (2) *Conditional uses.* Uses not identified as permitted uses.
- (b) *Area, building height and yards.* In the Institutional I-2 District, minimum lot sizes, height and yards shall be as follows:
- (1) Lot width, minimum: None.
  - (2) Lot area, minimum: None.
  - (3) Building height, maximum: 45 feet.
  - (4) Total square footage of building footprint, maximum: Not to exceed 50 percent of lot area.
  - (5) Yards, four-mile road campus:
    - a. Front setback, minimum: 24 feet.
    - b. Rear setback, minimum: 14 feet.
    - c. Side setback, minimum: 24 feet.
  - (6) Yards, front setback minimum: Zero feet.
  - (7) Lighthouse property:
    - a. Rear setback, minimum: 33 feet.
    - b. Side setback, minimum: Seven feet.
    - c. Shore setback, minimum: 33 feet.

(Prior Code, ch. 10, § 4.08)

**Secs. 36-110—36-131. Reserved.**

**ARTICLE V. - FLOODPLAIN OVERLAY DISTRICTS**

**DIVISION 1. - GENERALLY**

**Sec. 36-132. Statutory authorization.**

This article is adopted pursuant to the authorization in Wis. Stats. § 62.23 and the requirements in Wis. Stats. § 87.30.

(Prior Code, ch. 10, att. C, § 1.1)

**Sec. 36-133. 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.

(Prior Code, ch. 10, att. C, § 1.2)

**Sec. 36-134. Statement of purpose.**

This article is intended to regulate floodplain development to:

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

(Prior Code, ch. 10, att. C, § 1.3)

**Sec. 36-135. Enforcement and penalties.**

Any violation of the provisions of this article 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 village a penalty as provided in section 1-12, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the village, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30.

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(Prior Code, ch. 10, att. C, § 9.0)

### **Sec. 36-136. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*A zones* means 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.

*Accessory structure or use* means a facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

*AH zone.* See *Area of shallow flooding*.

*Alteration* means an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

*AO zone.* See *Area of shallow flooding*.

*Area of shallow flooding* means a designated AO, AH, AR/AO, AR/AH, or VO zone on a village's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

*Basement* means any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

*Building.* See *Structure*.

*Bulkhead line* means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to Wis. Stats. § 30.11, and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this article.

*Campground* means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is advertised or represented as a camping area.

*Camping unit* means any portable device, no more than 400 square feet in area, used as a temporary shelter, including, but not limited to, a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

*Certificate of compliance* means a certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this article.

*Channel* means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

*Crawlways* or *crawl space* means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

*Deck* means an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

*Department* means the state department of natural resources.

*Development* means 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

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alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

*Dryland access* means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

*Encroachment* means any fill, structure, equipment, use or development in the floodway.

*Federal Emergency Management Agency (FEMA)* means the federal agency that administers the National Flood Insurance Program.

*Flood* or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- (1) The overflow or rise of inland waters;
- (2) The rapid accumulation or runoff of surface waters from any source;
- (3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- (4) 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.

*Flood frequency* means the probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent chance of occurring in any given year.

*Flood hazard boundary map* means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

*Flood insurance rate map (FIRM)* means a map of a village on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the village. This map can only be amended by the Federal Emergency Management Agency.

*Flood insurance study* means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A zones. Flood insurance rate maps, that accompany the flood insurance study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

*Flood profile* means 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.

*Flood protection elevation* means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see *Freeboard*.)

*Flood storage* means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

*Floodfringe* means that portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.



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*Floodplain* means land which has been or may be covered by floodwater during the regional flood. The term "floodplain" includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

*Floodplain island* means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

*Floodplain management* means policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

*Floodproofing* means 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.

*Floodway* means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

*Freeboard* means a safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

*Habitable structure* means any structure or portion thereof used or designed for human habitation.

*Hearing notice* means a publication or posting meeting the requirements of Wis. Stats. ch. 985. For appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

*High flood damage potential* means 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.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure* means any structure that is either:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) 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;
- (3) 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
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

*Increase in regional flood height* means a calculated upward rise in the regional flood elevation greater than 0.00 feet, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

*Land use* means any nonstructural use made of unimproved or improved real estate. (Also see *Development*.)

*Lowest adjacent grade* means elevation of the lowest ground surface that touches any of the exterior walls of a building.

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*Lowest floor* means 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.

*Maintenance* means the act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

*Manufactured home* means 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."

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

*Manufactured home park or subdivision, existing*, means 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 the ordinance from which this article is derived. 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.

*Manufactured home park, expansion to existing*, means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

*Mobile recreational vehicle* means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

*Model, corrected effective*, means a hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross-sections to the duplicate effective model, or incorporates more detailed topographic information than that used in the current effective model.

*Model, duplicate effective*, means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

*Model, effective*, means the hydraulic engineering model that was used to produce the current effective flood insurance study.

*Model, existing (pre-project)*, means a modification of the duplicate effective model or corrected effective model to reflect any manmade modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the corrected effective model or duplicate effective model.

*Model, revised (post-project)*, means a modification of the existing or pre-project conditions model, duplicate effective model or corrected effective model to reflect revised or post-project conditions.

*Municipality or municipal* means the county, city or village governmental units enacting, administering and enforcing this chapter.

*NAVD or North American Vertical Datum* means elevations referenced to mean sea level datum, 1988 adjustment.

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*NGVD or National Geodetic Vertical Datum* means elevations referenced to mean sea level datum, 1929 adjustment.

*New construction* means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this village and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, the term "new construction" includes any structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

*Nonconforming structure* means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this article for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

*Nonconforming use* means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies (such as a residence in the floodway).

*Obstruction to flow* means any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

*Official floodplain zoning map* means that map, adopted and made part of this article, as described in section 36-138, which has been approved by the department and FEMA.

*Open space use* means those uses having relatively low flood damage potential and not involving structures.

*Ordinary high-water mark* means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

*Private sewage system* means 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 commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

*Public utilities* means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

*Reasonably safe from flooding* means base floodwaters will not 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.

*Regional flood* means a flood determined to be representative of large floods known to have occurred in the state. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

*Start of construction* means 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,

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floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure* means 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.

*Subdivision* has the meaning given in Wis. Stats. § 236.02(12).

*Substantial damage* means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

*Substantial improvement* means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent 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 "substantial improvement" 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 ensure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

*Unnecessary hardship* means where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

*Variance* means an authorization by the board of 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.

*Violation* means 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.

*Watershed* means the entire region contributing runoff or surface water to a watercourse or body of water.

*Water surface profile* means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

*Well* means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(Prior Code, ch. 10, att. C, § 10.0)

### **Sec. 36-137. Areas to be regulated.**

This article regulates all areas that would be covered by the regional flood or base flood as shown on the flood insurance rate map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the flood insurance study (FIS) and are shown as AE, A1-30, and AH zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional flood elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(Prior Code, ch. 10, att. C, § 1.5(1))

**Sec. 36-138. Official maps and revisions.**

The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the flood insurance study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the flood insurance rate map (FIRM) must be reviewed and approved by the DNR and FEMA through the letter of map change process (see division 8 of article V of this chapter) before it is effective. No changes to RFEs on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the village clerk. If more than one map or revision is referenced, the most restrictive information shall apply.

- (1) *Official maps based on the FIS.* Flood insurance rate map (FIRM), panel numbers 55101C0116D, 55101C0117D, 55101C0118D, and 55101C0119D, dated May 2, 2012; with corresponding profiles 55101CV001A and 55101CV002A that are based on the flood insurance study (FIS) dated May 2, 2012; approved by the DNR and FEMA.
- (2) *Official maps based on other studies.* Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.
  - a. 100-year dam failure floodplain map: None at this time.
  - b. Letter of map revision: None at this time.

(Prior Code, ch. 10, att. C, § 1.5(2))

**Sec. 36-139. Establishment of floodplain zoning districts.**

The regional floodplain areas are divided into three districts as follows:

- (1) The floodway district (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE zones as shown on the FIRM.
- (2) The floodfringe district (FF) is that portion between the regional flood limits and the floodway and displayed as AE zones on the FIRM.
- (3) The general floodplain district (GFP) are those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

(Prior Code, ch. 10, att. C, § 1.5(3))

**Sec. 36-140. Locating floodplain boundaries.**

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsection (1) or (2) of this section. If a significant difference exists, the map shall be amended according to division 8 of article V of this chapter. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to section 36-330(3) and the criteria in subsections (1) and (2) of this section. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to division 8 of article V of this chapter.

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

(Prior Code, ch. 10, att. C, § 1.5(4))

### **Sec. 36-141. Removal of lands from floodplain.**

Compliance with the provisions of this article shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to division 8 of article V of this chapter.

(Prior Code, ch. 10, att. C, § 1.5(5))

### **Sec. 36-142. Compliance.**

Any development or use within the areas regulated by this article shall be in compliance with the terms of this article, and other applicable local, state, and federal regulations.

(Prior Code, ch. 10, att. C, § 1.5(6))

### **Sec. 36-143. Municipalities and state agencies regulated.**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation is exempt when Wis. Stats. § 30.2022 applies.

(Prior Code, ch. 10, att. C, § 1.5(7))

### **Sec. 36-144. Abrogation and greater restrictions.**

This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

(Prior Code, ch. 10, att. C, § 1.5(8))

### **Sec. 36-145. Interpretation.**

In their interpretation and application, the provisions of this article are the minimum requirements liberally construed in favor of the village and are not a limitation on or repeal of any other powers granted by the state statutes. If a provision of this article, required by Wis. Admin. Code ch. NR 116, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this article or in effect on the date of the most recent text amendment to this article.

(Prior Code, ch. 10, att. C, § 1.5(9))

**Sec. 36-146. Warning and disclaimer of liability.**

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

(Prior Code, ch. 10, att. C, § 1.5(10))

**Sec. 36-147. Annexed areas.**

The county floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the village for all annexed areas until the village adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116 and 44 CFR 59—72, National Flood Insurance Program (NFIP). These annexed lands are described on the village's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

(Prior Code, ch. 10, att. C, § 1.5(12))

**Secs. 36-148—36-177. Reserved.**

**DIVISION 2. - STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

**Sec. 36-178. Review to determine whether building and development sites are in floodprone areas.**

- (a) The village shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodprone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.
- (b) Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article and all other requirements in section 36-328(2). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(Prior Code, ch. 10, att. C, § 2.0)

**Sec. 36-179. Hydraulic and hydrologic analyses.**

- (a) No floodplain development shall:

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- (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
  - (2) Cause any increase in the regional flood height due to floodplain storage area lost.
- (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of division 8 of article V of this chapter are met.

(Prior Code, ch. 10, att. C, § 2.1)

### **Sec. 36-180. 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 section 36-179 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 division 8 of article V of this chapter, the village 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.

(Prior Code, ch. 10, att. C, § 2.2)

### **Sec. 36-181. Developments that require certain state permits.**

Development which requires a permit from the department, under Wis. Stats. chs. 30 and 31 such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to this article are made according to the requirements of this article.

(Prior Code, ch. 10, att. C, § 2.3)

### **Sec. 36-182. 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 health services;
- (2) A land use permit for the campground is issued by the zoning administrator;
- (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subsection (4) of this section to remain in compliance with all applicable regulations, including those of the state department of health services and all other applicable regulations;



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- (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;
- (7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;
- (9) The village shall monitor the limited authorizations issued by the campground operator to ensure compliance with the terms of this section;
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either division 3, 4 or 5 of this article for the floodplain district in which the structure is located;
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- (12) All service facilities, including, but not limited to, refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

(Prior Code, ch. 10, att. C, § 2.4)

**Secs. 36-183—36-202. Reserved.**

### DIVISION 3. - FLOODWAY DISTRICT (FW)

**Sec. 36-203. Applicability.**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 36-273.

(Prior Code, ch. 10, att. C, § 3.1)

**Sec. 36-204. Permitted uses.**

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other ordinance, they meet the standards in sections 36-205 and 36-206, and all permits or certificates have been issued according to section 36-328:

- (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 section 36-205(d).

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- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with sections 36-205 and 36-206.
- (5) Extraction of sand, gravel or other materials that comply with section 36-205(d).
- (6) Functionally water dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. chs. 30 and 31.
- (7) Public utilities, streets and bridges that comply with section 36-205(c).

(Prior Code, ch. 10, att. C, § 3.2)

### **Sec. 36-205. Standards for developments.**

(a) *Generally.*

- (1) Any development in the floodway shall comply with section 36-178 and have low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to section 36-179:
  - a. A cross section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subsection (a)(2) of this section.

(b) *Structures.* Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- (2) Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- (3) Must be anchored to resist flotation, collapse, and lateral movement;
- (4) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
- (5) It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.

(c) *Public utilities, streets and bridges.* Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of section 36-179.

(d) *Fills or deposition of materials.* Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of section 36-179 are met;
- (2) No material is deposited in navigable waters unless a permit is issued by the department pursuant to Wis. Stats. ch. 30, and a permit pursuant to section 404 of the Federal Water Pollution Control

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Act, Amendments of 1972, 33 USC 1344, has been issued, if applicable, and all other requirements have been met;

- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.

(Prior Code, ch. 10, att. C, § 3.3)

### **Sec. 36-206. Prohibited uses.**

All uses not listed as permitted uses in section 36-204 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 Wis. Admin. Code ch. SPS 383;
- (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 Wis. Admin. Code chs. NR 811 and 812;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code § NR 110.15(3)(b); 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.

(Prior Code, ch. 10, att. C, § 3.4)

### **Secs. 36-207—36-235. Reserved.**

## DIVISION 4. - FLOODFRINGE DISTRICT (FF)

### **Sec. 36-236. Applicability.**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to section 36-273.

(Prior Code, ch. 10, att. C, § 4.1)

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### **Sec. 36-237. Permitted uses.**

Any structure, land use, or development is allowed in the floodfringe district if the standards in section 36-238 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in section 36-328 have been issued.

