

**VILLAGE OF ROCHESTER
PLAN COMMISSION**

300 W. Spring Street, P.O. Box 65, Rochester, WI 53167-0065
(262) 534-2431 FAX (262) 534-4084

**PUBLIC HEARING & COMMITTEE MEETING AGENDA
Monday, June 2, 2014 - 7:00 p.m.**

Rochester Village Hall, 300 W. Spring St., Rochester, WI

Roll Call: Mike Weinkauf (Chairperson), Paul Beere, Maureen Eckert, Patricia Gerber,
Chris Johnson, Tom Rowntree, Mark Tamblyn

Correction or approval: May 5, 2014 minutes.

Public Hearings: *(Be advised it is necessary to register in advance of the public hearing in order for your comments to be heard. Registration forms are available at the meeting and must be turned in to the Plan Commission Secretary prior to the start of the hearing. Pre-registered Citizens will be called by name by the Plan Commission Chairperson and are subject to a three minute time period, per person, with time extensions granted at the Plan Commission's discretion.)*

1. None.

Action Items:

1. Discussion on the restoration and future use of the Parkview Sand & Gravel site located at 31844 Washington Avenue, Rochester, Wisconsin
Spokesperson: William Pavin
Parcel Id. # 176031903021000-025000-028000
2. Conceptual Development Plan to create a 2.01 acre parcel of land and plat the extension of a future road, located north of the intersection of Waymar Lane and Crossway Road
Applicant: Wayne Fuller/ Owner: Wayne & Mardell Fuller Trust
Pt. of Parcel Id. # 176031913007000
3. Conceptual Development Plan to create a 5.0 acre parcel of land on the west side of Heritage Road, approximately 550' south of Seidel Drive
Applicant: Jacob Weinkauf/ Owners: Michael & Judith Weinkauf
Pt. of Parcel Id. # 176031909001000-002000
4. Conceptual Development Plan to replat Lots 1 through 4, Rookery Landing East, to Lots 1 through 6, Rookery Landing North, located south of Washington Avenue and east of Hoyer Haven
Applicant/ Owners: James and Diane Hoppe
Parcel Id. # 176031912016010-016020-016030-016040
5. Continued Review, Discussion, and Possible Recommendations on the following Land Use Related Ordinances: Chapter 3 "Fire Department"; Chapter 30 "Land Division"; Chapter 31 "Construction Site Erosion Control"; Chapter 32 "Post-Construction Stormwater and Pond Regulations"; Chapter 35 "Planning and Zoning, inclusive of Zoning Map"; Chapter 36 "Shoreland-Wetland and Shoreland Zoning"; Chapter 37 "Floodplain Zoning"; Chapter 38 "Historic Preservation"; Chapter 39 "Livestock Facilities"; and the New Deposit Schedule establishing fines for Ordinance Violations
6. Adjourn.

Betty J. Novy, MMC CMTW WCPC
Plan Commission Secretary

Posted: May 30, 2014

It is possible that members and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.

Please note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information, or to request this service, please contact the Village Hall at 262-534-2431

Next regular meeting: Monday, July 7, 2014

Mike Weinkauff called the meeting to order at 7:00 p.m. with the following members present: Paul Beere; Patricia Gerber; Chris Johnson; Tom Rowntree and Mark Tamblyn. Maureen Eckert was absent.

Betty Novy, Clerk Treasurer; Jonathan Schattner, Zoning Administrator; and John Tierney, Village Engineer, were also present.

Correction or Approval of April 7, 2014 minutes

Tamblyn moved, 2nd by Gerber to approve the minutes from the April 7, 2014 Plan Commission meeting as printed. Motion carried.

Public Hearings:

Application for Conditional Use Permit for the temporary placement of a concrete batch plant at 815 N. English Settlement Avenue/ Applicant: Tom Amon, Vinton Construction Company/ Owner: Reesman Group II/ Parcel ID#176031913002030

Schattner presented an aerial display of the subject site and a photograph of the proposed concrete batch plant. He reported the application is for temporary placement of the plant for the period of June 1st through December 1st, 2014. The ordinance specifies the batch plant cannot be more than 60 feet above the floor of the quarry. The proposed batch plant is 40 feet tall and falls within the parameters of the ordinance. Portable restrooms on the site will meet the sanitary needs of the operation.

Tom Amon, Vinton Construction Company, addressed the Commission. He explained the application noting its purpose is to provide concrete for the reconstruction of 76th Street off of Rawson Avenue (State Highway "U"). The work will progress in such a fashion that operations will be active one month in July to pave one lane of the road; and one month in late September to pave the other lane. Operations were further described as follows: Sand and stone will be trucked in to supply the plant as the materials available in the quarry do not meet D.O.T. specifications. The route used will be County Highway J to State Highway 36. The location of the plant within the quarry was also described, along with material storage areas and the proposed traffic flow.

Gerber questioned water availability on the site.

A technical representative from Vinton Construction explained their plan to use the 6" well that is currently located on the Schwedler property. Active operations will require the pumping of 7,000 gallons an hour. He further described "active operations" as a period of three days of main line cement production during the time period when they are actually paving the lanes. There will be two such periods: one in July; and one in September or October. During these periods, they anticipate the loading of 25 dump trucks per hour on a rotational basis for a period of nine hours each day. Operations in advance of each three-day period require material delivery and stockpiling. This will occur a week or two ahead of time. A total of 30,000 tons of material will be trucked to the site, split into the two phases. No trucks will exceed legal load limits for the road (Johnson noted 21 tons as the legal load limit). Material deliveries will also occur during the main line cement production period to replenish supplies. There will also be sporadic smaller batches of concrete produced and trucked from the site as needed for the duration of the project. However, these will be of minimal impact.

Gerber questioned whether the well on the site will accommodate this type of draw. The representative indicated that they would truck water to the site if the well does not meet supply needs.

Gerber then questioned why the batch plant is proposed to be located here when it is so far from the project site, particularly noting that the materials from the proposed location are not being used to produce the concrete.

Amon responded that no aggregate sources in Milwaukee County permitted the location of the temporary concrete batch plant. Zoning district changes also occurred at certain quarry sites in Racine County that do not allow placement of the plant. Specifications for the project indicate that concrete cannot be trucked for more than one-half hour. The proposed location puts them right inside the parameters of that specification.

Beere noted residents on County Highway J went through a lot of inconveniences from truck traffic when the Reesman site was used to provide materials for the construction of the State Highway 36 by-pass. He noted a lot of dust and tracking of materials on the road and that this dust migrated into the homes of residents. Amon responded that they can broom or sweep any materials that track onto the road.

John Reesman, Reesman Group II, was questioned on the intensity of truck traffic during the Highway 36 project. Reesman indicated that project required 40 truckloads of materials an hour.

Reesman was then questioned on how many more years this quarry is expected to be in operation. Reesman indicated that some restoration has already occurred; and that the duration of active quarrying on the site depends on what projects occur in the area and the demand for materials. He indicated last year was a good year, but at this point he does not know of any large projects occurring this year.

Reesman was questioned on well capacity. He noted a well test was done and that it was found sufficient for operation of a wash plant, but he does not know whether it is sufficient for what this operation calls for.

Power needs were questioned. Amon indicated one diesel engine will generate the power to run the batch plant. When questioned on noise, he indicated it would be no louder than any other engine. There is a shroud around the generator that helps muffle the noise, just like a semi-truck would have.

It was questioned whether operation of the concrete plant would create dust. The technical consultant indicated there are dust collectors on the plant and it is self-contained. He pointed out the location of the collectors on the plant photograph exhibit.

Gerber questioned what advantages there are to local residents and businesses if the plant is located here. Amon indicated the road being reconstructed may not be in Racine County, but it still serves a public purpose and people from all over drive on it. He indicated there will be a need to hire local dump truck drivers; and that some of the staff members from their company, which is based out of Manitowoc, will likely stay in local hotels and eat at local restaurants during some phases of the project. It was noted it takes three days to assemble the portable concrete plant.

A question was asked regarding what other vehicles will be on site. Equipment noted was a front end loader, possible dump trucks, a semi-trailer, and several pickup trucks. A construction trailer will also be located to serve as a temporary office.

There was a question regarding any fuel stored on site. It was noted only the generator will require fuel and the plan is to have a local fuel supplier deliver fuel as needed.

There was question about overall traffic, including that generated from routine business by Reesman's. Amon indicated their project will require 1,500 loads for the whole project, split into July and then September or October depending on project timing. Reesman indicated a potential of three trucks an hour throughout the season, and that is contingent that what work comes up.

Amon noted their operation would be moved out and gone by December 1.

Concern was stated regarding the noise generated by back-up horns. The technical consultant indicated dump trucks would be cycled in and out in a circular pattern so no back up siren noise is expected from them, but back up sirens on equipment in the quarry cannot be avoided. They are required by OSHA. There was then a question regarding weekend hours. Amon indicated they were agreeable to a restriction stating no weekend hours. There would be no night time hours, all operations would occur within the site's operational hours- 6 a.m. to 6 p.m. Any stacking of trucks can be accommodated within the quarry- there will be no trucks lined up out on the highway. The planned operation is 9 hours per day for each three day period. Dust will be controlled by water or vacuum.

Weinkauf questioned Reesman on whether there would be any concrete crushing on the site this year. Reesman indicated there are plans to crush what is currently on the site in late summer or early fall. No additional concrete is anticipated to be added to their stock pile from the proposed concrete batch plant operation.

There was question regarding continued restoration of the site. Schattner indicated the operation is in compliance with its restoration plan and that it will continue to be reviewed as part of the pit's conditional use permit renewal application process.

Weinkauf then solicited comments from those present in the audience as follows:

Weinkauf asked those present in the audience that were in favor of the proposal to speak (three times). No one spoke in favor of the proposal.

Weinkauf then called on those who had registered to speak in opposition to the proposal.