(Prior Code, ch. 10, att. C, § 4.2)

### **Sec. 36-238. Standards for development.**

Section 36-179 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of division 6 of this article:

- (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 division 6 of this article:
  - a. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of subsection (1)b of this section can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
  - b. The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.
  - c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (1)d of this section.
  - d. In developments where existing street or sewer line elevations make compliance with subsection (1)c of this section impractical, the village may permit new development and substantial improvements where roads are below the regional flood elevation, if:
    1. The village has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure by wheeled vehicles during a regional flood event; or
    2. The village has a DNR-approved emergency evacuation plan.
- (2) *Accessory structures or uses.* Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (3) *Commercial uses.* Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of subsection (1) of this section. Subject to the requirements of subsection (5) of this section, 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.* 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 section 36-332. Subject to the requirements of subsection (5) of this section, 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 floodproofed in compliance with section 36-332. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

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- (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 section 36-332.
  - 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 of floodwater into the system, pursuant to section 36-332(c), to the flood protection elevation and meet the provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.
- (8) *Wells.* All wells shall be designed to minimize or eliminate infiltration of floodwaters into the system, pursuant to section 36-332(c), to the flood protection elevation and shall meet the provisions of Wis. Admin. Code chs. NR 811 and 812.
- (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 article.
- (11) *Manufactured homes.*
  - a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval, and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
  - 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 subsection (1) of this section.
- (12) *Mobile recreational vehicles.* All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in subsection (11)b and c of this section. 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.

(Prior Code, ch. 10, att. C, § 4.3)

**Secs. 36-239—36-269. Reserved.**

### DIVISION 5. - GENERAL FLOODPLAIN DISTRICT (GFP)

#### **Sec. 36-270. Applicability.**

The provisions for this district shall apply to all floodplains mapped as an A, AO or AH zone.

(Prior Code, ch. 10, att. C, § 5.1)

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### **Sec. 36-271. Permitted uses.**

- (a) Pursuant to section 36-273, it shall be determined whether the proposed use is located within the floodway or floodfringe.
- (b) Those uses permitted in the floodway (section 36-204) and floodfringe (section 36-237) districts are allowed within the general floodplain district, according to the standards of section 36-272, provided that all permits or certificates required under section 36-328 have been issued.

(Prior Code, ch. 10, att. C, § 5.2)

### **Sec. 36-272. Standards for development.**

Division 3 of this article applies to floodway areas; division 4 of this article applies to floodfringe areas. The rest of this article applies to either district.

- (1) In AO/AH zones, the structure's lowest floor must meet one of the conditions listed below whichever is higher:
  - a. At or above the flood protection elevation;
  - b. Two feet above the highest adjacent grade around the structure; or
  - c. The depth as shown on the FIRM.
- (2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

(Prior Code, ch. 10, att. C, § 5.3)

### **Sec. 36-273. Determining floodway and floodfringe limits.**

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures; and the flood zone as shown on the FIRM.
- (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
  - a. A hydrologic and hydraulic study as specified in section 36-328(b)(3).
  - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
  - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Prior Code, ch. 10, att. C, § 5.4)

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**Secs. 36-274—36-294. Reserved.**

### DIVISION 6. - NONCONFORMING USES

**Sec. 36-295. General regulations.**

- (a) Applicability. If these standards conform with Wis. Stats. § 59.69(10), for counties, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this article or any amendment thereto.
- (b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this article may continue subject to the following conditions:
  - (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. The terms "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
  - (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.
  - (3) The village shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
  - (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 36-238(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this subsection.
  - (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50 percent of its present 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 36-238(1).
  - (6) If on a per event basis the total value of the work being done under subsection (b)(4) and (5) of this section equals or exceeds 50 percent 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 36-238(1).

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- (7) Except as provided in subsection (b)(8) of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.
- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.
- a. Residential structures. Residential structures shall:
1. Have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of section 36-332(b).
  2. Be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
  3. Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
  4. In A zones, obtain, review and utilize any flood data available from a federal, state or other source.
  5. In AO zones with no elevations specified, have the lowest floor, including basement, meet the standards in section 36-272(1).
  6. In AO zones, have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- b. Nonresidential structures. Nonresidential structures shall:
1. Meet the requirements of subsections (b)(8)a.1, 2, 5 and 6 of this section.
  2. Either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, meet the standards in section 36-332(a) or (b).
  3. In AO zones with no elevations specified, have the lowest floor, including basement, meet the standards in section 36-272(1).
- (c) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with section 36-205(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 36-332 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of subsection (b)(8)a of this section 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.

(Prior Code, ch. 10, att. C, § 6.1)



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### **Sec. 36-296. Floodway district.**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the floodway district, unless such modification or addition:
  - (1) Has been granted a permit or variance which meets all requirements of this chapter;
  - (2) Meets the requirements of section 36-295;
  - (3) Shall not increase the obstruction to flood flows or regional flood height;
  - (4) Any addition to the existing structure shall be floodproofed, pursuant to section 36-332, by means other than the use of fill, to the flood protection elevation; and
  - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    - d. The use must be limited to parking, building access or limited storage.
- (b) No new on site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, section 36-332(c) and Wis. Admin. Code ch. SPS 383.
- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing well in the floodway district shall meet the applicable requirements of all municipal ordinances, section 36-332(c) and Wis. Admin. Code chs. NR 811 and 812.

(Prior Code, ch. 10, att. C, § 6.2)

### **Sec. 36-297. Floodfringe district.**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the village, and meets the requirements of section 36-238 except where subsection (b) of this section is applicable.
- (b) Where compliance with the provisions of subsection (a) of this section 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 appeals, using the procedures established in section 36-330, may grant a variance from those provisions of subsection (a) of this section for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
  - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (2) Human lives are not endangered;

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- (3) Public facilities, such as water or sewer, shall not be installed;
  - (4) Flood depths shall not exceed two feet;
  - (5) Flood velocities shall not exceed two feet per second; and
  - (6) The structure shall not be used for storage of materials as described in section 36-238(5).
- (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, section 36-332(c) and Wis. Admin. Code ch. SPS 383.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this article, section 36-332(c) and Wis. Admin. Code chs. NR 811 and 812.

(Prior Code, ch. 10, att. C, § 6.3)

**Secs. 36-298—36-327. Reserved.**

### DIVISION 7. - ADMINISTRATION

#### **Sec. 36-328. Zoning administrator.**

- (a) *Duties and powers.* The zoning administrator is authorized to administer this article and shall have the following duties and powers:
- (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and ensure that the regional flood elevation for the proposed development is shown on all permit applications.
  - (2) Issue permits and inspect properties for compliance with provisions of this article and issue certificates of compliance where appropriate.
  - (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
  - (4) Keep records of all official actions such as:
    - a. All permits issued, inspections made, and work approved.
    - b. Documentation of certified lowest floor and regional flood elevations.
    - c. Floodproofing certificates.
    - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
    - e. All substantial damage assessment reports for floodplain structures.
    - f. List of nonconforming structures and uses.
  - (5) Submit copies of the following items to the department regional office:
    - a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.
    - b. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
    - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

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- (6) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.
- (7) Submit copies of amendments and biennial reports to the FEMA regional office.
- (b) *Land use permit.* A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
  - (1) *General information.*
    - a. Name and address of the applicant, property owner and contractor;
    - b. Legal description, proposed use, and whether it is new construction or a modification;
  - (2) *Site development plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain:
    - a. Location, dimensions, area and elevation of the lot;
    - b. Location of the ordinary high-water mark of any abutting navigable waterways;
    - c. Location of any structures with distances measured from the lot lines and street center lines;
    - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
    - e. Location and elevation of existing or future access roads;
    - f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
    - g. 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);
    - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of division 3 or 4 of this article are met; and
    - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 36-179. This may include any of the information noted in section 36-205(a).
  - (3) *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.
    - a. *Zone A floodplains.*
      1. *Hydrology.* The appropriate method shall be based on the standards in Wis. Admin. Code § NR 116.07(3), Hydrologic Analysis: Determination of Regional Flood Discharge.
      2. *Hydraulic modeling.* The regional flood elevation shall be based on the standards in Wis. Admin. Code § NR 116.07(4), 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.

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- (iii) Minimum four foot contour data in the overbanks shall be used for the development of cross-section overbank and floodplain mapping.
  - (iv) A maximum distance of 500 feet between cross-sections is allowed in developed areas with additional intermediate cross-sections required at transitions in channel bottom slope including a survey of the channel at each location.
  - (v) The most current version of HEC-RAS shall be used.
  - (vi) A survey of bridge and culvert openings and the top of road is required at each structure.
  - (vii) Additional cross-sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
  - (viii) Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high-water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
  - (ix) The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
3. *Mapping.* A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
- (i) If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
  - (ii) If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
- b. *Zone AE floodplains.*
- 1. *Hydrology.* If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Wis. Admin. Code ch. NR 116.07(3), Hydrologic Analysis: Determination of Regional Flood Discharge.
  - 2. *Hydraulic model.* The regional flood elevation shall be based on the standards in Wis. Admin. Code § NR 116.07(4), Hydraulic Analysis: Determination of Regional Flood Elevation and the following:
    - (i) Duplicate effective model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the floodway data table in the FIS report to within 0.1 foot.
    - (ii) Corrected effective model. The corrected effective model shall not include any manmade physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for department review.

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- (iii) Existing (pre-project conditions) model. The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.
  - (iv) Revised (post-project conditions) model. The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
  - (v) All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - (vi) Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and 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.
3. *Mapping.* Maps and associated engineering data shall be submitted to the department for review which meet the following conditions:
- (i) Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps (FBFMs), construction plans, bridge plans.
  - (ii) Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  - (iii) Annotated FIRM panel showing the revised one percent and 0.2 percent annual chance floodplains and floodway boundaries.
  - (iv) If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used, then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and state plane coordinate system in accordance with FEMA mapping specifications.
  - (v) The revised floodplain boundaries shall tie into the effective floodplain boundaries.
  - (vi) All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
  - (vii) Both the current and proposed floodways shall be shown on the map.
  - (viii) The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.
- (4) *Expiration.* All permits issued under the authority of this article shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.
- (c) *Certificate of compliance.* No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

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- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article;
  - (2) Application for such certificate shall be concurrent with the application for a permit;
  - (3) If all provisions of this chapter are met, the certificate of compliance shall be issued within ten days after written notification that the permitted work is completed;
  - (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of section 36-332 are met.
- (d) *Other permits.* Prior to obtaining a floodplain development permit, the applicant must secure all necessary permits from federal, state, and local agencies, including, but not limited to, those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act, 33 USC 1344 et seq.

(Prior Code, ch. 10, att. C, § 7.1)

### **Sec. 36-329. Plan commission.**

The village plan commission shall oversee the functions of the office of the zoning administrator and review and advise the village on all proposed amendments to this article, maps and text. The commission shall not grant variances to the terms of this chapter in place of action by the board of appeals or amend the text or zoning maps in place of official action by the village.

(Prior Code, ch. 10, att. C, § 7.2)

### **Sec. 36-330. Board of appeals.**

The board of appeals established under section 36-793 is authorized to act for the purposes of this article. 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 article;
  - 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 standards of this chapter.
- (2) *Appeals to the board.*
  - a. *Generally.* Appeals to the board may be taken by any person aggrieved, or by any officer or department of the village affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
  - b. *Notice and hearing for appeals including variances.*
    1. *Notice.* The board shall:
      - (i) Fix a reasonable time for the hearing;

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- (ii) Publish adequate notice pursuant to state statutes, specifying the date, time, place and subject of the hearing; and
    - (iii) Ensure that notice shall be mailed to the parties in interest and the department regional office at least ten days in advance of the hearing.
  - 2. *Hearing.* Any party may appear in person or by agent. The board shall:
    - (i) Resolve boundary disputes according to section 36-330(3);
    - (ii) Decide variance applications according to section 36-330(4); and
    - (iii) Decide appeals of permit denials according to section 36-331.
  - c. *Decision.* The final decision regarding the appeal or variance application shall:
    - 1. Be made within a reasonable time;
    - 2. Be sent to the department regional office within ten days of the decision;
    - 3. Be a written determination signed by the chairperson 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 procedure.* 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 none 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 village for a map amendment according to division 8 of article V of this chapter.
- (4) *Variance.*
  - a. The board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:
    - 1. Literal enforcement of the article 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 article in section 36-134.
  - b. In addition to the criteria in subsection (4)a of this section, 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. 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

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3. 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 article.
- 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 the rights or property values of other persons in the area.
  5. Allow actions without the amendments to this article or map required in division 8 of article V of this chapter.
  6. Allow any alteration of an 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.

(Prior Code, ch. 10, att. C, § 7.3)

### **Sec. 36-331. Review of appeals of permit denials.**

- (a) The plan commission or board of appeals shall review all data related to the appeal. This may include:
- (1) Permit application data listed in section 36-328(b);
  - (2) Floodway/floodfringe determination data in section 36-273;
  - (3) Data listed in section 36-205(a)(2) where the applicant has not submitted this information to the zoning administrator; and
  - (4) Other data submitted with the application, or submitted to the board with the appeal.
- (b) For appeals of all denied permits, the board of appeals shall:
- (1) Follow the procedures of section 36-330;
  - (2) Consider zoning agency recommendations; and
  - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation, the board of appeals shall:
- (1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of division 8 of article V of this chapter; and
  - (2) Grant the appeal where the board of appeals agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Prior Code, ch. 10, att. C, § 7.4)



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### **Sec. 36-332. Floodproofing standards for nonconforming structures or uses.**

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

(Prior Code, ch. 10, att. C, § 7.5)

### **Sec. 36-333. Public information.**

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

(Prior Code, ch. 10, att. C, § 7.6)

### **Secs. 36-334—36-354. Reserved.**

## DIVISION 8. - AMENDMENTS

### **Sec. 36-355. Obstructions and increases when amendments made.**

Obstructions or increases may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 36-356.

- (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

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this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 36-356. Any such alterations must be reviewed and approved by FEMA and the DNR.

- (2) In A zones, increases equal to or greater than one foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain maps, floodway lines, and water surface profiles, in accordance with section 36-356.

(Prior Code, ch. 10, att. C, § 8.0)

### **Sec. 36-356. Actions that require amendment.**

Actions 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 section 36-138(2);
- (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 Wis. Admin. Code § NR 116.05, or otherwise required by law, or for changes by the village; and
- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

(Prior Code, ch. 10, att. C, § 8.1)

### **Sec. 36-357. Procedures.**

Amendments to this article may be made upon petition of any party according to the provisions of Wis. Stats. § 62.23. The petitions shall include all data required by sections 36-273 and 36-328(b). 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 village. 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 Wis. Stats. § 62.23.
- (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 village.

(Prior Code, ch. 10, att. C, § 8.2)

**Secs. 36-358—36-387. Reserved.**

**ARTICLE VI. - OTHER OVERLAY ZONING DISTRICTS**

**DIVISION 1. - GENERALLY**

**Sec. 36-388. Intent, districts established, overly type and boundaries.**

- (a) *Intent.* It is the intent of this chapter that the basic character of the village as an attractive, predominately single-family residential community be preserved but that other land uses be permitted where desirable and properly planned and controlled. The basic zoning districts are created to provide the basic uses which are seen as generally consistent with that intent. It is recognized that there are existing uses and possible future uses of lands within the village which are not permitted by the provisions governing the basic zoning districts or which require special regulation. The overlay zoning districts are created to enable specific individual evaluation of all such uses.
- (b) *Overlay districts.* For the purpose of this chapter, the following special overlay zoning districts are created:
  - (1) Planned development overlay district (PDO).
  - (2) Environmental preservation overlay district (EPO).
  - (3) Floodplain overlay districts.
    - a. Floodway district (FW).
    - b. Floodfringe district (FF).
    - c. General floodplain district (GFP).
  - (4) Shoreland overlay district (SO).
  - (5) Wetland overlay district (WO).
  - (6) Shoreland/wetland overlay district (SWO).
- (c) *Overlay.* The overlay districts are districts which may be overlaid on any of the general zoning districts. The requirements of the overlay districts shall override and supersede the requirements of the underlying general zoning districts.
- (d) *Overlay boundaries.* The overlay district boundaries shall be determined by legal description or special maps showing such districts as they are established from time to time and placed on the official zoning map.

(Prior Code, ch. 10, § 5.01)

**Secs. 36-389—36-419. Reserved.**

**DIVISION 2. - PLANNED DEVELOPMENT OVERLAY DISTRICT (PDO)**

**Sec. 36-420. Intent and purpose.**

The planned development overlay district is intended to allow greater flexibility of use and greater design freedom than would be permitted by the standard application of normal zoning district regulations, in the case of tracts of land of suitable size and appropriate location, where the unified and planned development of such tract would produce a more aesthetically satisfying and economically desirable development than would result from the application of normal zoning district controls.

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(Prior Code, ch. 10, § 5.02.010)

### **Sec. 36-421. Uses.**

(a) *Permitted uses.*

- (1) All uses permitted in the existing underlying zoning district or districts shall be permitted in the planned development overlay district.
- (2) In addition to uses permitted in the existing underlying zoning district, the following uses may be permitted by the village board, in accordance with the intent and purposes and subject to the provisions of this division, where each such use is specifically authorized as part of an approved development plan subject to the terms and conditions established as part of the approved development plan:
  - a. Residential uses including single-family detached and attached dwellings, garden and other apartments, and guesthouses.
  - b. Retail stores and shops offering convenience and shoppers' goods.
  - c. Establishments offering customer and personal services, including restaurants serving food and alcoholic beverages.
  - d. Business, professional and public service offices.
  - e. Schools, places of worship, conference facilities, biological and similar research centers.
  - f. In addition to accessory uses permitted in the above uses, such uses as a community swimming pool, recreational area, pavilion or similar use.

(b) *Conditional uses.* Uses not identified as permitted uses.

(c) *Special provisions.* In addition to any other applicable use, site or sanitary regulations, the following special conditions shall apply to planned development districts within the village:

- (1) *Exemption from other ordinance requirements.* The unified and planned development of a site, under a planned development overlay district, may be permitted in such district without the customary division into individual lots, without requiring compliance with the specific underlying zoning district, and without requiring compliance with other village ordinances and regulations governing use and manner of use of land, including specific size, height, and set back of buildings and lot size of building locations, if such planned development project is approved under the provisions of this overlay district.
- (2) *Division of development limited.* Division or conveyance of any interest in the real estate covered by the planned development project shall be in substantial conformity with the plan as submitted, where such division has not been indicated on the approved plan, it may be permitted only upon approval of the village board based upon submission of satisfactory evidence that such division or conveyance will not substantially affect adversely the total planned development project as approved and that maintenance of common areas is ensured.
- (3) *Exemption from other standards.* Required standards applicable to real estate located outside a planned development overlay district relative to design of roads, sanitary sewer, surface drainage and other engineering matters may be modified in a planned development consistent with good engineering practice, provided that such modifications are specifically set forth in the planned development project as approved under this overlay district.
- (4) *Minimum size.* The provisions of this overlay district shall apply only to tracts of land consisting of no less than ten contiguous acres.
- (5) *Maximum density of planned residential development.* The allowable maximum number of residential dwelling units in a planned development shall be computed by dividing the gross area of the proposed development by 15,000 square feet. Gross area shall not include public rights-

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of-way existing at the time of submission of the petition and may, if part of an approved development plan, include open space easements over adjoining land, provided that the owner of the real estate within the planned development shall cause such open space easements to be directly granted to the village pursuant to the provisions of the approved plan.

- (6) *Platting.* Nothing in this chapter shall be construed to relieve the owner of land covered by a planned development project from obtaining approval of, and recording, a plat of such project or appropriate parts thereof under the provisions of the statutes of the state.
- (7) *Official map.* In the event that approval of a planned development project shall require an amendment of the official map of the village, such map shall be accordingly amended pursuant to the ordinances of the village and the statutes of the state.
- (8) *Definition of owner.* The term "owner" shall mean the owner or owners of a fee interest in real estate, provided, however, that in the event that an owner of a fee interest in real estate shall be a vendor under a land contract covering such real estate, then and in such event owner shall mean the land contract vendee.

(Prior Code, ch. 10, § 5.02.020)

### **Sec. 36-422. Procedure.**

- (a) *Preliminary conference.* Prior to formal submission of a petition for consideration of a planned development project, the petitioner shall meet with the plan commission upon its request for a preliminary discussion with respect to the scope and nature of the proposed development.
- (b) *Petition.* A petition shall be made to the village board by the owners of the real estate proposed for such development for the approval of a specific project plan under the provisions of this chapter. Such petition shall contain or be accompanied by the following information:
  - (1) Names and addresses of the owners of the real estate included in the proposed planned development; in the case of corporate owners, the names and addresses of their principal officers, if a state corporation, or their registered agents, if a foreign corporation; and in the case of partnerships or joint ventures, the names and addresses of all interested parties.
  - (2) A statement describing the general character of the intended development along with such other information which would be pertinent to a determination of the suitability and desirability of approving the proposed planned development on the particular site. This statement should include at least the following:
    - a. Statistical data on total size of project area, area of open space, density computation and proposed number of residential units, population analysis, impact upon municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
    - b. A general summary of financial factors, such as value of structures, estimated improvement costs, amount proposed for landscaping and special features, estimated sale or rental price, total anticipated development cost of the project and proposed financing.
    - c. General outline of intended organizational structure such as property owner's association, deed restrictions and provision for services.
- (c) *General description of project.* A general development plan of the project shall be submitted showing at least the following information and such additional information as may be required by the plan commission or village board in a specific situation and in sufficient detail to allow the plan commission and village board to apply the criteria for approval as hereinafter set forth:
  - (1) Plat of survey of the project area referenced to corner monuments and prepared by a land surveyor registered in the state, including the relationship of the subject property to surrounding properties.

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- (2) The pattern of public and private roads, driveways, parking facilities, and intended design standards.
  - (3) The type, size, arrangement, and location of lots and proposed building groups.
  - (4) Preliminary plans for the location of sanitary sewers and water facilities.
  - (5) Preliminary architectural drawings and sketches illustrating the design and character of proposed structures.
  - (6) The location of recreational and open space areas and areas reserved or dedicated for public uses, such as schools and parks.
  - (7) The location of environmentally sensitive areas, such as natural drainageways, wetlands and woodlands.
  - (8) General landscape treatment.
  - (9) The type, size, and location of structures.
- (d) *Consideration by plan commission.* Such petition shall be referred to the plan commission and processed as a petition for zoning change. Upon completion of necessary study, investigation and public hearing, the plan commission shall make its recommendation to the village board with respect to appropriateness, desirability and suitability of the proposed development plan and any changes or additional conditions applicable to such plan which it may determine to be necessary or appropriate.
- (e) *Public hearing.* Upon receipt of the recommendation of the plan commission, the village board shall hold a public hearing pursuant to state law and village ordinance regarding zoning amendments. Notice of such hearing shall include reference to consideration of the proposed project development plan.

(Prior Code, ch. 10, § 5.02.030)

### **Sec. 36-423. Basis for approval.**

The plan commission in making its recommendations and the village board in making its determination shall give consideration to the purposes set forth in this chapter and shall be satisfied with respect to the following:

- (1) That the proposed development is consistent with the spirit and intent of this chapter; is in conformity with the general character of the village; is in harmony with the comprehensive zoning plan; will not be contrary to the general welfare and economic prosperity of the village or of the immediate neighborhood; that the benefits from improved design of the resultant development justify the variation from the requirement of any other section of the village ordinances through the application of the planned development overlay district.
- (2) That the proponents of the proposed development have demonstrated that they intend to start construction within one year following the approval of the project and requested planned development overlay district; that the project appears economically sound; and that the proponents of the proposed development appear to have financial stability and the capacity to carry out the project as proposed.
- (3) That the size, quality, and architectural design of all buildings in the project will be compatible with the general character of the village and the surrounding neighborhood. The following criteria shall be applied in making such determination:
  - a. No building shall be permitted if the design or exterior appearance is of such unorthodox or abnormal character in relation to the surroundings as to be unsightly or offensive to generally accepted taste.

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- b. No individual building shall be permitted if the design or exterior appearance is so identical with those adjoining so as to create excessive monotony and drabness. In applying this standard to attached or row buildings, to apartment groupings, or commercial centers, the overall composition and aesthetic effect shall be considered.
  - c. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades in the development and in the immediately surrounding area, and presents an attractive appearance to the public and to surrounding properties.
  - d. No building 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 unreasonably affect adversely on adjoining properties.
- (4) That setbacks shall be maintained along any boundary street of the project area as required by the existing underlying zoning district.
  - (5) That the specific project plans have been prepared with competent professional advice and guidance.
  - (6) That no building shall be permitted closer to a side or rear boundary lot line of the project area than required by the applicable side or rear yard requirements of the adjoining zoning district.
  - (7) That no building shall exceed the height limitation required by the existing underlying zoning district, unless it is set back from the boundary of the project area distance equal to the height of the building, but no building shall exceed three stories in height.
  - (8) That such development will create an attractive environment of sustained desirability and economic stability, compatible with the character of the village, and that the anticipated economic impact of the development in terms of property values and service demands is at least as beneficial to the community as that which could reasonably be anticipated in the existing underlying zoning district.
  - (9) That the development will result in the preservation of open land and environmentally sensitive areas in a manner which will enhance the total environmental setting and desirability of the development and compensate for any reduction in individual lot area requirements which would be allowed.
  - (10) That an adequate guarantee is provided for permanent retention as "open space" of the residual open land areas resulting from the application of this chapter, either by private reservation as an enhancement to the development or by dedication to the village.
  - (11) That in the case of private reservation the open area to be reserved will be protected against building development by conveying to the village as part of the conditions for project approval an open space easement over such open areas, restricting the area against any future building or use, except as is consistent with providing natural or landscaped open space contributing to the environmental enhancement of the development; provided, however, that buildings or uses for recreational or cultural purposes compatible with the open space objective may be permitted within open space easements where specifically authorized as part of the development plan as originally approved or subsequently amended.
  - (12) That the care and maintenance of such private open space reservations will be ensured either by establishment of an appropriate management organization for the development, or by agreement with the village for establishment of a special service district for the development area on the basis of which the village shall provide the necessary maintenance service and levy the cost thereof as a special assessment on the tax bills of properties within the development area. In the event that the management organization for the development should breach its agreement with the village with respect to the care and maintenance of such open space, then the village may perform the obligations of such management organization and levy an assessment for the cost of such performance by the village against the property within the development area. The manner

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of ensuring maintenance and assessing such cost to the individual properties shall be determined prior to the approval of the final project plans and may be required to be included in the title to each property.

- (13) That ownership of private open space reservation areas will be established in a manner acceptable to the village and made a part of the conditions for approval for approval of the development plan.