Jill Stafford, 28724 Rowntree Road, addressed the Commission. She stated opposition to the current and proposed operation noting that County Highway J was just reconstructed. She is worried about damage to the road. She stated when she built her home their seven years ago, the quarry site was farm land. Now there is always dirt and grit, she can't keep her house clean. She is concerned about the noise because she works 2nd shift. She is also worried about how this affects the re-sale value of her home.

William Barnes, 28812 Rowntree Road, addressed the Commission. He stated opposition to the proposed operation noting people are still sleeping at 6:00 a.m. in the morning when operations are proposed to begin. He stated concerns over noise, dust, and the impact pumping 7,000 gallons a minute will have on the aquifer and neighbor's wells.

Katherine Barnes, 28812 Rowntree Road, addressed the Commission. She indicated she has the same concerns as her husband (William), but added that there has already been cracking on County Highway J and that the winter was hard on it. She is afraid of additional damage to road.

Ellen Meinholz, 820 N. English Settlement Road, addressed the Commission. She stated they were told six years ago that the Reesman site would be mined for only five years. She is disappointed that it has not progressed that way and complained of putting up with dust, noise and truck traffic. She stated she is directly across the street from the quarry's driveway. She stated concerns of being hit by the truck drivers when pulling out of her driveway. She does not feel this operation will benefit Rochester. They built their home right before the quarry went in. She feels this operation will make things worse and worries about her sons (new drivers) driving amongst the truck traffic. She is against the operation and also concerned about her well.

No other spoken comments were heard.

Weinkauf then read correspondence submitted for the Plan Commission's consideration on this matter as follows:

Jeff Kempken, 28924 Rowntree Road:

“When I first received the notification regarding a temporary concrete plant in the old gravel pit, I thought it would be good for me and my neighbors. The reason being that I assumed the gravel pit would be excavated at faster pace. I figured that the pit would be restored to a natural look sooner because of the concrete activity. It has come to my attention that this concrete plant may not have much if any impact on the pace of excavation. If this is true, I recommend that the board deny the use of the pit for a temporary concrete plant.

This is not the proper location for NEW placement of a concrete plant.

I fear that once it starts, there will be momentum for continued use of the land for those purposes. It is not in the best interest of the village or the neighboring residents to allow this land to be used for these purposes. 1. Noise. 2. Traffic. 3. Wear on English Settlement Road. 4. Water Table concerns. Over the past 5-6 years we have been tolerant of much excavation activity without complaint but we feel this is a step we have to raise our voice in opposition.”

Kathy Raebel, 844 N. English Settlement Road:

“I am writing to make a comment on the proposed conditional use request for a TEMPORARY placement of a concrete batch plant at 815 North English Settlement Ave. I live across the street. I have been in this location since 2005. Just how temporary will this be? The use of the gravel pit was supposed to be temporary, and then developed into usable lots for housing, yet it is still being used as a gravel operation. I contend with a lot of dust and the frequent passing of the trucks certainly don't help the condition of the road. What value will this bring to the community of Rochester? Is the village benefiting in any way from this activity? Please take this into your consideration of this issue. Thank you.”

Beere moved, 2nd by Tamblyn to close the public hearing at 8:14 p.m. Motion carried.

Action Items:

Application for Conditional Use Permit for the temporary placement of a concrete batch plant at 815 N. English Settlement Avenue/ Applicant: Tom Amon, Vinton Construction Company/ Owner: Reesman Group II/ Parcel ID#176031913002030

Plan Commissioners reviewed the zoning administrator's recommended conditions as follows:

1. Upon receiving approval from the Village of Rochester Planning Commission it is the responsibility of the applicant to obtain a zoning permit card, at a cost of \$125.00 from the Village Zoning Administrator, prior to placing the concrete batch plant on this property. The zoning permit card must be displayed in a prominent location at the project site, and a copy of these conditions must be kept at the project site at all times.
2. The proposed concrete mix plant and aggregate stockpiles shall be sized and located as shown on the submitted site plan and written documents, received by the Village of Rochester on April 7, 2014. The proposed concrete mix plant shall not exceed a height of 45' above the original grade of the existing quarry site. All personal vehicles and company vehicles shall be parked in an orderly fashion on the subject site and shall be screened from public view.
3. All phases of this operation must be conducted in conformance with the air quality regulations of the State of Wisconsin.

4. This site must have graveled roads, access drives, and/or parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road must be removed by street cleaning (not flushing) before the end of each work day or as determined by the jurisdictional highway authority.
5. Hours of operations may be from 6:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 1:00 p.m. on Saturday. Maintenance and repairs may be performed outside of these hours if necessary. No Sunday operations are permitted.
6. The Zoning Administrator or designee may enter the sand and gravel quarry in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Unless the operation is in reasonable compliance with the terms of the approval, such approval is subject to amendment or revocation.
7. The proposed exterior boundaries of the temporary concrete mix plant activity must be staked or otherwise marked and may be inspected by this Department before operations commence under this approval. Stakes must be made of steel, fiberglass, or other suitable material as determined by this office. Signs warning of the quarry operation must be placed around the property boundaries spaced 200 feet apart. Signs shall be placed 400' north and south of the entrance of the quarry site, to warn the general public that travel along North English Settlement Road, that there is a truck entrance into the subject property.
8. It is the understanding of the Village that a portable toilet (port-of-john) exists in the existing quarry site and is available for use by the employees and truck drivers that work for Vinton Construction Company.
10. This approval may begin on June 1, 2014 and shall be terminated on December 1, 2014. The concrete mix plant and all stockpiles of aggregate, related to this activity, shall be removed from the property by December 15, 2014. The applicant shall contact the Zoning Administrator on or before December 15, 2014 to conduct a field investigation and ensure that the all items relating to the temporary concrete plant activity have been removed from the subject property.
11. Drainage control shall be exercised to control movement of water to prevent saturation of spoil material, erosion of spoil banks and damage to land outside of the surrounding operation; diversion ditches shall be constructed if required for drainage and erosion control and any grading shall be accomplished so as to control erosion and retain silt and sediment on the quarry premises.
12. The applicant is responsible for ensuring that all truck drivers, whether they are his own employees or contract drivers, strictly obey all posted speed limits and all traffic signs and laws. This includes coming to a full stop before entering the public roadway. Engine braking is prohibited within the right-of-way of public roads in the Village of Rochester. Should this office receive substantive complaints that such laws are being broken, the Village of Rochester Planning Commission/Village Board reserves the right to reconsider and possibly revoke this permit for non-compliance.
13. Dust control must be established on all internal haul roads. Dust palliatives must be Wisconsin Department of Natural Resources approved. Airborne particulate matter may not exceed Wisconsin State Administrative Code regulations. Under dry conditions it is the responsible of the quarry operator to prevent dust from blowing into the public right-of-way of Highway or onto an adjacent property.
14. The applicant must obtain all necessary federal, state, and county permits, approvals, and licenses and comply with all applicable codes and regulations.

15. No additions, deletions, or changes may be made to the project, site plan, or these conditions without the Village of Rochester Planning Commission and Village Board prior approval. All addition, deletion, and/or change requests must be submitted to this office in writing.

16. Your accepting this approval/permit and beginning the project means that you have read, understand, and agree to follow all conditions. Therefore, Gregory Reesman, Reesman Group II, Limited Liability Company and Vinton Construction Company, their heirs, successors, and assigns are responsible for full compliance with these conditions.

17. It is the property owner's responsibility to inform any subsequent owner or operator of these conditions.

Schattner noted the Plan Commission may want to amend some of these conditions based on concerns stated at the meeting.

Plan Commissioners discussed the comments heard, making note of the following items:

- Reesman's has been doing an adequate job of restoring what was previously two abandoned gravel pits.
- The impact of the proposed operation on local roads is an important factor, but the use is short-term and temporary. The use would be discontinued December 1st.
- The impact of the proposed operation on area wells is important. Any approval should be contingent on the applicant offering baseline well testing for neighbors to establish the working condition of area wells before the operation begins. This will protect both the neighbors and the company should any problems arise. It was also noted that there have not been well issues adjacent to other quarrying operations in the Village; and that these operations almost always involved mining below the water table. This operation does not involve that type of mining.
- In response to neighbor's concerns, Saturday operations should be limited.
- The public purpose roads provide and the need to allow gravel pits and associated operations where the resources are located was mentioned.
- The proposed concrete plant does not progress the mining and restoration of the Reesman gravel pit any further, but will cause disturbance to neighbors who have already experienced disruption from previous operations at the pit.
- Concerns about truck traffic were discussed. It was noted that police can be called upon to monitor the situation if problems arise. It was noted that there have not been any known accidents involving trucks from the gravel pit and that other previously farmed properties in the village have caused increased traffic to the area when these sites were developed (e.g. "Case Eagle Park").

Gerber moved, 2nd by Johnson to recommend approving the application for a conditional use permit for the temporary placement of a concrete batch plant at 815 N. English Settlement Avenue subject to the conditions of the zoning administrator (above), but limiting the hours of operation to 6 a.m. to 6 p.m. Monday – Friday (no Saturday hours); the addition of a condition that the applicant provide an opportunity for baseline well testing to all neighbors within a one-quarter mile range; that the results of the well tests be provided to the both homeowners and to the Village; and that the applicant provide the Village with the test data for the well on site. Votes were: Gerber: Aye; Johnson: Aye; Rowntree: Aye; Tamblyn: Aye; Weinkauff: Aye. Beere: Naye. Motion passed.

**Request for Amendments to Developer Agreement and Zoning Ordinance #3-2005 to remove owner-occupied restriction applicable to Trail of Pines Condominium Units/
Applicant/ Owner: Roger Kieffer, Trail of Pines LLC**

Schattner explained the nature of the request is to allow tenants to occupy the units and to remove the owner-occupied restriction applicable to the development. Schattner stated tonight's discussion is preliminary. Prior to approval of any such request, an ordinance amendment is required. Novy reported that the submitted request is directed to amending the developer's agreement only, but research found that an amendment to the zoning ordinance that originally re-zoned the property (from R-3 "One and Two family residential" to R-3 "One and Two family residential" with a PUD "Planned Unit Development Overlay District") would be required. The ordinance imposed several conditions on the re-zoning, including one that the units be owner occupied and that no unit be rented or leased.