(Prior Code, ch. 10, § 5.02.040)

### **Sec. 36-424. Determination.**

- (a) *Authority of village board.* The village board after due consideration may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions.
- (b) *Conditions.* The approval of a petition for a planned development overlay district shall be based upon and shall include as conditions thereto, the building, site, and operational plans for the development as approved, as well as all other commitments offered or required regarding project value, character, and other factors pertinent to an assurance that planned development will be completed and maintained as presented in the petition. Detailed construction and engineering plans need not be completed at the time overlay zoning is permitted; but the approval of preliminary plans may be conditioned upon the subsequent submission and recommendation by the plan commission, approval by the building inspector and architectural review board, where necessary, and approval by the village board, of more specific and detailed plans as the development progresses.
- (c) *Performance assurances.* The owners of the real estate proposed for planned development, or the planned development management organization, as may be required by the village board, shall enter into a contract with the village to guarantee the implementation of the planned development according to the terms and conditions established as part of the development plan approval.

(Prior Code, ch. 10, § 5.02.050)

### **Sec. 36-425. Changes in or additions to an approved plan.**

- (a) *Action by plan commission.* Any substantial subsequent change in or addition to an approved plan shall be submitted to the village board and then referred by the village board to the plan commission and processed as a petition for a zoning change. After due consideration, the plan commission shall make its recommendations to the village board.
- (b) *Action by village board.* The village board after due consideration may deny the change in or addition to an approved plan or approve the change or addition subject to additional conditions. The village board shall make such determination in accordance with the procedure required for a zoning change.
- (c) *Substantial changes.* Without limiting the right of the village board to determine that any other change in or addition to an approved plan is substantial, the following changes or additions shall be deemed to be substantial:
- (1) A change in the number of dwelling, business or other units from that shown in the approved development plan.
  - (2) A significant change in the size, value, or type of structure from that indicated in the approved development plan.
  - (3) A change in any principal uses from that included in the approved development plans.
  - (4) A change in the basic concept of site development which would significantly alter the relationship of uses or open space with respect to adjoining properties.



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- (d) *Noncompliance.* Failure to comply with the conditions and regulations as herein established and as specifically made applicable to an approved planned development shall be cause for suspension or termination of the approval for the planned development and for repeal of the planned development overlay district. At least 30 days' notice shall be given to the parties to the contract with the village to appear before the plan commission and answer any such charge of noncompliance if the plan commission finds the charges substantiated, it may recommend suspension or termination of the planned development approval and repeal of the planned development overlay district, if the noncompliance is not satisfactorily adjusted within a specified period. The village board shall review the determination of the plan commission, and the basis thereof, and may give the parties to the contract with the village an opportunity to appear before the village board and answer any such charge of noncompliance. If the village board finds the charges substantiated, it may suspend or terminate approval of the planned development and repeal the planned development overlay district if such noncompliance is not satisfactorily adjusted within a specified period.

(Prior Code, ch. 10, § 5.02.060)

### **Secs. 36-426—36-448. Reserved.**

#### DIVISION 3. - ENVIRONMENTAL PRESERVATION OVERLAY DISTRICT (EPO)

### **Sec. 36-449. Intent and purpose.**

It is intended that the environmental preservation overlay district will enable and permit the preservation and protection of natural environmental conditions within the village where such preservation or protection is considered to be beneficial to the public welfare.

(Prior Code, ch. 10, § 5.03.010)

### **Sec. 36-450. Uses.**

- (a) *Permitted uses.* In the environmental preservation overlay district, no premises shall be used except for the following uses: Fishing and hiking.
- (b) *Conditional uses.* Boating; drainageways; 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; swimming; utilities; and water measurement and water control facilities. The above uses shall not involve dredging, draining, flooding, ditching, excavating, dumping, filling, tiling, or mineral, soil, or peat removal, or any other activity that would substantially disturb or impair the natural fauna, flora, watercourses, water regimen, or topography, except that ditching, tiling, dredging, excavating, or filling done to maintain or repair existing drainage systems may be permitted after a public hearing, however, only to the extent necessary to maintain the level of drainage required to continue the existing land use; also, flood overflow and floodwater storage; navigation; establishment and development of public and private parks and recreation areas; boat access sites; natural and outdoor recreation areas; scenic, historic and scientific areas; wildlife refuges; game preserves and private wildlife areas; pedestrian trails; soil and water conservation practices; stream bank and lakeshore protection; water retention and/or detention ponds; any use permitted in the underlying general zoning district, if such use is compatible with the intent in section 36-134 in the specific circumstances of the lands and natural environmental conditions involved.
- (c) *Special provisions.* The environmental preservation overlay district may be overlaid on any general zoning district. It may also be overlaid on any other special overlay zoning district.

(Prior Code, ch. 10, § 5.03.020)

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**Secs. 36-451—36-468. Reserved.**

**DIVISION 4. - SHORELAND OVERLAY DISTRICT (SO)**

**Sec. 36-469. Intent and purpose.**

It is intended that the shoreland overlay district will enable and permit the preservation and protection of shoreland conditions within the village where such preservation or protection is considered to be beneficial to the public welfare.

(Prior Code, ch. 10, § 5.05.010)

**Sec. 36-470. Uses.**

In addition to any other applicable use, site, or sanitary regulations in this Code and applicable state regulations that include Wisconsin Statutes and Wis. Admin. Code § NR 115.05, the following restrictions and regulations may apply to shorelands within the following distance from the ordinary high-water mark:

Lake Michigan	1,000 feet
Lakes less than 50 acres in area	200 feet
Navigable streams	100 feet
All other streams	50 feet
Shore yard setback area	35 feet

- (1) *Permitted uses.* The shoreland overlay district regulations may be overlaid on any permitted uses in the underlying general zoning district. In addition to any other applicable use, site or sanitary regulations, permitted uses shall also be regulated as identified in subsection (3) of this section.
- (2) *Conditional uses.* Uses not identified as permitted.
- (3) *Special provisions.* In addition to any other applicable use, site or sanitary regulations, the following special conditions shall apply to shorelands within the village:
  - a. *Parcels.* All new, single-family residential parcels created in the shoreland area shall meet the minimum standards of the underlying residential district designation.
  - b. *Structures.* Within the Lake Michigan shoreland area, the construction of new permanent residential, institutional, commercial, industrial, agricultural and transportation structures shall meet or exceed the setback requirements of Wis. Admin. Code ch. NR 515. Hard surfaces such as driveways, roofs and other "impervious surfaces" may constitute up to 15 percent of the property within 300 of the shoreline of Lake Michigan.
  - c. *Structures within shoreland setback area.* No structures are permitted within the shore yard setback area in conformance with the regulations of the Wisconsin DNR. The term

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"structure" includes fences, ice fishing shanties, accessory buildings other than boathouses, minor structures, and any retaining wall not approved by the state DNR. Exceptions may be made by the zoning administrator for minor structures in exchange for shoreland revegetation per Wis. Stats. § 59.692 if all of the following apply:

1. The part of a structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark.
  2. The total floor area of all of the structures in the shore yard setback area of the property will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded.
  3. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
  4. The plan must be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70 percent of the half of the shore yard setback area that is nearest to the water.
  5. The structure meets the height and street, side and rear yard setback requirements for the zoning district in which it is located.
  6. The structure shall not be used for principal or accessory uses not allowed in the district.
  7. Such structure shall be colored in earth tones to decrease the visual intrusion near the natural shoreline.
- d. *Paths and trails.* Paths and trails shall not exceed six feet in width and shall be so designed and constructed as to result in the least removal and disruption of shoreland cover and the minimum impairment of natural beauty.
- e. *Clearing.*
1. Tree and shrubbery clearing are prohibited except for home and park site development, access roads, path and trail construction, timber stand improvement, customary trimming, dead tree removal, and stream and drainage projects.
  2. Tree and shrubbery clearing in the 35-foot strip adjacent to the ordinary high-water mark shall be limited so that no more than 30 feet in any 100 feet may be clear cut or as otherwise required by state statutes and regulations.
  3. Selective tree removal and shrubbery clearing within the 35-foot strip adjacent to the ordinary high-water mark are uses requiring review and approval by the zoning administrator so that natural shoreland vegetation is maintained and/or developed to capture and cleanse surface water runoff and stabilize banks. The zoning administrator may require a conditional use permit under article IX of this chapter in this buffer strip if mature healthy trees and shrubbery proposed to be selectively cut might substantially depreciate the value of property in the neighborhood or impose a visual effect upon neighbors or passersby which is clearly obnoxious to the prevailing taste of the community.
  4. Tree and shrubbery clearing in excess of 30 percent of the lot shall be a conditional use that shall meet the erosion control standards of this chapter and shall be regulated to preserve and improve scenic qualities and during foliage shall substantially screen any development from navigable stream or lake users.
- f. *Alteration of topography.*
1. Uses requiring alterations of topography shall be regulated to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen, and topography of the shoreland.
  2. Earth movements such as grading, topsoil removal or filling; road cutting; stream course changing, removal of stream or lake bed materials, waterway construction or

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enlargement, excavation, channel clearing, ditching, dredging, lagooning, and soil and water conservation structures are primarily conditional uses requiring review, public hearing, and approval in accordance with article IX of this chapter.

3. Grading, topsoil removal, and filling that disturb less than 500 square feet of area, that will not affect steep slopes, that will not disturb the natural fauna and flora within the 35-foot strip adjacent to the ordinary high-water mark of the shoreland, and that will use erosion control measures as required by this Code may be considered a permitted use.
  4. Special care shall be taken on steep slopes as directed by the zoning administrator. Special care may require the expertise of an independent engineer and architect and review by village professionals. The cost of studies and reviews shall be the responsibility of the property owner proposing the change in topography on steep slopes.
- g. *Regulations on lands zoned Agricultural—A-1.*
1. *Grazing, feeding, and fertilizing.* Grazing, livestock watering and feeding, and application of fertilizers shall be prohibited unless conducted in according the Racine County's conservation standards.
  2. *Crop production on eroded lands.* In order to help prevent and control further erosion and consequent sedimentation of the surface waters, crop production on lands that are severely eroded is prohibited, and such lands shall be planted to permanent vegetation. For purposes of this section, all lands designated by the U.S. Soil Conservation Service as having an erosion factor of three or more shall be considered as being severely eroded.
- h. *Approval for state surface water permit.* Where Wis. Stats. §§ 30.18, 281.12 and 144.03 require a state permit for surface waters withdrawal, diversion or discharge for irrigation, processing, cooling or any other purpose, then such activities may be a conditional use requiring review, public hearing, and approval or may be subject to review and approval by the zoning administrator. The zoning administrator shall advise the state agency having jurisdiction of the results of the public hearing or the zoning administrator's review and whether the conditional use was approved.

(Prior Code, ch. 10, § 5.05.020)

**Secs. 36-471—36-493. Reserved.**

### DIVISION 5. - WETLAND OVERLAY DISTRICT (WO)

**Sec. 36-494. Intent.**

The intent of the wetland overlay district is to maintain the stormwater and floodwater storage capacity of wetlands; prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters; and protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat.

(Prior Code, ch. 10, § 5.06.010)

**Sec. 36-495. Uses.**

- (a) *Permitted uses.*

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- (1) Activities that do not alter the wetland, such as, but not limited to, hiking, fishing, and swimming, are permitted subject to the provisions of Wis. Stats. chs. 30 and 31, and to the provisions of other state and federal laws and regulations. These uses do not require a zoning permit;
  - (2) Activities that involve wetland alterations authorized by the provisions of Wis. Stats. chs. 30 and 31, and to the provisions of other state and federal laws and regulations to the extent specifically provided below require a zoning permit;
  - (3) The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged soil, provided that the filling is otherwise permissible and that dredged soil is placed on existing soil banks where possible;
  - (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  - (5) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
  - (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland; and
  - (7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair replacement or reconstruction.
- (b) *Conditional uses.* Uses not identified as permitted uses which may include wetland alterations subject to the provisions of Wis. Stats. chs. 30 and 31, and to the provisions of other state and federal laws and regulations.

(Prior Code, ch. 10, § 5.06.020)

**Secs. 36-496—36-513. Reserved.**

### DIVISION 6. - SHORELAND/WETLAND OVERLAY DISTRICT (SWO)

**Sec. 36-514. Model Shoreland-Wetland Ordinance adopted.**

The state department of natural resources Model Shoreland-Wetland Ordinance, effective November 10, 1994, and all amendments thereto, are adopted and incorporated by reference in this section and made a part of this chapter as though fully set forth in this section.

(Prior Code, ch. 10, § 5.07)

**Secs. 36-515—36-536. Reserved.**

## ARTICLE VII. - SPECIFIC USE STANDARDS AND SPECIFICATIONS

### DIVISION 1. - GENERALLY

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**Secs. 36-537—36-565. Reserved.**

### DIVISION 2. - SWIMMING POOLS

**Sec. 36-566. Authority.**

Authority for the control of public and private swimming pools and the administration of this chapter is vested in the officers designated in the various provisions of this chapter.

(Prior Code, ch. 10, § 6.01.010)

**Sec. 36-567. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Enclosed swimming pool.* All permanent structures enclosing a swimming pool (or equipment or appurtenances) shall require a zoning permit and a building permit and shall conform with all applicable ordinances relating to buildings.

*In-ground unit* means a swimming pool the major portion of which is below ground level.

*Permanent structure*, in regard to swimming pools, includes any structure designed or intended to enclose a swimming pool (or equipment or appurtenances) for more than nine consecutive months.

*Portable unit* means a swimming pool the major portion of which is above ground level and which is moveable and unattached to the ground by any means except for the purpose of stabilizing the structure during its period of use.

*Private swimming pool* means those swimming pools which are used and/or are maintained for the exclusive use of the persons resident in one residential structure not to exceed four families and their occasional guests.

*Public swimming pool* means all swimming pools not included within the definition of "private swimming pool."

*Swimming pool* means any artificial structure which can be filled with water from a controlled external source to a water depth of more than 36 inches which is designed and intended to be used for swimming whether installed or erected above or below ground elevation, whether temporary or permanent. It shall also include the adjacent areas, building, equipment and appurtenances related to the operation of such structure.

(Prior Code, ch. 10, § 6.01.020)

**Sec. 36-568. Private swimming pool regulations.**

(a) *Location, portable.*

- (1) No portable unit shall be located nearer to the street line than the minimum set back line applicable to the principal structure on the property on which it is located.
- (2) No portable unit shall be located nearer to a side property line than the minimum side yard line applicable to the principal structure on the property on which it is located.
- (3) No portable unit shall be located nearer to a rear property line than the minimum rear yard applicable to the principal structure on the property on which it is located.

(b) *Location, in-ground.*

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- (1) No in-ground unit shall be located nearer to the street line than the minimum set back line applicable to the principal structure on the property on which it is located plus five feet.
  - (2) No in-ground unit shall be located nearer to a side property line than the minimum side yard line application cable to the principal structure on the property on which it is located plus five feet.
  - (3) No in-ground unit shall be located nearer to a rear property line than the minimum rear yard line applicable to the principal structure on the property on which it is located plus five feet.
- (c) *Protection devices for permanent installations.*
- (1) Every private swimming pool which is not enclosed in a permanent building or like structure shall be completely surrounded by a fence or wall not less than four feet in height and shall be constructed as not to have openings, holes or gaps larger than four inches in its narrow dimension. A building may be used as part of such fence.
  - (2) Access to any such permanent structure shall be through a gate or gates in the fence which shall be equipped with self-closing and self-latching devices for the purpose of keeping the same closed at all times when not in actual use, except that the door of any building which forms a part of the fence need not be so equipped.
- (d) *Protection devices for portable units.*
- (1) In lieu of the fence required, access to a portable unit having retaining walls the top of which at its lowest dimension is at least 36 inches above ground level, may be controlled into the pool water by means of a ladder, steps, or similar device which can be connected and disconnected from the sides of the pool for access purpose.
  - (2) No controlled access device shall be connected or attached to a pool so as to afford access during those periods of time the swimming pool is not in actual use by a member of authorized families or their guests.
- (e) *Shielding lights.* All lights used to illuminate a private swimming pool be so arranged, shaded and set as to reflect the light away from any adjoining street or premises.
- (f) *Permits required.* No private swimming pool shall be constructed, erected, or established unless zoning and building permits are first obtained from the village clerk or other authorized officer of the village.
- (g) *Plans to be submitted.*
- (1) Any person, firm or corporation desiring to locate, construct, erect or maintain any private swimming pool shall submit plans and/or information to the village clerk showing full compliance with the requirements of this chapter.
  - (2) The village clerk may require the approval of the building inspector on any application and shall require such approval on any application for an in-ground unit. The required fee shall be paid with the application and shall not be returned.
- (h) *Existing swimming pools.* Any private swimming pool, other than a portable unit, installed prior to the effective date of the ordinance from which this chapter is derived that does not conform with the location provisions of this chapter may continue to be operated in its present location until such time as alterations involving 50 percent of its original cost are made. Provisions of this chapter other than those relating to location shall be complied with unless a variance is granted by the village board.
- (i) *Covers.* During the periods of the year that a private swimming pool not enclosed in a building or other permanent structure is not in use, it shall be covered with a cover sufficiently strong and sufficiently anchored to support at least 1,000 pounds.

(Prior Code, ch. 10, § 6.01.030)

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### Sec. 36-569. Public swimming pools.

- (a) *Minimum standards.* No public swimming pool shall be constructed, maintained, or operated which does not fully comply with the minimum standards established by the state board of health. There is hereby adopted and by reference made a part of this chapter as if fully set forth herein the following provisions of Wisconsin Administrative Code, as the same may from time to time be amended.
- (b) *Users.* Each person responsible for the operation of a public swimming pool shall require users of such pool to comply with the rules established by the state board of health. There is hereby adopted and by reference made a part of this chapter as if fully set forth herein Wis. Admin. Code ch. ATCP 76, as the same may from time to time be amended.
- (c) *Additional rules.* The village health officer may from time to time propose rules which are deemed desirable for the health or safety of users of public swimming pools which shall become effective upon approval of the village board. Such health officer may require the person responsible for operation of any swimming pool to furnish to such health officer, and to file with the village clerk, copies of any rules which such person proposes to apply to the operation of such pool or to govern the conduct of users, and may require such person to enforce any such rules.
- (d) *Public swimming pool permit, construction, and operation.*
  - (1) *Permit required.* After the effective date of the ordinance from which this chapter is derived, no person, firm or corporation shall construct, establish or maintain, or make any major alteration to a public swimming pool without a written permit issued by the village clerk.
  - (2) *Plans and specifications.* Any person, firm or corporation wishing to obtain a permit shall file a request for such permit with the village clerk. The request shall be accompanied by a copy of a letter showing transmittal of plans and specifications for such public swimming pool as required by the state board of health and shall also furnish the names and addresses of the owner and the architect or engineer and the location of the proposed swimming pool. Each application shall be accompanied by a fee in the amount provided in the village fee schedule.
  - (3) *Standards of operation.* Every application for a permit shall be accompanied by a statement confirming that it has and will continue to fully comply with the minimum standards established by the state board of health as to each of the following:
    - a. Pool temperature.
    - b. Pool water heaters.
    - c. Disinfection agent.
    - d. Point of addition of disinfection agent.
    - e. Method of addition of disinfection agent.
    - f. Alkali feed.
    - g. Residual chlorine and pH testing standards.
    - h. Water quality standards.
    - i. Lighting.
    - j. Vacuum cleaning system.
    - k. Lifesaving equipment.
    - l. Food service.
    - m. Rules governing users of the pool.
  - (4) *Approvals.* No permit shall be issued until there is on file with the village clerk the following approvals in addition to a zoning permit and a building permit, if required:
    - a. Approval of the state board of health of the plans and specifications for the pool.



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- b. Approval of the village health officer of the standards of operation filed with the application.

### (5) *Construction.*

- a. No actual construction or alteration of a public swimming pool shall be commenced unless the appropriate permits have been issued. The issuance of any permit shall not prevent revocation of such permit when issued in error. Upon revocation of such permit, all construction shall cease.
- b. Construction shall be in accordance with the plans as approved. No change or modification of any item governed by this chapter shall be made unless the approval of the appropriate officer is first filed with the village clerk and additional approvals, if any, are granted.
- c. Construction shall commence within six months after issuance of the permit and shall be completed within six months after commencement unless the time for completion is extended by the village board.

### (6) *License required.*

- a. *Annual license.* No public swimming pool shall be used or operated until a valid license has been obtained from the village clerk. Such license shall be issued annually for a license year commencing July 1 and ending June 30, after an inspection by the appropriate village officials reveals that the swimming pool is in full compliance with this chapter.
- b. *Display of license.* Such license shall be publicly displayed in the pool area. Such license may contain whatever limitations as are deemed necessary by the village health officer for the protection of the public.
- c. *Fee.* The fee for a license shall be in accordance with the fee schedule adopted by the village board.
- d. *License and suspension.* The village clerk shall suspend the operating license issued to any person upon ten days written notice to the licensee at any time that a health official having jurisdiction files a written statement of the failure of such licensee to operate or maintain the swimming pool in conformity with this chapter and the rules and regulations pursuant thereto, unless prior to the expiration of such ten days, or such additional time as may be authorized by the health official such failure to operate or maintain the public swimming pool in conformity with this chapter and the rules and regulations adopted pursuant thereto has resulted in a serious and immediate hazard to the health and safety of any person, such health official may summarily suspend the license and close the public swimming pool until such time as compliance has been obtained and the license reinstated.

(Prior Code, ch. 10, § 6.01.040)

### **Sec. 36-570. Competitive codes.**

The provisions of this chapter shall not abrogate the responsibility of any person to comply with any provision of state codes or other applicable village ordinances. Where there is a conflict, the most stringent regulation shall apply.

(Prior Code, ch. 10, § 6.01.050)

### **Sec. 36-571. Penalty.**

Any person, firm or corporation violating any provision of this chapter shall be required to pay a penalty in an amount specified in the schedule of fees adopted by the village board. Each day that a violation continues shall be considered a separate offense.

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(Prior Code, ch. 10, § 6.01.060)

**Secs. 36-572—36-590. Reserved.**

### DIVISION 3. - SIGNS AND BILLBOARDS

**Sec. 36-591. Permitted uses.**

Signs four feet by four feet or less in size; "To Let," "For Rent," or "For Sale" signs; resident names and addresses; and signs required to be permitted by law.

(Prior Code, ch. 10, § 6.02.010)

**Sec. 36-592. Conditional uses.**

Except as specifically permitted by conditional use permit issued under this chapter, no person, firm or corporation shall erect, maintain, or permit to remain upon any lot within the village any billboard, sign or advertising device exceeding four feet by four feet in size and no signs or signboards of any character, kind or description shall be maintained on any lot.

(Prior Code, ch. 10, § 6.02.020)

**Sec. 36-593. Violations.**

Any violation of this provision is hereby declared a public nuisance.

(Prior Code, ch. 10, § 6.02.030)

**Secs. 36-594—36-619. Reserved.**

### DIVISION 4. - SOLAR ENERGY SYSTEMS

**Sec. 36-620. Conditional use.**

- (a) The use of solar energy systems including solar collectors, storage facilities, and distribution components for space heating and cooling, and domestic hot water heating is a conditional use within residential, agricultural, institutional, and business districts, whether as part of a structure or accessory to a principal structure or group of structures.
- (b) The use of solar energy systems is subject to the restraints imposed by the diversity of topography within the village plus the zoning and setback limitations contained in this chapter and existing trees. No guarantee is hereby given that all property within the corporate limits of the village can use solar energy systems. However, as a general policy, reasonable care should be taken to protect the opportunity for the utilization of solar energy systems at all of the locations available.

(Prior Code, ch. 10, § 6.03.010)

**Sec. 36-621. Neighboring property.**

Installation of a solar collector on a property shall create no right to object to permitted uses on neighboring property because such use does, will, or may impair the use of such collector, except as such rights are granted by state law. When a property owner wishes to install a solar collector he should obtain a solar skyspace easement from the abutting property owners to protect the solar access of the proposed collector. Evidence of such an easement should be submitted as a part of the application for a conditional use permit.

(Prior Code, ch. 10, § 6.03.020)

**Secs. 36-622—36-645. Reserved.**

**DIVISION 5. - SATELLITE DISHES, RECEIVERS, AND OTHER EQUIPMENT**

**Sec. 36-646. Permitted use.**

The installation of satellite dishes, receivers, or receptors with a diameter or length less than 36 inches may be attached to the principal structure or placed in the side or rear yard.

(Prior Code, ch. 10, § 6.04.010)

**Sec. 36-647. Conditional use.**

The installation of satellite dishes, receivers or receptors with a diameter or length greater than 36 inches, and/or cable components placed outside a residence or building or on the roof of any residence or building is a conditional use within residential, agricultural, commercial and business districts, whether as part of a structure or accessory to a structure or group of structures.

(Prior Code, ch. 10, § 6.04.020)

**Sec. 36-648. No guarantees.**

The use of satellite dishes, receivers and/or receptors is subject to the restraints imposed by the diversity of topography within the village plus the zoning and setback limitations contained in this chapter. The use of satellite dishes, receivers or receptors may be aesthetically unpleasing to the general public and surrounding property owners. No guarantee is hereby given that all property within the corporate limits of the village can successfully use satellite dishes, receivers and/or receptors.

(Prior Code, ch. 10, § 6.04.030)

**Sec. 36-649. Permanent foundations.**

Should the satellite dish, receiver or receptor require a permanent foundation or concrete base, applicant must obtain a building permit in addition to a conditional use permit.

(Prior Code, ch. 10, § 6.04.040)

**Secs. 36-650—36-671. Reserved.**

ARTICLE VIII. - WIRELESS FACILITIES

**Sec. 36-672. Federal Telecommunications Act incorporated.**

The Federal Telecommunications Act of 1996 requires certain procedures to be followed in determining whether wireless facilities may be placed in the village, and in compliance with such Act, the provisions set out in this article shall be followed.

(Prior Code, § 18.09)

**Sec. 36-673. Duty of village.**

The village will continue to regulate the placement, construction and modification of wireless facilities consisting of any and all structures exceeding 40 feet in height designed to operate an antenna or transmission facility or to allow the attachment of wireless transmitting or receiving facilities to the structure.

(Prior Code, § 18.09)

**Sec. 36-674. Laws applicable.**

In addition to this article, the village will continue to apply all applicable federal, state and local ordinances to the placement, construction and modification of wireless facilities.

(Prior Code, § 18.09)

**Sec. 36-675. Requirements.**

In making any decisions concerning the placement, construction or modification of any wireless facility as that term is defined by the Federal Telecommunications Act of 1996, the village board of trustees and the planning commission shall require:

- (1) *Transcript.* The decision-making body will keep a tape recording of the discussion and vote in addition to the minutes of the decision. The tape will be maintained by the village for one year following the particular meeting.
- (2) *Written record.* The decision-making body will prepare a written record supporting its decision based upon all documents and testimony in opposition to the petition and all documents in support of the petition, as well as written recommendations by the zoning administrator, transcripts of any applicable public hearings, the appropriate applicable sections of the comprehensive zoning ordinance or neighborhood plans, any applicable sections of the SEWRPC planning documents, written letters or comments by the public, any empirical analysis, studies or reports by persons having specific knowledge applicable to the issues, and any other records, documents or reports deemed applicable by petitioner, staff or the decision-making body.
- (3) *Decision.* All final decisions made by any village regulatory body or the village board of trustees will be in written form stating with particularity the specific reasons for the decision. The final written decision will incorporate and refer to those portions of the written record upon which the decision is based. In addition, the written decision if prohibiting the requested use or structure will advise the petitioner of his appeal rights.