Zoning amendments require that an ordinance be drafted by the Village Attorney; that a public hearing be held; that a Class II Legal Notice of the hearing be published; and that notice of its consideration be sent to abutting property owners.

Gerber asked whether the developer agreed to the owner-occupied restriction at the time of rezoning.

Roger Kieffer, Trail of Pines, LLC, responded. He indicated it was a requirement of Village approval at that time.

Gerber clarified that the applicant had the ability to build one home on the lot with the zoning that was in place at the time, but agreed to the owner-occupied condition and, by application for the Planned Unit Development zoning, was able to construct more buildings than the one that was allowed. She continued, in other words, that if the applicant wanted it to be rental property, they could have built a single two-family residence without a zoning change and that applying for Planned Unit Development zoning allowed the lot to be developed at a greater density.

Kieffer explained he thought it was in the best interest of the Village, for taxation purposes, that the additional units be approved rather than just one building.

Gerber stated concerns over setting a precedence for other condominium developments regarding owner occupied provisions; and over the aspect of rentals being there with the number of buildings in a small area.

Kieffer responded it is up to the planning board, but if only one building is desired, the whole Planned Unit Development District should be scrapped and then the taxation benefit of what could be there is gone. He said he is paying on eight lots right now. It would be a lot cheaper for him if it was just one lot. It has been this way for many years now. He would like to put more buildings up there, but new financing laws do not allow it.

Tamblyn questioned what would happen with the private road.

Kieffer responded there is still going to be a condominium association and they would still manage the road. Whoever owns the buildings is obligated to care for the road. Right now, he does everything and pays for the private road.

Gerber asked, if three more buildings are built and you sell them, are you selling them as condos, or are you selling them as rentals?

Frank Price, Trail of Pines, LLC, responded. He indicated the condominium documents still apply and would be in force. The problem they have is that banks are not financing condominium units that are less than 50% developed.

Gerber asked if the units are owner-occupied now?

Kieffer indicated "no". Gerber indicated they haven't been following the verbiage anyways.

Tamblyn commented rentals were not the intention of PUD approval; and that the restriction was originally agreed to so that Trail of Pines could get four buildings on that land. Tamblyn also stated concern about setting a precedent and noted that, if this request is approved, every condo going forward is going to be rental.

Kieffer indicated the condos on Front Street are being rented right now and that the owner-occupied restriction was applicable to that development as well. Tamblyn indicated they are not zoned PUD. They are separate lots.

Kieffer stated the timing was bad on this development. By the time the first building was up, the whole market went down and there they sat. If he would have known, he wouldn't have gone ahead with it. Things have changed a lot during the course of eight years.

Elizabeth Joseph, 604 Mink Ranch Road, addressed the Commission regarding the original approval of this development. She recalled that many of the neighbors on Mink Ranch Road appeared at the hearing for the zoning change and not one of them was in favor. They were promised that they would not be rentals; and that they would not be more than two-bedroom units. They were concerned people would be coming in with families and where would they go? The lot is narrow.

When they built their house, just a few years prior, they had checked the zoning and it was such that there would be four townhouses on the end of Mink Ranch Road with two units in each. But, they changed that to seven townhouses with two units each by approving this development. When you get more people renting than owning their homes in a neighborhood, the homes aren't kept up as well and it affects home values.

Last year, she indicated there was an accident and a car rolled off Highway 36 right into the front yard of the home that is there now. Fortunately, there were no children there, but now, she stated, there are children there.

She feels the Village's promise to the homeowners on Mink Ranch Road has been broken and she feels her property value is going down. When the hearing was held to change the property's use from one townhouse to four townhouses. All the people at the hearing voiced against it. There wasn't one person who wanted to make the change except the owner. She stated "he doesn't live there, but I do".

Kieffer addressed Joseph's comment on rentals not being kept up. He noted there are rental units all along Musquequack Street and, going down Mink Ranch Road, the first two or three are buildings are duplexes too. He said they all appear kept up and that he keeps up his property too.

Concerns were again stated about the impacts this decision would have on other PUDs in the village. Gerber acknowledged times are tough, but she does not feel the Plan Commission can set a precedent with this.

Gerber moved, 2nd by Tamblyn to deny the request for amendments to the developer's agreement for Trail of Pines. Motion carried.

Continued Review, Discussion, and Possible Recommendation on Land Use Ordinances: Chapter 30 "Land Division"; Chapter 32 "Post-Construction Stormwater and Pond Regulations"; Chapter 35 "Planning and Zoning" and Chapter 38 "Historic Preservation"

Novy presented two documents summarizing revisions to these chapters since their introduction. One involved technical revisions made by the attorney that mostly involved the removal of shoreland zoning provisions from Chapter 35 and moving them to Chapter 36 "Shoreland-Wetland and Shoreland Zoning". The other involved removing redundancies from the Public Notification process and clarifying the Plan Commission's role in conducting public hearings on applications for conditional uses and zoning changes. Correspondence from the Village Attorney was also reviewed requesting direction from the Plan Commission on recent changes to State Statutes that could be incorporated into the land division chapter. Consensus of the Commission was to recommend not incorporating these changes at this time.

Introduction: Chapter 3 "Fire Department"; Chapter 31 "Construction Site Erosion Control"; Chapter 36 "Shoreland-Wetland and Shoreland Zoning"; Chapter 37 "Floodplain Zoning"; and Chapter 39 "Livestock Facilities" and New Deposit Schedule establishing fines for Ordinance Violations

Novy noted these chapters and the deposit schedule are on the agenda for introduction only. John Schattner indicated Chapter 3 requires Plan Commission review because some of the ordinance imposes land use requirements, such as the installation of Knox box requirement for commercial properties; and driveway design requirements for properties that are set back more than 1,000 feet from the road. Tierney noted Chapter 37 "Floodplain Zoning" is mandated by the federal government and the State of Wisconsin Department of Natural Resources. The only change to the existing ordinance was the re-numbering of the chapter and sections.

Plan Commissioners were instructed to review these ordinances and be ready with any comments or concerns at the public hearing scheduled for May 29th. The Village Board would like to conduct the public hearing jointly with the Plan Commission so that the Commissioners can incorporate comments taken at the hearing into their recommendation. It is hoped a recommendation on the proposed ordinances can be made at the June 2nd meeting of the Plan Commission.

Gerber moved, 2nd by Tamblyn to adjourn at 9:27 p.m.

Respectfully submitted:

Betty J. Novy, MMC CMTW WCPC
Planning Secretary

CERTIFIED SURVEY MAP NO. _____

BEING A PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 19 EAST OF THE FOURTH PRINCIPAL MERIDIAN, IN THE VILLAGE OF ROCHESTER, COUNTY OF RACINE AND STATE OF WISCONSIN.

PREPARED FOR: WAYNE AND MARDELL FULLER TRUST
 WAYNE FULLER, TRUSTEE
 28700 PLANK ROAD
 BURLINGTON, WI 53105

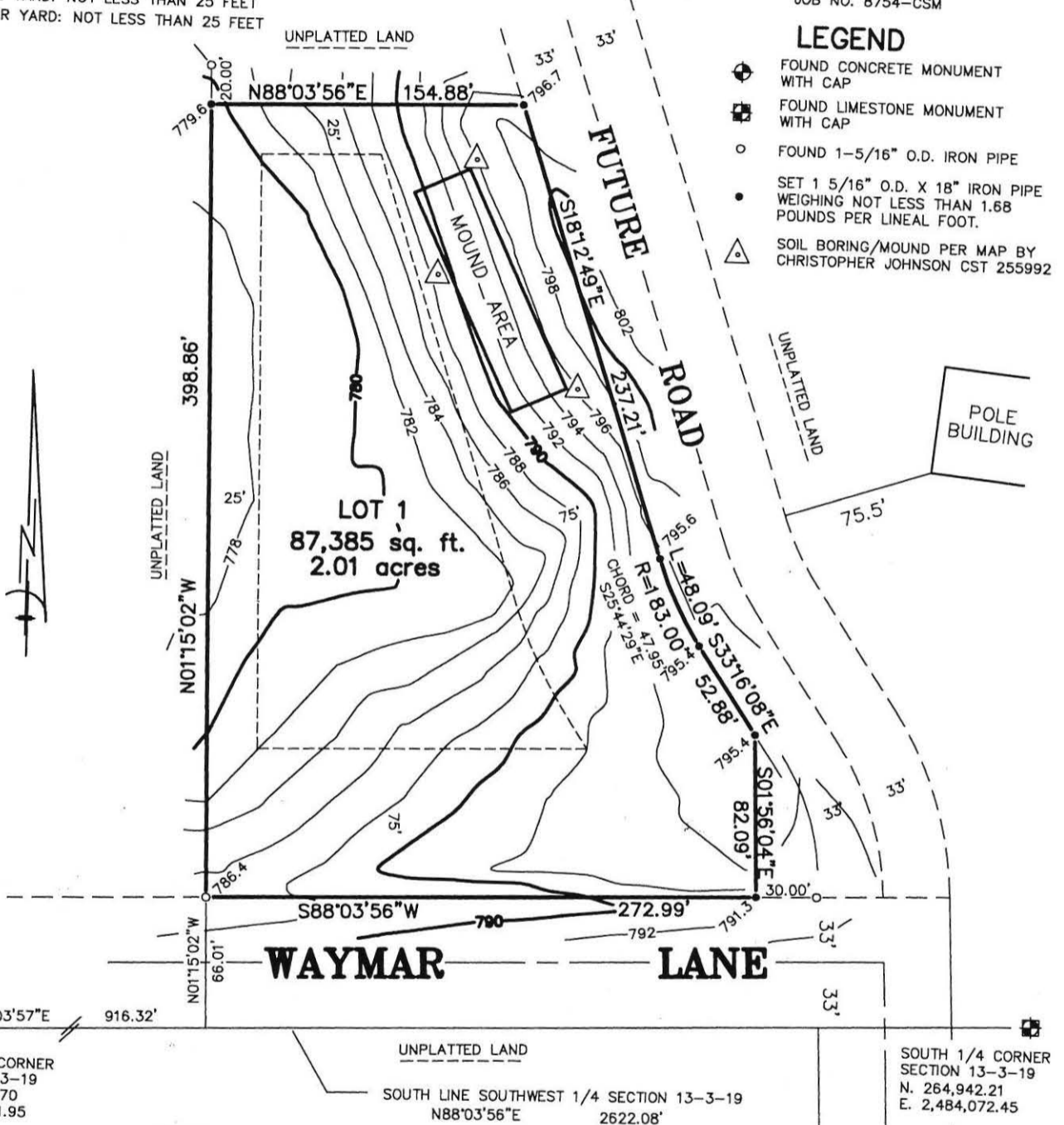
PREPARED BY: B.W. SURVEYING, INC.
 412 N. PINE STREET
 BURLINGTON, WI 53105
 (262)-767-0225
 JOB NO. 8754-CSM

ZONED: A-2

SETBACKS:
 STREET YARD: NOT LESS THAN 75 FEET
 SIDE YARD: NOT LESS THAN 25 FEET
 REAR YARD: NOT LESS THAN 25 FEET

LEGEND

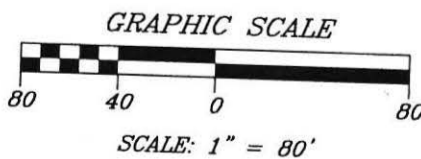
- FOUND CONCRETE MONUMENT WITH CAP
- FOUND LIMESTONE MONUMENT WITH CAP
- FOUND 1-5/16" O.D. IRON PIPE
- SET 1 5/16" O.D. X 18" IRON PIPE WEIGHING NOT LESS THAN 1.68 POUNDS PER LINEAL FOOT.
- △ SOIL BORING/MOUND PER MAP BY CHRISTOPHER JOHNSON CST 255992



SOUTHWEST CORNER SECTION 13-3-19
 N. 264,853.70
 E. 2,481,451.95

SOUTH LINE SOUTHWEST 1/4 SECTION 13-3-19
 N88°03'56"E 2622.08'

SOUTH 1/4 CORNER SECTION 13-3-19
 N. 264,942.21
 E. 2,484,072.45



Robert J. Wetzel
 ROBERT J. WETZEL S-1778
 APRIL 21, 2014
 REVISED: MAY 12, 2014

NOTE: BEARINGS HEREON RELATE TO THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 13-3-19, ASSUMED BEARING NORTH 88°03'56" EAST.

CERTIFIED SURVEY MAP NO. _____.

PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 19 EAST OF THE FOURTH PRINCIPAL MERIDIAN, IN THE VILLAGE OF ROCHESTER, COUNTY OF RACINE AND STATE OF WISCONSIN.

PREPARED FOR: WAYNE AND MARDELL FULLER TRUST
28700 PLANK ROAD
BURLINGTON, WI 53105

PREPARED BY: B.W. SURVEYING, INC.
412 N. PINE STREET
BURLINGTON, WI 53105
JOB NO. 8754-CSM

LEGAL DESCRIPTION:

PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 19 EAST OF THE FOURTH PRINCIPAL MERIDIAN, IN THE VILLAGE OF ROCHESTER, COUNTY OF RACINE, STATE OF WISCONSIN AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 13; THENCE NORTH 88°03'56" EAST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4 SECTION 916.32 FEET; THENCE NORTH 01°15'02" WEST 66.01 FEET TO A POINT ON THE NORTH LINE OF WAYMAR LANE AND THE PLACE OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE NORTH 01°15'02" WEST 398.86 FEET; THENCE NORTH 88°03'56" EAST 154.88 FEET; THENCE SOUTH 18°12'49" EAST 237.21 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY 48.09 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 183.00 FEET AND WHOSE LONG CHORD BEARS SOUTH 25°44'29" EAST 47.95 FEET; THENCE SOUTH 33°16'08" EAST 52.88 FEET; THENCE SOUTH 01°56'04" EAST 82.09 FEET TO A POINT ON THE NORTH LINE OF SAID WAYMAR LANE; THENCE SOUTH 88°03'56" WEST ALONG SAID NORTH LINE 272.99 FEET TO THE PLACE OF BEGINNING. CONTAINING 2.01 ACRES OF LAND MORE OR LESS.

SURVEYOR'S CERTIFICATE:

I, ROBERT J. WETZEL, REGISTERED LAND SURVEYOR, HEREBY CERTIFY THAT AT THE DIRECTION OF WAYNE FULLER, AS TRUSTEE FOR THE WAYNE AND MARDELL FULLER TRUST, I HAVE SURVEYED THE LAND DESCRIBED HEREON AND THAT THE MAP SHOWN IS A CORRECT REPRESENTATION OF ALL LOT LINES AND THAT I HAVE FULLY COMPLIED WITH CHAPTER 236.34 OF THE WISCONSIN STATUTES AND WITH THE SUBDIVISION CONTROL ORDINANCE FOR THE VILLAGE OF ROCHESTER, RACINE COUNTY, WISCONSIN.

DATED THIS 21ST DAY OF APRIL, 2014.


ROBERT J. WETZEL S-1778



CERTIFIED SURVEY MAP NO. _____.

PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 19 EAST OF THE 4TH PRINCIPAL MERIDIAN, IN THE VILLAGE OF ROCHESTER, COUNTY OF RACINE AND STATE OF WISCONSIN.

OWNER'S CERTIFICATE:

I WAYNE FULLER AS TRUSTEE FOR THE WAYNE AND MARDELL FULLER TRUST, HEREBY CERTIFY THAT I CAUSED THE LAND DESCRIBED ON THIS MAP TO BE SURVEYED, DIVIDED, AND MAPPED AS REPRESENTED HEREON. I ALSO CERTIFY THAT THIS MAP IS REQUIRED BY s.236.34 TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION: VILLAGE OF ROCHESTER, RACINE COUNTY, WISCONSIN.

WAYNE FULLER TRUSTEE

VILLAGE OF ROCHESTER VILLAGE BOARD APPROVAL:

THIS CERTIFIED SURVEY MAP APPROVED BY THE VILLAGE OF ROCHESTER VILLAGE BOARD ON THIS _____ DAY OF _____, 2014.

PAUL BEERE PRESIDENT BETTY J. NOVY CLERK-TREASURER

DATED THIS 21ST DAY OF APRIL, 2014.

Robert J. Wetzel

ROBERT J. WETZEL S-1778





Zoned

A-2

North

**Wayne & Mardell Trust
64.42 Total Acres
Pt. of Parcel 176031913007000**

2.01 Acres

Future Road

**Sec. 13-3-19
v. Of Rochester**

Zoned

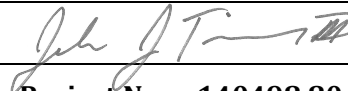
A-2

Crossway Road

Memo

To: Jon Schattner, Zoning Administrator

From: John Tierney, Village Engineer



Date: May 13, 2014

Project No.: 140498.80

Subject: Fuller CSM – Waymar Lane at Crossway Boulevard

We have completed an office review of the Certified Survey Map (CSM) at the subject location. The CSM, revised May 12, 2014, was prepared by Robert J. Wetzel, RLS, for the Wayne and Mardell Fuller Trust, owners of the property. Our review was conducted to determine compliance with the former Town Land Division ordinance and good engineering practices.

We do not object to the proposed CSM; however, we have the following concerns:

1. Aerial photos and a site visit reveal an area of standing water on the property immediately west of the proposed CSM. The standing water may be hydraulically connected to the Eagle Creek floodplain. In a phone conversation with the surveyor they indicated that the water surface elevation was 777.4 on the day of their survey.
 - a. The surveyed site contours indicated that Lot 1 slopes in a westward direction towards this pond area. The lowest contour shown on Lot 1 is 778, with a very small area of the lot below this elevation.
 - b. There is no floodplain on CSM Lot 1, but, in the interest of ensuring that a future home will be reasonably safe from flooding we recommend that the lowest foundation opening be above elevation 782.0.
2. The CSM shows a possible future road along the east boundary of the survey. This is helpful information for future planning. The CSM is not dedicating right-of-way for the future road, therefore no road plans or financial guarantee will be needed. The developer will provide a sketch plan of a future development to the north that would utilize the future road.

Our review did not include field verification of existing conditions, elevations, grades and/or topography as shown on the plans. The developer and their consultants have the ultimate responsibility for the correct representation of existing field conditions, as well as providing a design that complies with Village Ordinances and Standards.

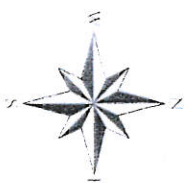
Should you have any questions please do not hesitate to call.