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(Prior Code, § 18.09)

### **Sec. 36-676. Violations.**

It shall be unlawful to create, erect or improve any structure or wireless facility covered by this chapter without the specific approval of the village. In case of any violation, the village attorney, the village zoning administrator or the village plan commission may institute an appropriate action or proceeding to enjoin a violation of this chapter or cause a structure to be vacated or removed. Any action taken by the village or its designated representatives described herein to enjoin or cause to be vacated or removed will be in addition to those rights possessed by the village as set forth in section 36-677.

(Prior Code, § 18.09)

### **Sec. 36-677. Penalties.**

Any person failing to comply with this chapter or any order of the zoning administrator issued in accordance with this chapter or resisting enforcement shall, upon conviction thereof, be liable for such equitable relief as a court shall grant and shall forfeit not less than \$1,000.00 nor more than \$2,000.00 and costs of prosecution for each violation. Failing to follow an order of the zoning administrator to remove, halt construction or vacate a structure found to be in violation of this chapter shall be considered a separate violation for each day the violation exists or continues. The monetary penalties may be demanded by the village prior to issuing any conditional use permit, variance or building permit for the structure.

(Prior Code, § 18.09)

### **Secs. 36-678—36-697. Reserved.**

## **ARTICLE IX. ADMINISTRATION**

### **DIVISION 1. - GENERALLY**

#### **Sec. 36-698. Conditional use; right to conditional use.**

A conditional use as provided for in this chapter is a use which may be permitted in a particular zoning district. It is not permitted until approved in the manner provided in this chapter. If a use or a structure is not specifically permitted or prohibited, and is of a character which could be compatible with the principal use or structure, such use may be allowed as a conditional use.

(Prior Code, ch. 10, § 7.01.010)

#### **Sec. 36-699. Application.**

Applications for conditional use shall be made in triplicate to the zoning administrator and shall include the following:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.

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- (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by a registered land surveyor showing all of the information required for a zoning permit and in addition, the mean and historic high-water lines, on or within 40 feet of the subject premises, and existing and proposed landscaping.
- (4) Fee receipt from the zoning administrator.

(Prior Code, ch. 10, § 7.01.020)

### **Sec. 36-700. Referral to plan commission.**

Each application for conditional use shall be referred to the plan commission which shall review it. The plan commission may make a preliminary determination to deny or to approve such application subject to such reasonable conditions as may be imposed.

(Prior Code, ch. 10, § 7.01.030)

### **Sec. 36-701. Public hearing.**

- (a) A public hearing will be scheduled for the same date as the request for a conditional use permit. All residents and property owners within 300 feet of the site will be notified.
- (b) The zoning administrator will initially present his facts and recommendation, followed by the applicant or his representative. The public hearing will then be conducted, if required. The plan commission will make its decision after the public hearing unless additional information is required.
- (c) A copy of all notices for public hearing on applications for conditional uses in the floodland and shoreland/wetland overlay districts, including a copy of the application, shall be transmitted to the state department of natural resources (DNR) for review and comment. Final action on floodland and shoreland/wetland applications shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first.

(Prior Code, ch. 10, § 7.01.040)

### **Sec. 36-702. Standards in reviewing conditional uses.**

In reviewing the proposed conditional uses, the plan commission shall be guided by the following standards and requirements.

- (1) All conditional uses must be in accordance with the purpose and intent of this chapter and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the village.
- (2) A review of the site shall be conducted, including existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed uses, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.
- (3) Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, floodproofing, ground cover, diversions, silting basins, terraces,

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stream bank protection, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, additional parking or other conditions may be required by the plan commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter and the State Water Resources Act of 1965, and to meet the provisions of state's floodplain, shoreland and wetland management programs.

- (4) Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic highway access and performance standards, shall be required of all conditional uses.
- (5) With respect to conditional uses within shorelands, the application must comply with the standards set forth in Wis. Stats. § 144.26(5)(a), in particular as they relate to the avoidance or control of pollution.

(Prior Code, ch. 10, § 7.01.050)

### **Sec. 36-703. Decision.**

- (a) The plan commission shall decide all applications, except applications for floodland and shoreland/wetland conditional uses, within 30 days after the public hearing and shall transmit a signed copy of its decision to the applicant and to the village clerk.
- (b) Decisions on floodland and shoreland/wetland district applications shall be made within 30 days of receipt of the state department of natural resources recommendation. A copy of all floodland and shoreland/wetland conditional use decisions shall be transmitted to the department of natural resources within ten days of their effective date.
- (c) Report to village board. Each decision of the plan commission shall be reported to the village board at its next regular monthly meeting. The village board may approve, reverse, or modify such decision, or may hold a public hearing and render its decision.
- (d) Written decisions. All conditional uses shall be approved in writing. Such writing shall state all conditions which are imposed, all variations if any from underlying zoning requirements and all agreements made by the owners.

(Prior Code, ch. 10, § 7.01.060)

### **Sec. 36-704. Expiration of conditional uses.**

Conditional uses or temporary uses granted shall expire within six months of the date of the written approval unless substantial work has commenced pursuant to such grant. A copy of all decisions granting or denying applications for a conditional use or a temporary use for property located in a floodland or shoreland or shoreland/wetland area shall be transmitted by the plan commission to the state department of natural resources and the Region 2 water resources advisory board within ten days.

(Prior Code, ch. 10, § 7.01.070)

### **Secs. 36-705—36-721. Reserved.**

## DIVISION 2. - PLANNED DEVELOPMENT OVERLAY PROCEDURE

**Sec. 36-722. Procedure; preliminary conference.**

Prior to formal submission of a petition for consideration of a planned development project, the petitioner shall meet with the plan commission upon its request for a preliminary discussion with respect to the scope and nature of the proposed development.

(Prior Code, ch. 10, § 7.02.010)

**Sec. 36-723. Petition.**

A petition shall be made to the village board by the owners of the real estate proposed for such development for the approval of a specific project plan under the provisions of this chapter. Such petition shall contain or be accompanied by the following information:

- (1) Names and addresses of the owners of the real estate included in the proposed planned development; in the case of corporate owners, the names and addresses of their principal officers, if a state corporation, or their registered agents, if a foreign corporation; and in the case of partnerships or joint ventures, the names and addresses of all interested parties.
- (2) A statement describing the general character of the intended development along with such other information which would be pertinent to a determination of the suitability and desirability of approving the proposed planned development on the particular site. This statement should include at least the following:
  - a. Statistical data on total size of project area, area of open space, density computation and proposed number of residential units, population analysis, impact upon municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
  - b. A general summary of financial factors, such as value of structures, estimated improvement costs, amount proposed for landscaping and special features, estimated sale or rental price, total anticipated development cost of the project and proposed financing.
  - c. General outline of intended organizational structure such as property owner's association, deed restrictions and provision for services.

(Prior Code, ch. 10, § 7.02.010)

**Sec. 36-724. Submission of general development plan.**

A general development plan of the project shall be submitted showing at least the following information and such additional information as may be required by the plan commission or village board in a specific situation and in sufficient detail to allow the plan commission and village board to apply the criteria for approval as hereinafter set forth:

- (1) Plat of survey of the project area referenced to corner monuments and prepared by a land surveyor registered in the state, including the relationship of the subject property to surrounding properties.
- (2) The pattern of public and private roads, driveways, parking facilities, and intended design standards.
- (3) The type, size, arrangement, and location of lots and proposed building groups.
- (4) Preliminary plans for the location of sanitary sewers and water facilities.



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- (5) Preliminary architectural drawings and sketches illustrating the design and character of proposed structures.
- (6) The location of recreational and open space areas and areas reserved or dedicated for public uses, such as schools and parks.
- (7) The location of environmentally sensitive areas, such as natural drainageways, wetlands and woodlands.
- (8) General landscape treatment.
- (9) The type, size, and location of structures.

(Prior Code, ch. 10, § 7.02.010)

### **Sec. 36-725. Consideration by plan commission.**

Such petition shall be referred to the plan commission and processed as a petition for zoning change. Upon completion of necessary study, investigation and public hearing, the plan commission shall make its recommendation to the village board with respect to appropriateness, desirability and suitability of the proposed development plan and any changes or additional conditions applicable to such plan which it may determine to be necessary or appropriate.

(Prior Code, ch. 10, § 7.02.010)

### **Sec. 36-726. Public hearing.**

Upon receipt of the recommendation of the plan commission, the village board shall hold a public hearing pursuant to state law and village ordinance regarding zoning amendments. Notice of such hearing shall include reference to consideration of the proposed project development plan.

(Prior Code, ch. 10, § 7.02.010)

### **Sec. 36-727. Basis for approval.**

The plan commission in making its recommendations and the village board in making its determination shall give consideration to the purposes set forth in this chapter and shall be satisfied with respect to the following:

- (1) That the proposed development is consistent with the spirit and intent of this chapter; is in conformity with the general character of the village; is in harmony with the comprehensive zoning plan; will not be contrary to the general welfare and economic prosperity of the village or of the immediate neighborhood; that the benefits from improved design of the resultant development justify the variation from the requirement of any other section of the village ordinances through the application of the planned development overlay district.
- (2) That the proponents of the proposed development have demonstrated that they intend to start construction within one year following the approval of the project and requested planned development overlay district; that the project appears economically sound; and that the proponents of the proposed development appear to have financial stability and the capacity to carry out the project as proposed.
- (3) That the size, quality, and architectural design of all buildings in the project will be compatible with the general character of the village and the surrounding neighborhood. The following criteria shall be applied in making such determination:

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- a. No building shall be permitted if the design or exterior appearance is of such unorthodox or abnormal character in relation to the surroundings as to be unsightly or offensive to generally accepted taste.
  - b. No individual building shall be permitted if the design or exterior appearance is so identical with those adjoining so as to create excessive monotony and drabness. In applying this standard to attached or row buildings, to apartment groupings, or commercial centers, the overall composition and aesthetic effect shall be considered.
  - c. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades in the development and in the immediately surrounding area, and presents an attractive appearance to the public and to surrounding properties.
  - d. No building 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 unreasonably affect adversely on adjoining properties.
- (4) That setbacks shall be maintained along any boundary street of the project area as required by the existing underlying zoning district.
  - (5) That the specific project plans have been prepared with competent professional advice and guidance.
  - (6) That no building shall be permitted closer to a side or rear boundary lot line of the project area than required by the applicable side or rear yard requirements of the adjoining zoning district.
  - (7) That no building shall exceed the height limitation required by the existing underlying zoning district, unless it is set back from the boundary of the project area distance equal to the height of the building, but no building shall exceed three stories in height.
  - (8) That such development will create an attractive environment of sustained desirability and economic stability, compatible with the character of the village, and that the anticipated economic impact of the development in terms of property values and service demands is at least as beneficial to the community as that which could reasonably be anticipated in the existing underlying zoning district.
  - (9) That the development will result in the preservation of open land and environmentally sensitive areas in a manner which will enhance the total environmental setting and desirability of the development and compensate for any reduction in individual lot area requirements which would be allowed.
  - (10) That an adequate guarantee is provided for permanent retention as "open space" of the residual open land areas resulting from the application of this chapter, either by private reservation as an enhancement to the development or by dedication to the village.
  - (11) That in the case of private reservation the open area to be reserved will be protected against building development by conveying to the village as part of the conditions for project approval an open space easement over such open areas, restricting the area against any future building or use, except as is consistent with providing natural or landscaped open space contributing to the environmental enhancement of the development; provided, however, that buildings or uses for recreational or cultural purposes compatible with the open space objective may be permitted within open space easements where specifically authorized as part of the development plan as originally approved or subsequently amended.
  - (12) That the care and maintenance of such private open space reservations will be ensured either by establishment of an appropriate management organization for the development, or by agreement with the village for establishment of a special service district for the development area on the basis of which the village shall provide the necessary maintenance service and levy the cost thereof as a special assessment on the tax bills of properties within the development area. In the event that the management organization for the development should breach its agreement with

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the village with respect to the care and maintenance of such open space, then the village may perform the obligations of such management organization and levy an assessment for the cost of such performance by the village against the property within the development area. The manner of ensuring maintenance and assessing such cost to the individual properties shall be determined prior to the approval of the final project plans and may be required to be included in the title to each property.

- (13) That ownership of private open space reservation areas will be established in a manner acceptable to the village and made a part of the conditions for approval for approval of the development plan.

(Prior Code, ch. 10, § 7.02.020)

### **Sec. 36-728. Determination.**

- (a) *Authority of village board.* The village board after due consideration may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions.
- (b) *Conditions.* The approval of a petition for a planned development overlay district shall be based upon and shall include as conditions thereto, the building, site, and operational plans for the development as approved, as well as all other commitments offered or required regarding project value, character, and other factors pertinent to an assurance that planned development will be completed and maintained as presented in the petition. Detailed construction and engineering plans need not be completed at the time overlay zoning is permitted; but the approval of preliminary plans may be conditioned upon the subsequent submission and recommendation by the plan commission, approval by the building inspector and architectural review board, where necessary, and approval by the village board, of more specific and detailed plans as the development progresses.
- (c) *Performance assurances.* The owners of the real estate proposed for planned development, or the planned development management organization, as may be required by the village board, shall enter into a contract with the village to guarantee the implementation of the planned development according to the terms and conditions established as part of the development plan approval.

(Prior Code, ch. 10, § 7.02.030)

### **Sec. 36-729. Changes in or additions to an approved plan.**

- (a) *Action by plan commission.* Any substantial subsequent change in or addition to an approved plan shall be submitted to the village board and then referred by the village board to the plan commission and processed as a petition for a zoning change. After due consideration the plan commission shall make its recommendations to the village board.
- (b) *Action by village board.* The village board after due consideration may deny the change in or addition to an approved plan or approve the change or addition subject to additional conditions. The village board shall make such determination in accordance with the procedure required for a zoning change.
- (c) *Substantial changes.* Without limiting the right of the village board to determine that any other change in or addition to an approved plan is substantial, the following changes or additions shall be deemed to be substantial:
- (1) A change in the number of dwelling, business or other units from that shown in the approved development plan.
  - (2) A significant change in the size, value, or type of structure from that indicated in the approved development plan.
  - (3) A change in any principal uses from that included in the approved development plans.