Cc: Betty Novy, Clerk/Treasurer

Racine County

CORAGIS

Project

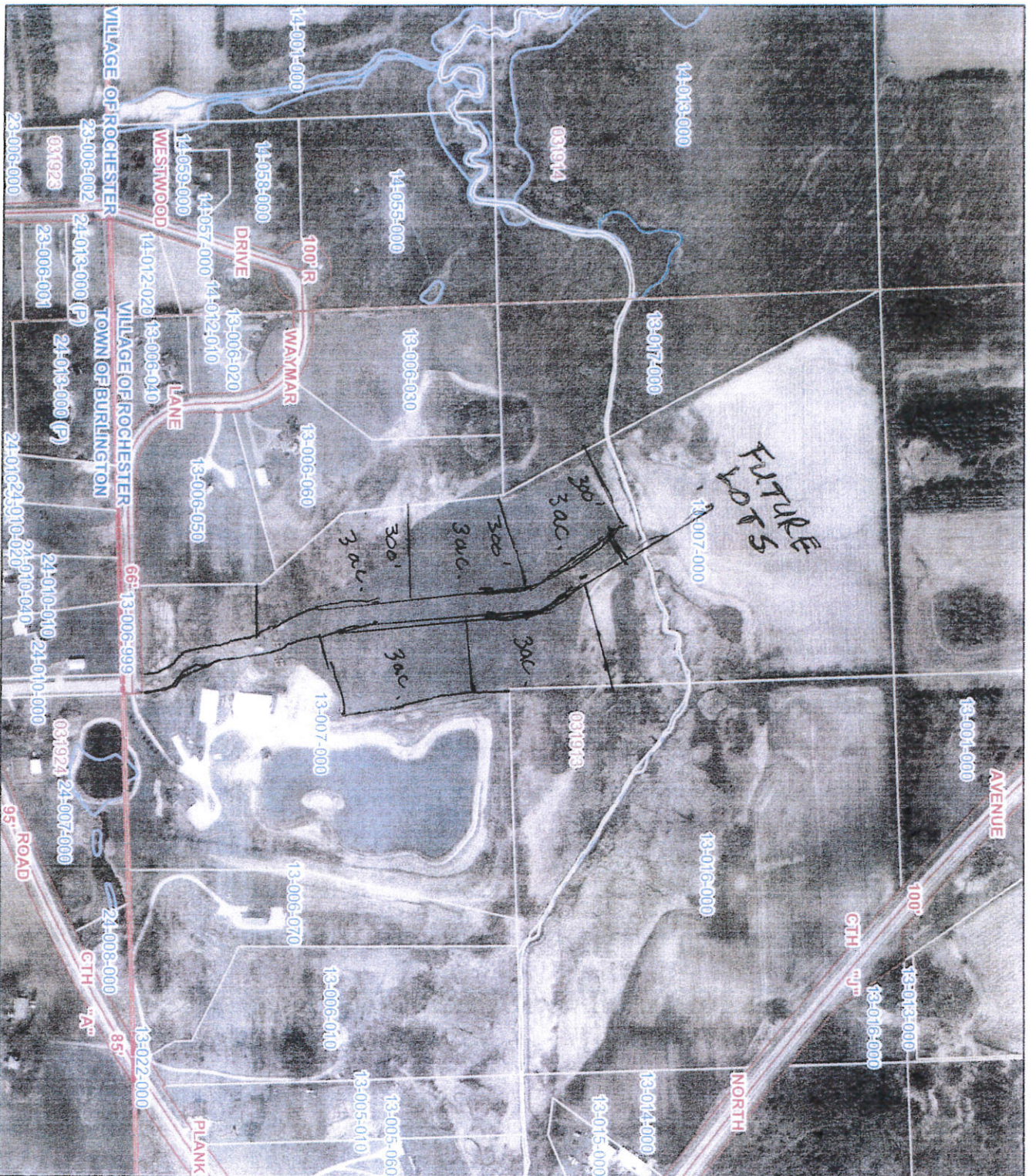


1 inch = 500 feet

Future Plan

(3 acre density)

Printed 5/13/2014



Disclaimer: The information and depictions herein have been produced using data available through photogrammetric means by Racine County. The information and depictions herein are for informational purposes and Racine County specifically disclaims accuracy in this production and specifically admonishes and advises that any and all depiction, measurements, distances depicted herein and as to which specific or precise accuracy is required should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means.

**Racine County
CORAGIS
Project**



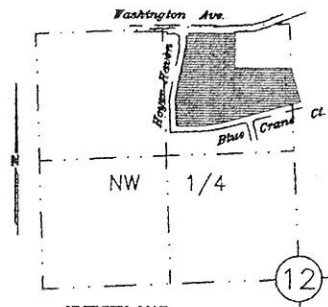
1 inch = 400 feet

Section 9, T3N, R19E
V. of Rochester

Printed 5/14/2014



Disclaimer: The information and depictions herein have been produced using data available through photogrammetric means by Racine County. The information and depictions herein are for informational purposes and Racine County specifically disclaims accuracy in this production and specifically admonishes and advises that any and all depiction, measurements, distances depicted herein and as to which specific or precise accuracy is required should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means.



ROOKERY LANDING NORTH

BEING A REDIVISION OF LOTS 1, 2, 3 AND 4 OF ROOKERY LANDING ESTATES, EAST PARCEL, BEING A PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 3 NORTH, RANGE 19 EAST OF THE FOURTH PRINCIPAL MERIDIAN, VILLAGE OF ROCHESTER, COUNTY OF RACINE, STATE OF WISCONSIN.

OWNER/SUBDIVIDER:
JAMES & DIANE HOPPE
28218 WASHINGTON AVE.
WATERFORD, WI 53185

SURVEYOR:
GARY B. FOAT
100 S. SECOND STREET
WATERFORD, WI 53185

PROJECT

CONCEPTUAL PLAN

PROJECT NO.

137005

137005S1.dwg

DATE

FEBRUARY 7, 2013

REVISIONS

FEBRUARY 11, 2013

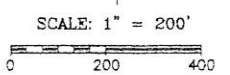
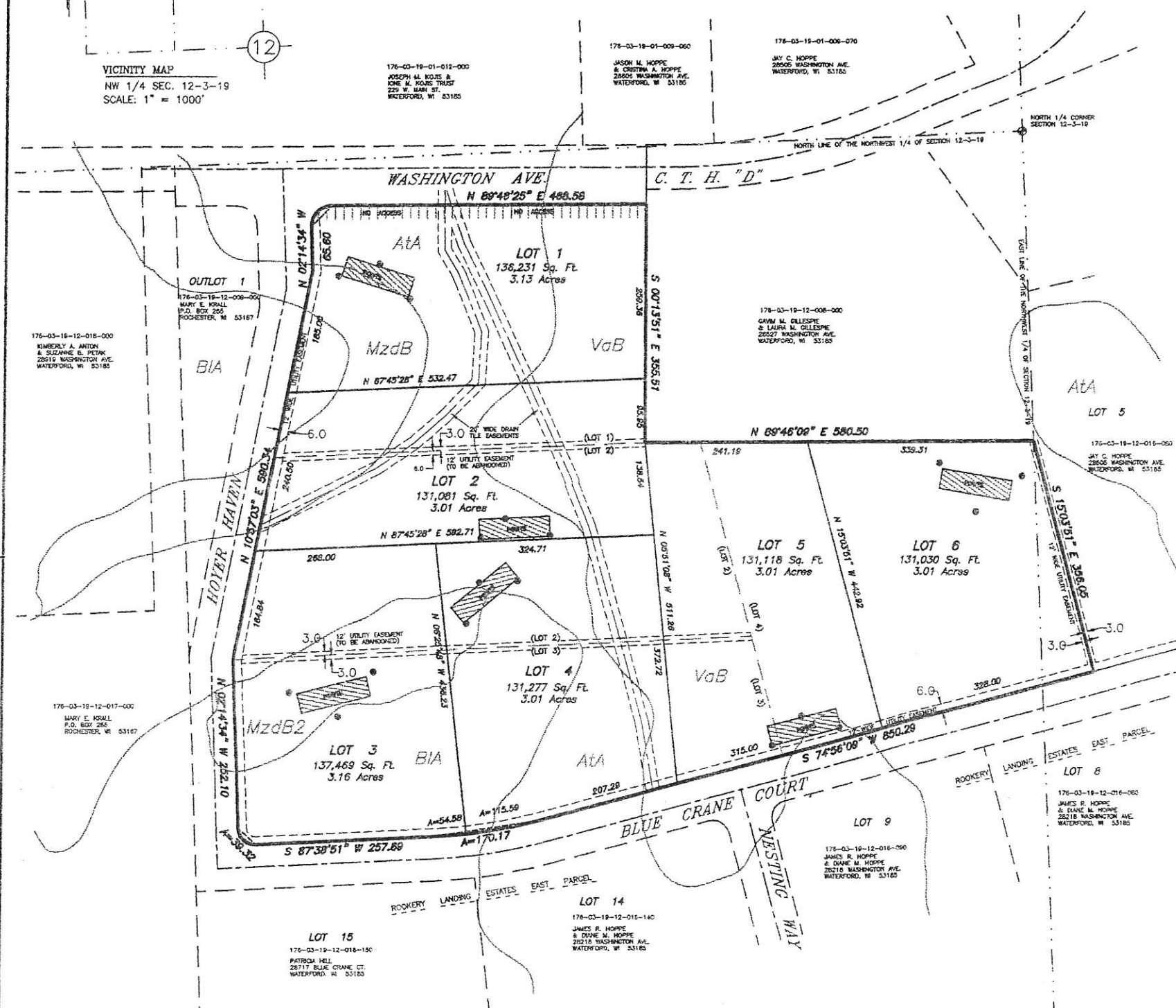
APRIL 10, 2014

SURVEYOR

GARY B. FOAT
Degen - Foat Surveying, Inc.
100 S. Second Street
Waterford, WI 53185

PREPARED FOR

JAMES HOPPE
28218 WASHINGTON AVE.
WATERFORD, WI 53185



BEARING BASE: GRID NORTH, WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1927. BASED ON THE NORTH LINE OF THE NW 1/4 OF SECTION 12-3-19, BEARING N 87°38'51" E.

LEGEND

- ⊕ - FOUND 2-3/8" O.D. IRON PIPE
- ⊙ - FOUND 1-5/16" O.D. IRON PIPE
- - SET 1-5/16" O.D. x 24" IRON PIPE WEIGHING 1.50 LBS./FT.
- () - RECORDED AS
- ⊗ - SOIL BORING (SCALED FROM RECORDED PLAT)
- ⊕ - FOUND RACINE COUNTY CAST IRON MONUMENT
- ⊞ - FOUND RACINE COUNTY CONCRETE MONUMENT

ALL LOTS ARE TO BE SERVED BY PRIVATE WELLS AND PRIVATE ONSITE WASTEWATER TREATMENT SYSTEMS. (POINTS)

- SOIL TYPES
- AtA - ASHKUM SILTY CLAY
 - BIA - BLOUNT SILT LOAM
 - MzdB - MORLEY SILT LOAM
 - VaB - VARNA SILT LOAM

APPROVING & OBJECTING AUTHORITIES:
DEPARTMENT OF ADMINISTRATION
VILLAGE OF ROCHESTER
RACINE COUNTY PLANNING & DEVELOPMENT

TOTAL SITE AREA: 18.32 ACRES
NUMBER OF LOTS: 6

TYPICAL SETBACKS - EXCEPTED AS NOTED
SEE LOT 8 FOR TYPICAL SETBACKS
STREET YARD SETBACK: 75 FEET
SIDE YARD SETBACK: 25 FEET
REAR YARD SETBACK: 25 FEET

WELL AND WATER SUPPLY LINES SETBACKS:
50 FEET FROM "POINTS" CELL
25 FEET FROM A TREATMENT TANK AND PRESSURIZED BUILDING SEWER.
8 FEET FROM A NON PRESSURIZED BUILDING SEWER.

I, HEREBY CERTIFY THAT I HAVE SURVEYED, THE LANDS SHOWN HEREON AND THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID LAND, THAT I HAVE COMPLIED WITH CHAPTER 18, SEC. 27.401 & SEC. 27.402 OF THE VILLAGE OF ROCHESTER ORDINANCES.

Dated: February 10, 2013
GARY B. FOAT
WISCONSIN REGISTERED LAND SURVEYOR S-1598
Revised: April 10, 2014

DEGEN - FOAT SURVEYING, INC.
100 SOUTH SECOND STREET
WATERFORD, WISCONSIN
(762)634-6404 (FAX)634-2022

Zoned

A-3

WASHINGTON AVENUE

STH 20

North

ROCKERY GLEN

CTH "D" 88

James & Dianne Hoppe Property
Replat four lots into six lots
(Proposed 3 acre lots)

HOYER HAVEN

COURT

Sec. 12-3-19
V. Of Rochester

Zoned

A-2

BLUE CRANE

NESTING WAY



256 S. Pine Street
Burlington, WI 53105
262.763.7834
262.763.2509
www.baxterwoodman.com
info@baxterwoodman.com



Memo

To: Jon Schattner, Zoning Administrator

From: John Tierney, Village Engineer

A handwritten signature in black ink, appearing to read "John Tierney", with a flourish at the end.

Date: May 12, 2014

Project No.: 140532.80

Subject: Rookery Landing North Concept Plan

We have completed an office review of the Concept Plan for Rookery Landing North, a re-division of the Rookery Landing Estates East Subdivision. The Concept Plan, dated April 10, 2014, was prepared by Gary B. Foat, RLS, for James Hoppe, developer of the property. Our review was conducted to determine compliance with the former Town Land Division ordinance and good engineering practices.

In general we do not object to the proposed re-division; however, we have the following concerns:

1. The existing subdivision includes several 20-foot wide Drain Tile Easements for the existing 12-inch and 18-inch drain tiles. These tiles help drain properties outside the subdivision and must be maintained. The "Declaration of Restrictions, Covenants and Easements for Rookery Landing Estates East Subdivision" [Declaration], recorded July 20, 2006, Document #2094276, includes the Drain Tile Easement provisions for protection and maintenance of the pipe. These provisions must transfer to the new land division.
2. The driveway requirement of the Third Amendment to the Declaration should transfer with this land division.
3. The developer should clarify if other provision of the original Declaration will be maintained with this re-division, such as the prohibition on livestock and limitation on outside storage and accessory structures.
4. Legal clarification may be needed regarding the Homeowners Association approval of this re-division and the 75% rule specified in Declarations.

Our review did not include field verification of existing conditions, elevations, grades and/or topography as shown on the plans. The developer and their consultants have the ultimate responsibility for the correct representation of existing field conditions, as well as providing a design that complies with Village Ordinances and Standards.

Should you have any questions please do not hesitate to call.

Cc: Betty Novy, Clerk/Treasurer

I:\Burlington\ROCHV\140532-RookeryNorth\80-PlanReview\Correspondence\Concept Plan rev May 2014.docx

Betty Novy

From: Hasenstab Law Office <hasenstablaw@tds.net>
Sent: Friday, May 23, 2014 4:17 PM
To: Betty Novy; Jonathan Schattner
Subject: Re: Rookery Landing North

Hi Betty and Jon,

Pursuant to Wis. Stat. s. 236.36 and the case law interpreting it, all or part of a recorded subdivision may be replatted if the replat conforms to the procedures and requirements for new plats and no areas dedicated to the public are altered. The Developers are removing this land from the existing Rookery Landing East and creating a new subdivision.

The following steps are required:

1. Confirm that no areas dedicated to the public are present on the area of the existing plat that is being replatted. If there are any areas dedicated to the public, please let me know (I don't have a copy of the original plat).
2. Determine whether the Village holds any interest in the utility easements that are to be abandoned.
 - a. Determine whether the Village is willing to abandon any interest in those easements
 - b. Require the Developer to provide proof of consent from the utilities that benefit from the easements to the abandonment of the easements
 - c. Determine whether and where new utility easements are required
3. Ask the Developer:
 - a. How it intends to remove these lots from the existing covenants and restrictions or amend the existing covenants and restrictions to incorporate the new subdivision
 - b. To provide the proposed covenants for the new subdivision (if the lots are to be removed from the existing covenants) for Village approval. The Village will require that all of the rights granted to it under the existing covenants be included in the new covenants.
 - c. To ensure that an Association and the landowners will be responsible for maintaining the drain tile crossing the land
4. The Village will require that all of the steps for creation of a new plat will be followed. Until the new Code is adopted, the provisions of Chapter XXV of the old Town Code are to be followed.
 - a. Because all of the public improvements are in place, no Developer Agreement or Letter of Credit will be required unless additional public improvements will be required.
 - b. The Developer will be responsible for all costs related to approval of a new plat, including but not limited to document reviews and drafting
5. Review whether there was an ordinance passed that created the existing subdivision and whether changes to that ordinance are necessary.

More issues may be identified as the approval process moves forward.

Please let me know if you have any questions.

Thanks,
Marcy

Atty. Marcia J. Hasenstab
P.O. Box 187
Waterford, WI 53185
ph. (262)534-6611
fax (262)534-3155
hasenstablaw@tds.net

Summary of Misc. Ordinance Updates since May 5 and May 12 meetings:

Chapter 35: Planning and Zoning.

These references were modified in the Planning and Zoning Chapter due to changes recommended by the Plan Commission at its April meeting:

This restriction and associated language was removed from B-3 thru B-5 Business Districts:

Uses as set forth in s. 35-100E, provided that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours, unless otherwise allowed by the Plan Commission.

Provided further that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours.

This language was removed from 35-21 "Use Restrictions", subsection G." Temporary Uses of Land and Temporary Structures" subsection 11. "Temporary Structures" regulating temporary storage containers:

4) The unit must be placed on asphalt, concrete, gravel, or other hard-paved surface.

Chapter 30: Land Division.

The following section was added to Chapter 30 as the fee schedule reference was left out in the original version:

30-16. Fees and Costs. The fees and costs for review of Plats, CSMs and other reviews required by this Chapter shall be in amounts determined by the Village Board and set forth in the Fee Schedule. Reviews shall not occur or approvals granted until the applicant pays all applicable fees and costs to the Treasurer.

Additionally, the attached emails outline changes to Chapter 35 to enact special permitting requirements for scrap yards, landfills, etc.; to clarify the authority of the Zoning Board of Appeals to grant special exceptions; and to amend language in Chapter 30 to conform to Act 280 which was recently enacted by the State Legislature.

Betty Novy

From: Hasenstab Law Office <hasenstablaw@tds.net>
Sent: Tuesday, April 01, 2014 3:15 PM
To: Betty Novy; Jonathan Schattner
Cc: 'Sandi Swan'
Subject: Re: General corrections to Ch. 35 and changes for Scrap yards- landfills s. 35-53 etc
Attachments: 35-100.F.4..docx

Hi Betty and Jon,

I have a few general changes to Chapter 35:

I missed a change to a cross reference, so in s. 35-100.F.3.f(1)(d), please change "1) or 2)" to "(a) or (b)"

In Wis. Stat. s. 62.23(7)(e) the ZBA is given the authority to grant special exceptions. (These were mentioned in the statute recently reviewed as part of the use of a duplex in the Village.) We don't have any provisions in chapter 35 for them, but we adopt the powers granted in the statute as part of 35-210.D.1. To account for this, please change 35-210.D.1.d. to read:

Unclassified Uses and Special Exceptions. After the Plan Commission has made a review and recommendation, to hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district, and to hear and grant applications for special exceptions provided that the waiver of the zoning regulations are justified under the circumstances.

In the definitions in s. 35-300:

Please add this definition:

"Exception" or "Special Exception" means a special or unique situation, excluding a change in use or a use prohibited in a zoning district, which may be authorized by the Zoning Board of Appeals and which may justify the waiver of the regulations applicable thereto and does not necessarily require the demonstration of an unnecessary hardship or practical difficulty.

Please change the definition of Variance as follows:

"Variance" means an authorization by the Zoning Board of Appeals for a use which is not allowed under the zoning district or for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards within this Chapter. See also the other land use chapters of this Municipal Code.

For the changes related to scrapyards, etc, this is my proposal:

Chapter 8, s. 8-5.A.4., Exemptions, *add*

"d. Facilities for which a conditional use permit has been issued pursuant to Chapter 35."

Chapter 35, s. 35-53.A.1., *delete* the following:

"Wrecking, junk, demolition, and scrap yards. These uses shall be completely surrounded by a solid fence or evergreen planting screen, preventing a view from any other property or public right-of-way and shall be at least 600 feet from any residential, public, and semipublic districts"

Chapter 35, s. 35-53.A.3., *delete* this provision:

"Sanitary landfills and their related accessory uses when operated with the provisions of the applicable provisions of the Wisconsin Statutes and Wisconsin Administrative Code

Recycling centers and recycling plants, provided no chemicals or hazardous materials are collected, stored, or processed and all storage and processing and operations are conducted in an enclosed building”

and add these 4 paragraphs:

Solid waste facilities as defined in Wis. Stat. s. 289.01(35), including facilities for solid waste treatment, solid waste storage or solid waste disposal, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities, including the land where the facility is located, when operated pursuant to a license issued by the State and in accordance with applicable statutes and administrative codes, and provided no chemicals or hazardous materials are collected, stored, or processed. When the provisions of this Chapter conflict with state or federal law, the state or federal law prevails.