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- (4) A change in the basic concept of site development which would significantly alter the relationship of uses or open space with respect to adjoining properties.
- (d) *Noncompliance.* Failure to comply with the conditions and regulations as herein established and as specifically made applicable to an approved planned development shall be cause for suspension or termination of the approval for the planned development and for repeal of the planned development overlay district. At least 30 days' notice shall be given to the parties to the contract with the village to appear before the plan commission and answer any such charge of noncompliance if the plan commission finds the charges substantiated, it may recommend suspension or termination of the planned development approval and repeal of the planned development overlay district, if the noncompliance is not satisfactorily adjusted within a specified period. The village board shall review the determination of the plan commission, and the basis thereof, and may give the parties to the contract with the village an opportunity to appear before the village board and answer any such charge of noncompliance. If the village board finds the charges substantiated, it may suspend or terminate approval of the planned development and repeal the planned development overlay district if such noncompliance is not satisfactorily adjusted within a specified period.

(Prior Code, ch. 10, § 7.02.040)

**Secs. 36-730—36-756. Reserved.**

### DIVISION 3. - NONCONFORMING USES AND STRUCTURES AND SUBSTANDARD LOTS

#### **Sec. 36-757. Nonconforming uses and structures.**

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Development regulations* means the part of village zoning regulations that apply to elements including setback, height, lot coverage, and side yard.

*Nonconforming structure* means a dwelling or other building that existed lawfully before the current zoning regulations were enacted or amended, but that does not conform to one or more of the development regulations therein.

- (b) *Limitations on continuation.* The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this section may be continued although the use does not conform to village zoning regulations; provided, however, that the use may not be extended. In addition, the total structural repairs or alterations in such a nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use. If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to the ordinance.
- (c) *Restoration or replacement of certain nonconforming structures.* A nonconforming structure may be restored or replaced if the structure is restored to, or replaced at, the size, location, and use that it had immediately before the damage or destruction occurred if the nonconforming structure was damaged or destroyed on or after March 2, 2006, and if the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation. The size of the replaced or restored structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.
- (d) *Substitution of equipment.* Substitution of equipment may be permitted by the board of appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

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(Prior Code, ch. 10, § 7.03.010)

**State Law reference**— Similar provisions, Wis. Stats. § 62.23(7).

### **Sec. 36-758. Abolishment or replacement.**

- (a) If a nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this chapter.
- (b) When a nonconforming use or structure is damaged by fire, explosion, flood, or other calamity, to the extent of more than 50 percent of its assessed value, it shall not be restored except so as to comply with the use provisions of this chapter.
- (c) A current file of all nonconforming uses shall be maintained by the zoning administrator listing the following: property location; use of the structure, land or water; and equalized assessed value at the time of its becoming a nonconforming use.

(Prior Code, ch. 10, § 7.03.020)

### **Sec. 36-759. Existing nonconforming structures.**

The use of a structure existing at the time of the adoption or amendment of the ordinance from which this chapter is derived may be continued although the structure's size or location does not conform with the lot widths lot area, yard, height, parking, loading, and access provisions of this chapter; however, it shall not be extended, enlarged, reconstructed, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.

(Prior Code, ch. 10, § 7.03.030)

### **Sec. 36-760. Changes and substitutions.**

Once a nonconforming use has been changed to a conforming use or a nonconforming structure has been altered so as to comply with the yard, height, parking, loading, and access provisions of this chapter, it shall not revert back to a nonconforming use or substandard structure.

(Prior Code, ch. 10, § 7.03.040)

### **Sec. 36-761. Floodland nonconforming uses.**

Floodland nonconforming uses repaired or altered under the nonconforming use provisions of this chapter shall provide for floodproofing to those portions of the structures involved in such repair or alterations. Certification of floodproofing shall be made to the zoning administrator and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the 100-year recurrence interval flood.

(Prior Code, ch. 10, § 7.03.050)

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### **Sec. 36-762. Substandard lots.**

- (a) A substandard lot is one which is smaller in size than required for one-family dwelling purposes by the provisions of this chapter or any amendment to it and was a legal lot or parcel of record in the office of the register of deeds prior to the effective date of the ordinance from which this chapter is derived or applicable amendment to it. In any district where otherwise permitted, a one-family dwelling and its accessory structures may be erected on a substandard lot if there is compliance with each of the following requirements. All substandard lots in separate ownership shall comply with all relevant district and shoreland requirements insofar as practicable, but shall in no event be less than the following:
- (1) Lot width, minimum: 30 feet.
  - (2) Lot area, minimum: 4,000 square feet.
  - (3) Building height, maximum: 30 feet.
  - (4) Yards:
    - a. Street, minimum: 25 feet.
    - b. Second street on corner lot, minimum: 15 feet.
    - c. Rear, minimum: 25 feet.
    - d. Side, minimum: 16 percent of the frontage, but not less than five feet.
    - e. Shore, minimum: 50 feet.
- (b) If both an abutting lot or lands and a substandard lot are owned by the same owner on the effective date of the ordinance from which this division is derived, or if an abutting lot or lands and a substandard lot become owned by the same owner subsequent to the effective date of the ordinance from which this chapter is derived, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter or such compliance as is possible by their then commonly owned lands. For the purposes of this section, lots and property shall be considered in the same ownership when owned by: the same individual or corporation; an individual and another in joint tenancy, or as tenants in common, and either of the joint or common tenants owns other abutting lots or lands individually or as a joint tenant or tenant in common with another; an individual and other abutting lots are owned by his spouse, parents, grandparents, children, grandchildren, or the spouse of any child or grandchild, or a brother or sister or spouse of a brother or sister of such person; and when any of the lots are owned by an individual and other abutting lots are owned by a corporation in which the individual is an officer or director or controlling stockholder.

(Prior Code, ch. 10, § 7.03.060)

### **Secs. 36-763—36-792. Reserved.**

## DIVISION 4. - BOARD OF APPEALS

### **Sec. 36-793. Establishment, membership and organization.**

- (a) *Board established.* The board of appeals is established pursuant to Wis. Stats. § 62.23.
- (b) *Members.* The board of appeals shall consist of five members appointed by the village president and confirmed by the village board. The board members shall serve three year terms. No member of the board of appeals may also be an incumbent elected official of the village. The members of the board shall serve at such compensation to be fixed by ordinance, and shall be removable by the village president for cause upon written charges and after public hearing. The village president shall designate one of the members as chairperson of the board of appeals. Vacancies shall be filled for unexpired

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terms of members whose terms become vacant. Vacancy appointments shall be made by the village president and approved by the village board.

- (c) *Alternate members.* The village president may appoint, for terms of three years, two alternate members of such board in addition to the five members above provided for. Annually, the village president shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a regular member of the board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.

(Prior Code, ch. 10, § 7.04.010)

### **Sec. 36-794. Rules of procedure.**

The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this section. Robert's Rules of Order shall control the procedure of the board. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(Prior Code, ch. 10, § 7.04.020)

### **Sec. 36-795. Appeals procedure and filing.**

Appeals to the board of appeals may be taken as provided by Wis. Stats. § 62.23(7)(e) by any person aggrieved or by an officer, department, board or bureau of the village affected by any decision of the zoning administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the board of appeals, by filing with the zoning administrator and with the board of appeals a notice of appeal specifying the grounds thereof.

(Prior Code, ch. 10, § 7.04.030)

### **Sec. 36-796. Appeal application.**

Such appeals and application shall include the following:

- (1) Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- (2) Plat of survey prepared by a registered land surveyor showing all of the information required under section 36-911 for a zoning permit.
- (3) Additional information required by the plan commission, village engineer, board of appeals, or zoning administrator.
- (4) Fee receipt from the village treasurer in the amount required for board of appeals hearings. The zoning administrator shall forthwith transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken.

(Prior Code, ch. 10, § 7.04.040)

**Sec. 36-797. Appeal hearings.**

The board of appeals shall fix a reasonable time and place for the hearing of the appeal or application, give public notice thereof by publication at least once during two consecutive weeks the last publication being no later than one week before the hearing, and shall give due notice to the parties in interest, the officer from whom the appeal is taken and the village plan commission. At the hearing, the appellant or applicant may appear in person, by agent, or by attorney. A copy of all notices of appeals or variances to the floodland and shoreland and shoreland/wetland of this chapter shall be transmitted to the state department of natural resources for review and comment. Final action on floodland appeals and variance requests shall not be taken for 30 days or until the state department of natural resources has made its recommendation, whichever comes first.

(Prior Code, ch. 10, § 7.04.050)

**Sec. 36-798. Powers of board of appeals.**

- (a) To hear and decide appeals where it is alleged, there is error in any order, requirement, decision or determination made by the zoning administrator.
- (b) To hear and decide special exceptions to the terms of this chapter upon which the board of appeals is required to pass. A copy of all decisions granting a special exception in floodlands shall be transmitted by the board's secretary to the state department of natural resources and the region two water resources advisory board within ten days.
- (c) To authorize upon appeal from the terms of this chapter, such variance, as will not be contrary to the public interest, where, owing to special conditions peculiar to a specific property, a literal enforcement 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.
- (d) To permit the change of nonconforming use to another nonconforming use of the same or higher classification.
- (e) To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan as shown on the district map accompanying and made a part of this chapter, where the street layout actually on the ground varies from the street layout on the map.
- (f) To have the powers provided by Wis. Stats. § 62.23(7)(e) or village ordinance.

(Prior Code, ch. 10, § 7.04.060)

**Sec. 36-799. Variances; required findings.**

No variance to the provisions of this chapter shall be granted by the board of appeals unless it determines that conditions of this section are met and so indicates in the minutes of its proceedings. In addition, the following provisions shall be met:

- (1) *Preservation of intent.* 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, accessory use, or conditional use in that particular district.
- (2) *Exceptional circumstances.* There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
- (3) *Economic hardship and self-imposed hardship not grounds for variance.*



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- a. No variance shall be granted solely on the basis of economic gain or loss.
  - b. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- (4) *Preservation of property rights.* The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- (5) *Absence of detriment.* No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

(Prior Code, ch. 10, § 7.04.070)

### **Sec. 36-800. Variance decision.**

- (a) *Authority.* The board of appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the zoning administrator. The concurring vote of four members of the board of appeals shall be necessary to reverse any order requirement, decision or determination appealed from or to decide in favor or the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this chapter.
- (b) *Time for decision.* The board of appeals shall decide all appeals and applications, except appeals and variance requests to the floodland provisions of this chapter, within 30 days after the final hearing. The board shall transmit a signed copy of the board's decision to the appellant or applicant, the officer from whom the appeal is taken, and the plan commission.
- (c) *Expiration of variances.* Variances and substitutions granted by the board of appeals shall expire within six months unless substantial work has commenced pursuant to such grant.
- (d) *Assistance from other officials.* The board of appeals shall have the right to call on any other village department for assistance in the performance of its duties and it shall be the duty of such other departments to render such assistance as may be reasonably required,
- (e) *Establishment of conditions.* In exercising any of its powers the board of appeals may in any finding or decision establish appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter.

(Prior Code, ch. 10, § 7.04.080)

### **Sec. 36-801. Review by court of record.**

Any person aggrieved by any decision of the board of appeals, or any taxpayer or any officer, department, board or bureau of the village may within 30 days after the filing of the decision in the office of the board of appeals, but not thereafter, present to a court of competent jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the ground of illegality, whereupon such decision of the board shall be subject to review as provided by law.

(Prior Code, ch. 10, § 7.04.090)

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**Secs. 36-802—36-825. Reserved.**

### DIVISION 5. - PLAN COMMISSION

**Sec. 36-826. Membership.**

The plan commission shall consist of seven members including the village president, village engineer, one trustee and four village electors appointed by the president with the approval of the board of trustees. The president shall be chairperson.

(Prior Code, ch. 10, § 7.05.010)

**Sec. 36-827. Terms of office.**

The terms of the citizen members shall be three years, except that the initial terms of the four first citizen members shall be for one year, two years, three years and three years. Such terms shall commence on May 1.

(Prior Code, ch. 10, § 7.05.020)

**Sec. 36-828. Election of officers.**

As soon is possible after their appointment, the members of the plan commission shall organize and elect a secretary. Each community member shall receive a stipend for each meeting attended. The amount will be determined by the village board. If the plan commission deems it necessary to secure technical advice or service, it may do so on authority from the board.

(Prior Code, ch. 10, § 7.05.030)

**Sec. 36-829. Powers.**

- (a) The plan commission shall have the power to prepare and recommend to the village board of trustees:
  - (1) A comprehensive plan of public improvements, looking to the future development of the village, which plan shall be known as the official plan. Such plan shall include reasonable requirements with reference to streets and public grounds in lands within the corporate limits of the village, not subdivided, and shall be effective whenever such land shall be subdivided;
  - (2) Such changes in the official plan as they deem necessary;
  - (3) Specific improvements in pursuance of such official plan.
- (b) The plan commission shall have the power to grant a permit for the extension of a general zoning district boundary for a distance of not more than 35 feet only where the boundary of a district divides a lot in a single ownership at the time of the adoption of the ordinance from which this chapter is derived.
- (c) The plan commission shall have the power to aid the officials of the village in carrying out the program of the plan commission.
- (d) The plan commission shall have the power to exercise such other powers as may be conferred by the village board of trustees, or by ordinance or statute.

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(Prior Code, ch. 10, § 7.05.040)

### **Sec. 36-830. Plat of subdivision.**

After the adoption of the official plan, no map or plat of any subdivision presented for record, affecting land within the corporate limits of the village, shall be entitled to record, or shall be valid, unless the subdivision thereon shown shall provide for streets and public grounds in conformity with the requirements of such official plan.