Facilities for the processing of scrap iron, steel or nonferrous metal using large machines to produce a principal product of scrap metal for sale or use for remelting purposes, provided that these uses shall be completely surrounded by a solid fence or evergreen planting screen, preventing a view from any other property or public right-of-way and shall be at least 600 feet from any residential, business, agricultural, conservation, park, floodway, shoreland-wetland, or shoreland district.

Recycling facilities which use large machines to sort, grade, compact or bale clean wastepaper, fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes, provided no chemicals or hazardous materials are collected, stored, or processed and all storage and processing and operations are conducted in an enclosed building.

Auto junk yards and auto scrap metal salvage yards, provided that these uses shall be completely surrounded by a solid fence or evergreen planting screen, preventing a view from any other property or public right-of-way and shall be at least 600 feet from any residential, business, agricultural, conservation, park, floodway, shoreland-wetland, or shoreland district. Wis. Stat. s. 175.25 shall apply to these uses.

Change 35-100.F.1 to read:

F. Industrial / Manufacturing Uses.

1. Unless a conditional use must be conducted outdoors, all structures and improvements for conditional principal uses, including their related accessory uses, are subject to the following general provisions:

Add the section attached as 35-100.F.4.

Please let me know if you have any questions or concerns.

Thanks,
Marcy

Atty. Marcia J. Hasenstab
P.O. Box 187
Waterford, WI 53185
ph. (262)534-6611
fax (262)534-3155
hasenstablaw@tds.net

This email message from Attorney Marcia Hasenstab is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email (or at 1-262-534-6611) and delete the email and destroy all copies of the original message. Thank you.

From: [Betty Novy](#)
Sent: Thursday, March 13, 2014 3:58 PM
To: [Marcia Hasenstab](#)
Cc: jschattner1@gmail.com ; 'Sandi Swan'
Subject: FW: Scrap yards- landfills s. 35-53

Hi, Marcy,

I spoke with Jon on this ordinance section. He concurs that wrecking, junk, demolition and scrap yards should be moved to the conditional use section of 35-53. These uses, along with sanitary landfills, should be subject to a new section, created under conditional uses, that incorporates the conditions of Chapter XII- (much like the quarrying section under conditional uses).

My suggestion is that you list this conditional use with the same disclaimer you used on sanitary landfills- including the statement “when operated with (*is that supposed to be within?*) the provisions of the applicable provisions of the Wisconsin Statutes and Wisconsin Administrative Code”. i.e. “Wrecking, junk, demolition, and scrap yards **and their related accessory uses when operated within the applicable provisions of the Wisconsin Statutes and Wisconsin Administrative Code**”. These uses... ..

I don't believe that any of the information requirements specified under the Town Code would contradict with State Statute as they all appear consistent with what might be required of other conditional uses. The bonding and restoration requirements seem similar to the quarrying requirements. If you're comfortable doing so, you could include a “catch all” statement i.e..... when the provisions conflict with State Law that the state law prevails.

We don't have any of these uses currently so I hate investing too much time on it, but it would be helpful to have something in the code in case a proposal is brought forward (so we aren't scrambling to write an ordinance for a specific proposal)- or that they slip through the cracks somehow.

Something to think about.....

P.S. I will be out of the office tomorrow (lots of training this week!), but will be in most of next week.

Betty J. Novy, MMC CMTW WCPC
Clerk-Treasurer
Village of Rochester, Racine County, Wisconsin



From: Betty Novy [mailto:bnovy@rochesterwi.us]
Sent: Thursday, March 13, 2014 11:47 AM
To: jschattner1@gmail.com
Cc: Marcia Hasenstab; 'Sandi Swan'
Subject: Scrap yards- landfills s. 35-53

Hi, Jon:

Marcy submitted the highlighted inquiry below regarding Zoning Code section 35-53 “M-3 Heavy Industrial District”.

1. Chapter IX, Dumping and Storage of Rubbish, etc. pretty much aligns to Section 8-5 of the new code provisions for public nuisances, and bans it.

The *problem* is that s. 35-53 of the Zoning Code allows wrecking, junk, demolition and scrap yards in the M-3 Zoning District. The Village needs to decide if it wants to allow this use in the Village at all, and if so, we will have to include some language referencing it in 8-5, and will have to include Chapter XII of the Town Code in the new code. Please present the question to the ordinance committee and let me know. (Jon, please weigh in on this.) Are there currently any dumps in the Village?

Please also note that, because solid waste is now very heavily regulated by the state, creating a modern ordinance to replace Chapter XII will likely take several hours.

My input: One of the permitted principal uses under M-3 zoning is wrecking, junk, demolition and scrap yards. Sanitary landfills are considered a conditional use under M-3. The Town of Rochester had a specific ordinance dealing with these types of uses. It is attached for reference and review.

Although nothing is zoned M-3 right now, I think scrap yard- landfill uses should be included in the code as they are common enough uses that we may need to reference the code from time to time to address proposed uses- or use violations. My suggestion is that we move wrecking, junk, demolition and scrap yards to a conditional use under section 35-53; and then include the language used specifically to address these uses in the conditional use section- just as we did for the quarries.

Please weigh in....what are your thoughts on this?

*Betty J. Novy, MMC CMTW WCPC
Clerk-Treasurer
Village of Rochester, Racine County, Wisconsin
P.O. Box 65
Rochester, WI 53167
p. 262-534-2431 f. 262-534-4084
Population: 3,764*



ADDED:
35-100.F.4.

Special Conditional Use Provisions for Solid Waste Facilities, Scrap Iron, Steel or Nonferrous Metal Processing Facilities, Recycling Facilities, Auto Junkyards and Auto Scrap Metal Salvage Yards.

- a. Solid waste facilities, scrap iron, steel or nonferrous metal processing facilities, recycling facilities, auto junkyards and auto scrap metal salvage yards, including their accessory uses, are conditional uses permitted in the M-3 District. No person or other entity shall operate one of these facilities within the Village without first obtaining conditional use permit approval from the Plan Commission and Village Board as hereinafter provided.
- b. Application. Applications for permits shall be submitted in writing, in duplicate to the Village Plan Commission and shall set forth the following information:
 - (1) Completed Village zoning and conditional use application forms and copies of all plans of operation, license applications and other submissions to the State of Wisconsin.
 - (2) A written report and site plan outlining the following issues:
 - (a) Name and address of the applicant.
 - (b) Name and address of the owner of the site on which the use is taking place.
 - (c) Description of site for use by lot, block, and recorded subdivision or by metes or bounds.
 - (d) Address of site.
 - (e) Statement of the nature of the proposed operation, and appropriate exhibits, including:
 - [1] List of equipment and machinery to be used to conduct operations.
 - [2] Type and amount of explosive materials to be used or stored, if any.
 - [3] Size, location, and use of the buildings to be constructed on the site.
 - [4] Smoke and dust control devices to be utilized, if any.
 - [5] Highways to be used for the truck traffic to and from the subject site.
 - [6] Deodorants or odor control devices.
 - [7] Proposed devices for muffling of noise.
 - [8] The employment of safety devices to protect the public from dangers inherent to the proposed use.
 - [9] Method of concealing unsightly deposits, if any.

- [10] Employee and machinery/equipment parking areas.
 - [11] Method of using and/or removing and disposing methane and other gases generated by the site.
 - [12] Method of controlling vermin, flies and other vectors.
 - [13] Any other pertinent data which the applicant deems material, or as requested by the Village.
-
- (f) Zoning of the site to be used. Existing land use and zoning abutting subject property.
 - (g) Depth of existing and proposed excavations.
 - (h) Commencement and completion dates of each type of operation proposed.
 - (i) Hours and days of operation.
 - (j) Number of employees.
 - (k) Method and manner of draining surface water and accumulated water from the premises.
 - (l) Method and manner of restoring the areas of the operation after the cessation of operation to a condition of practical usefulness and reasonable physical attractiveness.
 - (m) Topographic mapping of the site showing existing and proposed contours, with a contour interval no greater than two feet (12 copies).
 - (n) Existing trees four inches or more in diameter, measured four feet from the existing elevation and proposed tree plantings; provided, however that, for heavily wooded areas, the perimeter of the heavily wooded area may be delineated and the types of trees and range of diameters may be provided.
 - (o) Landscaping berms, fencing and gates.
 - (p) Sign locations and sizes.
 - (q) Existing and proposed access roads.
 - (r) Water supply facilities, including the source quantity and disposition of the water to be used.
 - (s) Proposed sanitary facilities (obtain Racine County sanitary approval for on-site sanitary facilities).
 - (t) Test results of area water wells, and proposed testing plans, where the proposed use includes excavation below the water table, along with sureties to insure performance of continued testing and resolution of issues identified, in a form determined by the Village Plan Commission upon the Village Plan Commission finding that such condition or

conditions are proper for protection of health, safety and or welfare of the public.

- (u) Highway access restrictions, deed restrictions, and traffic control, along with repair plans for Village roads affected by the operation. Where determined necessary by the Village Plan Commission, the applicant shall submit a financial surety for the projected road repair.
- (v) Letter of Agreement from the applicant agreeing to restore the subject site in accordance with the approved restoration or reclamation plan.
- (w) The Village Plan Commission may also, as a condition precedent to the issuance of the zoning permit and conditional use permit, require an agreement with the applicant and owner whereby they agree to restore the site to a condition of practical usefulness and reasonable physical attractiveness. A financial surety may be required by the Village if the use of the property does not require proof of financial responsibility under state law.

c. Fees.