(Prior Code, ch. 10, § 7.05.050)

### **Sec. 36-831. Records.**

The plan commission shall keep written records of its proceedings which shall at all times be open to inspection by the board of trustees.

(Prior Code, ch. 10, § 7.05.060)

### **Sec. 36-832. Requests.**

Any request to the village board which relates to land use shall be received by the village board at its first meeting after submission of such request. It shall automatically be referred to the plan commission, and shall not be voted upon by the village board until a recommendation is made by the plan commission. This provision may be suspended by a two-thirds vote of the village board.

(Prior Code, ch. 10, § 7.05.070)

### **Secs. 36-833—36-857. Reserved.**

## DIVISION 6. - ZONING ADMINISTRATOR

### **Sec. 36-858. Creation of office.**

The office of zoning administrator for the village is hereby created for the village.

(Prior Code, ch. 10, § 7.06.010)

### **Sec. 36-859. Appointment.**

The village board may determine that the duties of the zoning administrator be performed by a designated village official, and the incumbent of such office shall be the zoning administrator. The village board may determine that a zoning administrator shall be appointed. Such appointment shall be made by the president of the village and confirmed by the village board, and the appointee shall hold such office for a term of two years or until a successor is appointed and confirmed. The village board may contract with another unit of government for the performance of the functions of the zoning administrator and the zoning administrator shall then be the person designated by such contract or the incumbent of the official position designated by such contract.

(Prior Code, ch. 10, § 7.06.020)

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### **Sec. 36-860. Deputies.**

The village board may appoint or may authorize the appointment of deputies to the zoning administrator.

(Prior Code, ch. 10, § 7.06.030)

### **Secs. 36-861—36-883. Reserved.**

## DIVISION 7. - ARCHITECTURAL REVIEW BOARD

### **Sec. 36-884. Creation.**

The architectural review board shall consist of six residents of the village. The village clerk shall be secretary of the architectural review board. Half of the voting members shall constitute a quorum. Action shall be by majority vote of the voting members present.

(Prior Code, ch. 10, § 7.07.010; Ord. No. 15-02, 6-11-2015)

### **Sec. 36-885. Permit approval required.**

- (a) No building permit for any building or structure to be constructed or erected in the village or any addition to or alteration of a building or structure within the village that alters more than 20 percent of the area of any single face or elevation of such building or structure shall be issued, unless it has been found by the architectural review board that the exterior architectural appeal and functional plan of the building or structure, when constructed or altered, will not be so at variance with nor so similar to the exterior architectural appeal and functional plan of the buildings and structures already constructed or in the course of construction in the immediate neighborhood so as to cause a substantial depreciation in the value of the property values in the neighborhood.
- (b) Replacement of architectural components with like or substantially similar components shall be permitted, as shall roof replacement and repairs, without review by the architectural review board. The building inspector shall refer all applications for building permits that are subject to the terms of this division to the architectural review board for approval hereunder. In the event of any uncertainty as to whether this section applies to any application, the building inspector may submit the application to the architectural review board for such determination.

(Prior Code, ch. 10, § 7.07.020)

### **Sec. 36-886. Application for architectural approval.**

- (a) The application for a building permit for a building or structure for which architectural approval is required hereunder shall include a scale drawing of all exterior elevations showing the design and appearance of the building or structure as proposed to be constructed or altered, including colors and textures of materials or samples thereof.
- (b) The architectural review board shall consider the application, the proposed site, and the existing buildings and structures in the immediate neighborhood. The architectural review board shall not consider the interior arrangement of the building or structure.

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- (c) The architectural review board may, if it desires, hear the applicant for the building permit in question or the owner of the lot on which it is proposed to erect the building or structure in question, together with any other persons desiring to be heard. Such hearings shall be on notice of not less than 48 hours. Notice shall be given to the applicant, the owner of the lot in question, and any other persons requesting notice, and shall be published in the manner prescribed by law. Such hearings may be adjourned from time to time, but for not more than three days, and within three days after the close of the hearing the architectural review board shall in writing make or refuse to make the finding required in section 36-885(a) and file it with the office of the village clerk. The village clerk shall furnish a copy of the decision to the applicant.

(Prior Code, ch. 10, § 7.07.030)

### **Sec. 36-887. Appeals.**

Any person aggrieved by any order or ruling of the architectural review board relative to the regulations and provisions of this chapter may appeal from such ruling to the board of appeals within ten days after written notice of such order or ruling shall have been given to the applicant. Such appeal shall be in writing setting forth the order or ruling appealed from and the respects in which the aggrieved party claims that the order or ruling is incorrect or illegal. The notice of appeal shall be filed with the village clerk and shall be placed on the agenda at the next regular meeting of the board of appeals. Within a reasonable time thereof, the board of appeals shall affirm, reverse, or modify the ruling. The ruling or order of the architectural review board shall be enforced until changed by the board of appeals.

(Prior Code, ch. 10, § 7.07.040)

### **Sec. 36-888. Interpretation in special cases.**

The board of appeals may interpret the provisions of the Code in a special case, if it appears that the provisions of the Code do not cover the point raised or that a manifest injustice may be done, provided that every such decision shall be consistent with the overall intent of the Code and shall be by two-thirds vote of the members of the board of appeals. Decisions as to the use of alternate materials and types of construction shall be by majority of the board of appeals.

(Prior Code, ch. 10, § 7.07.050; Ord. No. 15-02, 6-11-2015)

### **Secs. 36-889—36-909. Reserved.**

## DIVISION 8. - ZONING ENFORCEMENT, PERMITS, AND FEES

### **Sec. 36-910. Duties of zoning administrator.**

It shall be the duty of the zoning administrator, with the aid of the village police department and building inspector to enforce the provisions of this chapter. The zoning administrator shall keep a record of all permits and certificates issued, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in land or building. The zoning administrator shall also keep a record of all nonconforming uses, indicating any extension or changes thereof, with the dates of such changes or extensions.

(Prior Code, ch. 10, § 7.08.010)

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### **Sec. 36-911. Zoning permits.**

Applications for a zoning permit shall be made to the zoning administrator on forms furnished by the zoning administrator and shall include the following where applicable:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, or contractor.
- (2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds, referenced to the U.S. Public Land Survey System; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by a land surveyor registered in the state showing the location, property boundaries, dimensions, elevations, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side, rear, and shore yards; the location, yard grade (elevation), and use of abutting lands within 40 feet of the subject site; and the location of the high water elevation, except that a registered survey or a site plan may be submitted in lieu of a plat of survey at the discretion of the zoning administrator.
- (4) In addition, when the subject site contains floodlands, the permit application shall show the limits of the floodland, the lowest floor elevation (basement) of any proposed structure, the first floor elevation of any proposed structure, and the yard grade (elevation); and the first floor elevation and yard grade surrounding any abutting structure within 40 feet of the subject site.
- (5) As required by the zoning administrator or applicable state statutes, the applicant shall submit a construction site erosion control plan and a stormwater management plan. Such plans shall meet the minimum standards as established by the village in compliance with the appropriate village ordinances and state law.
- (6) Additional information shall be submitted as may be required by the plan commission, village engineer, zoning administrator, building, plumbing or health inspectors.

(Prior Code, ch. 10, § 7.08.020)

### **Sec. 36-912. Fees.**

As a condition of application, the applicant shall submit the fee required by the schedule of fees established by the village board.

(Prior Code, ch. 10, § 7.08.030)

### **Sec. 36-913. Review by village officials.**

The process of reviewing an application for a zoning permit may require site inspections by the zoning administrator and/or members of the plan commission, architectural review board or board of appeals. An application for a zoning permit shall constitute the applicant's authorization for the zoning administrator and members of these village boards and commissions to have access, at all reasonable times, to the premises that are the subject of the application.

(Prior Code, ch. 10, § 7.08.040)

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### **Sec. 36-914. Permit issuance.**

No vacant land shall be occupied, used, or developed; and no building erected, altered or moved; and no floodland shall be filled, excavated, or developed; and no nonconforming use shall be maintained, renewed or changed until a zoning permit shall have been issued by the zoning administrator. The zoning permit shall be issued or denied in writing by the zoning administrator within 30 days. If a permit is denied the reasons for such denial shall be given in writing. The permit shall expire six months after the date of issuance unless substantial work has commenced. Any permit issued in conflict with the provisions of this chapter shall be null and void.

(Prior Code, ch. 10, § 7.08.050)

### **Sec. 36-915. Certificate of compliance.**

- (a) *Required.* No vacant land shall be occupied, used, or developed; and no building erected, altered or moved shall be occupied; and no floodland shall be filled, excavated, or developed; and no nonconforming use shall be maintained, renewed or changed until a certificate of compliance shall have been issued by the zoning administrator upon receipt of verification of compliance with all zoning regulations of the village.
- (b) *Certificate of substantial compliance.* Upon written request from the owner, the zoning administrator shall issue a certificate of substantial compliance for any building or premises existing at the time of the adoption of this chapter certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this chapter.
- (c) *Statement of intended use.* No permit for excavation for, or erection of any building or part of a building or for repairs to or alterations of a building shall be issued until after a statement of its intended use has been filed by the applicant.
- (d) *Continuance of existing uses.* This chapter shall not prevent the continuance of the present occupancy or lawful use of any existing building, except as may be necessary for the safety of life and property.

(Prior Code, ch. 10, § 7.08.060)

### **Sec. 36-916. Other permits.**

It is the responsibility of a permit applicant to secure all other permits required by any federal, state, or local agency. This includes, but is not limited to, Wis. Stats. ch. 30 or a wetland fill permit pursuant to section 404 of the Federal Water Pollution Control Act, as amended. To this end, the zoning administrator shall determine to his satisfaction and the permit applicant shall certify that all necessary federal, state, and local permits have been secured.

(Prior Code, ch. 10, § 7.08.070)

### **Sec. 36-917. Public utilities.**

No permit shall be required for the necessary and customary construction, reconstruction or maintenance of overground or underground public utility neighborhood service lines and mechanical appurtenances.

(Prior Code, ch. 10, § 7.08.080)

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### **Sec. 36-918. Plat of survey.**

All dimensions shown relating to the location and size of the lot shall be based upon an actual survey or recorded plats. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

(Prior Code, ch. 10, § 7.08.090)

### **Sec. 36-919. Fees.**

Fees pertaining to petitions for zoning amendments, zoning permits, conditional use permits, certificates of compliance, variances, and for appeals to the board of zoning appeals, or to any other purpose under this chapter, shall be established by action of the village board from time to time. Such fees shall be paid to the village treasurer who shall give a receipt therefore, and shall be credited to the village treasury.

(Prior Code, ch. 10, § 7.08.100)

### **Sec. 36-920. Payment of village expenses.**

In addition to those fees established by the village board in accordance with section 36-919, each petitioner shall pay an additional fee equal to all expenses incurred by the village in the consideration of the petition. Such expenses shall include costs of notices and hearings, legal fees, engineering fees, and fees of other consultants, and any other costs which the village may reasonably incur. The village board may require that a bond or deposit be made by the petitioner prior to consideration of the petition. No zoning amendment, variance, or conditional use approval shall become effective nor shall any use permits, certificates of compliance building permits, or permits of any other kind be issued until all such additional fee is paid the village.

(Prior Code, ch. 10, § 7.08.110)

### **Secs. 36-921—36-943. Reserved.**

## DIVISION 9. - VIOLATIONS AND PENALTIES

### **Sec. 36-944. Violations.**

Any building or structure erected, moved or structurally altered or any use established in violation of any of the provisions of this chapter shall be deemed an unlawful building, structure or use. The zoning administrator shall promptly report all such violations to the village attorney, who may bring action to enjoin the erections, moving or structural alteration of such building or the establishment of such use or to cause such building, structure or use to be vacated or removed.

(Prior Code, ch. 10, § 7.09.010)

### **Sec. 36-945. Penalties.**

Any person, firm or corporation who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter may also be required to pay a penalty



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in an amount specified in the schedule of fees adopted by the village board. Each day that a violation continues to exist shall constitute a separate offense. Failure to pay a penalty or to resolve the lack of compliance may result in legal action initiated by the village board.

(Prior Code, ch. 10, § 7.09.020)

**Secs. 36-946—36-963. Reserved.**

### DIVISION 10. - ANNEXATION

**Sec. 36-964. Territory annexed.**

All territory annexed to the village which is located outside of floodlands shall automatically become a part of the Single-Family Residence District, R-2, and all floodlands and shoreland as defined herein shall automatically become a part of the environmental preservation overlay district, until definite boundaries and regulations are adopted by the village board, provided, however, that the village board shall adopt definite boundaries and district regulations within 90 days from the date of the annexation.

(Prior Code, ch. 10, § 7.10)

**Secs. 36-965—36-986. Reserved.**

### DIVISION 11. - CHANGES AND AMENDMENTS

**Sec. 36-987. Authority.**

The village board may from time to time, on its own motion or on petition, amend, supplement, or change the district boundaries, or the regulations herein or subsequently established in the manner prescribed by statute.

(Prior Code, ch. 10, § 7.11.010)

**Sec. 36-988. Filing fee.**

Any person, firm or corporation who shall petition the village board amend, supplement or change the district boundaries or regulations herein or subsequently established, thereby requiring notice by publication and a hearing thereon, shall pay to the village clerk-treasurer at the time of submitting the petition and prior to any publication or hearing thereon, the required filing fee which shall be paid into the village treasury, and no part thereof shall be returned to the applicant regardless of the disposition of the petition. Each publication notice of a proposed amendment of the zoning map shall include a map showing the location of the area proposed to be rezoned and all property within 300 feet thereof.

(Prior Code, ch. 10, § 7.11.020)