- (1) An application for an original permit or a renewal of an existing permit shall be accompanied by a fee, in an amount set by the Village Board and set forth in the Fee Schedule, to defray the cost of publication of notice of hearing, investigation of the site, public hearing, and permitting.
- (2) An application for a permit, where the operation plan of the property is not changed, shall be accompanied by a fee in an amount set by the Village Board and set forth in the Fee Schedule.

d. Review and Hearing.

- (1) Upon receipt of an application submitted the Village Plan Commission shall inspect the site for which a permit is requested and shall review the proposed structures, neighboring land and water uses, driveway locations, highway access, traffic generation and circulation drainage, waste disposal, water supply system, effect of the proposed use and operation upon use of surrounding lands, natural beauty, soil erosion, water quality, wildlife habitat, and shoreland cover and method, manner and practicality of restoration of the area after cessation of use.
- (2) A public hearing shall be held by the Village Plan Commission at its regular meeting place and a notice of said meeting shall be sent by regular mail to the applicant and all persons owning property lying within 500 feet of the site designated in the application. In addition, the Village Clerk shall post a notice of such meeting and a Class 2 notice shall be published, the last insertion to be at least 10 days before the date of said public hearing. At such hearing, the Village Plan Commission shall hear all persons interested in granting or denying said permit and may, if it deems fit, take testimony relative to the applications.

Where the permit applied for relates to the continuation of an existing business that previously held a conditional use permit, the Village Board shall have the option to require a public hearing, but in the absence of such requirement, no public hearing shall be held and no public hearing notice or mailing shall be required. An application for the expansion of, or changes to, an existing business shall require a public hearing.

- (3) After the public hearing, the Village Plan Commission shall meet to consider the application and make a recommendation on said application to the Village Board. The Village Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site in making its recommendation to the Village Board.

e. Determination by Village Board.

- (1) Within 90 days after the public hearing the Village Board shall either grant or deny the conditional use permit. In making such determination the Village Board shall consider whether the proposed use will be detrimental to the health, safety and /or welfare of the public; such determination shall be made on the basis of the information contained in the application, the inspection and review of the Village Plan Commission, the recommendation of the Village Plan Commission and information presented at the public hearing. The Village Board may also inspect the site.
- (2) The Village Board shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.
- (3) The Village Board may, as a condition to the issuance of the permit, demand an agreement with the applicant to ensure performance of any or all of the following restrictions:
 - (a) There shall be no burning or fire of any kind allowed on the premises for which the permit is issued. In the event a fire is started on the premises, whether or not through the fault of the permittee and the services of a fire department are used to extinguish said fire, the permittee shall pay any and all costs thereof to the fire departments or fire companies involved, upon demand.
 - (b) No raw garbage, dead animals, manure, animal or vegetable waste from any source whatsoever, oil, paint, solvents or other liquid chemicals, or any similar material shall be dumped on the premises for which the permit is issued.
 - (c) The proposed operation shall not be detrimental to the sources of water supply at the residences in the area.
 - (d) All wastes disposed of at the site shall be covered with at least six inches of compact earth after each day of operation.
 - (e) The working force of the operation shall be confined to as small an area as possible and surrounded with a snow fence or other appropriate facilities to confine possible windblown materials to the area. All wind-blown material resulting from the operation shall be properly picked up and the site and surrounding properties maintained.
 - (f) The entrance to the premises for which the permit is issued shall be fenced and shall contain a gate which shall be capable of being securely locked. The premises shall be kept locked at all times except when

immediate supervision is provided to insure compliance with the provisions of the ordinance and agreement.

- (g) The operation and access roads to the site shall be maintained in a manner to eliminate the possibility of causing a dust problem in the area.
- (h) The premises shall be restored to the satisfaction of the Village Board; said restoration to progress as the area is filled, and the Board may demand that a performance bond, written by a licensed surety company in an amount sufficient to secure the performance of the restoration agreement, be furnished to the Village.
- (i) The disposal shall be conducted in a sanitary manner by use of the sanitary landfill method in accordance with the requirements established by the State of Wisconsin, which are incorporated herein by reference.

f. Terms of Permit.

- (1) A conditional use permit issued pursuant to this Section shall be for a term of not to exceed two years and may be renewed upon application for successive periods of not more than two years. Modifications or additional conditions may be imposed upon application for renewal and the procedure for renewal shall be the same as that in application for the original permit. In any event, such permit shall terminate:
 - (a) Upon change of ownership of the site for which the permit is issued; or upon change of ownership of the firm, company, corporation or municipality operating the business holding the conditional use permit.
 - (b) In the event the use for which the permit was issued is discontinued for any period of more than one year during the term of the permit, or any permit or license issued by the state is suspended or revoked
 - (c) In the event of the occurrence of (a) or (b), above, another permit shall be applied for and obtained by the proposed operator as a condition precedent to the continued operation of the business, the operation of a new business, or the resumption of the discontinued business.
 - (d) In the event of application for a permit to which (a) or (b) above applies, the Village Board may consider the same without the necessity of holding a public hearing.
- (2) Any permit issued pursuant to this subsection shall be deemed an original permit and the permitted operator shall be bound by the terms thereof.

g. Suspension and Revocation.

- (1) The following acts shall constitute grounds for suspension or revocation of a conditional use permit under this subsection:
 - (a) Failure to discharge or drain surface water or accumulated water from the permitted premises in such method and manner as will not hamper, hinder, infringe on, disturb or damage the lands, drains, and/or ditches of other persons, firms or corporations, or municipalities, whether owned or otherwise.

- (b) The use specified in the permit is not carried on in accordance with the representations contained in the application or conditions required by the Village Board, or any change in the manner of operation specified in the conditional use permit approved by the Village Board.
 - (c) Failure during and/or after excavation to provide adequate lateral support to roadways or to the lands of abutting property owners.
 - (d) Failure to comply with conditions required in the conditional use permit issued by the Village Board.
- (2) A proceeding to suspend or revoke a permit shall be instituted pursuant to s. 35-100.1.3.

Betty Novy

From: Hasenstab Law Office <hasenstablaw@tds.net>
Sent: Thursday, May 22, 2014 4:24 PM
To: Betty Novy
Cc: John Tierney; Jonathan Schattner
Subject: Changes to Code based on statute changes, etc.

Hi Betty,

Please make the following changes to the Code, pursuant to the Village Board's instructions that we should only change what is required by recent statute changes:

1. To conform to Act 280, because we may no longer specifically require a letter of credit as surety, please make the following changes to Chapter 30:

s. 30-12(intro), please change as follows:

30-12. IMPROVEMENTS.

Before final approval of any final plat located within the jurisdiction limits of this Chapter, the subdivider shall install street, ~~and~~ utility and other public improvements as hereinafter provided. If such improvements are not installed as required at the time that the final plat is submitted for approval, the subdivider shall, before the recording of the plat, enter into a contract with the Village agreeing to install the required improvements and shall file with said contract a bond or letter of credit meeting the approval of the Village Attorney ~~or a certified check~~ in an amount equal to ~~125%~~ 120 percent of the estimated cost of the improvements -- said estimate to be made by the Village Plan Commission after review and recommendation by the Village Engineer -- as a guarantee that such improvements will be completed by the subdivider or the subdivider's contractors or subcontractors not later than two years from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied. In addition:

s. 30-25.D.2.b., please change as follows:

b. As a further condition of approval, the Village shall require that the subdivider make and install any public improvements reasonably necessary or that the subdivider execute a bond or letter of credit to ensure that he or she will make those improvements within a reasonable time as set forth in Article 10. The subdivider may construct the project in such phases as the Village Board approves, which approval may not be unreasonably withheld. If the subdivider's project will be constructed in phases, the amount of any bond or letter of credit required by the Village Board shall be limited to the phase of the project that is currently being constructed. The Village Board may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.

s. 30-92.B., please change as follows:

B. The Developer shall be responsible for repairing defects in the public improvements for a period of one year after the Village's acceptance of the improvements (the "guarantee period"). Prior to final acceptance of the public improvements, the subdivider shall pay any outstanding invoices and submit a five percent maintenance bond for the full value of the public improvements as estimated by the subdivider's engineer and verified by the Village Engineer. Said maintenance bond shall be the developer's guarantee against defects of the public improvements and shall terminate one year after acceptance of maintenance of the public improvements by the Village Board, provided, however, that the term of the maintenance bond shall not be required to extend past 14 months after substantial completion of the improvements. In the event that the Developer fails to repair or replace defective work during the guarantee period, the Village will use the

Developer's maintenance bond and/or specially assess or specially charge the land for the cost of repairs as set forth in s. 30-102.C.

s. 30-92.C, please change as follows:

- C. Upon acceptance by the Village Board, the balance of the public improvements construction ~~guarantee, cash, and/or~~ bond or letter of credit and any deposited fees remaining shall be released to the subdivider.

s. 30-101.D. (intro) and D.1., please change as follows:

- D. Bond or Letter of Credit in a form approved by the Village in the amount of ~~125~~ 120 percent of the Village Engineer's opinion of probable cost of the installation of such improvements with good and sufficient surety thereon, to be approved by the Village Board, conditioned upon the installation of the required improvements within two years of the approval of the final plat.

1. The Village may require that the Bond or Letter of Credit be automatically renewed on an annual basis if notice of cancellation or expiration is not provided to the Village at least 90 days prior to the cancellation or expiration. The Village may extend the deadlines for completion of the installation of the improvements, and if so extended, shall require that a Bond or Letter of Credit remain in place during the extension.

s. 30-102., please change as follows:

30-102. REDUCTION OF BOND OR LETTER OF CREDIT; ASSESSMENT RIGHTS.

A. The bond or letter of credit can be periodically reduced by the Village Clerk upon recommendation of the Village Engineer and approval by the Village Board.

~~A.~~ 1. The subdivider may submit to the Village Engineer a list of completed items and their cost along with copies of waivers of lien for the completed items. Upon review of these submittals, the Village Engineer shall recommend to the Village Clerk the reduction in the value of the bond or letter of credit to be approved. Each reduction shall not be more than the value of items estimated in the bond or letter of credit guarantee amount.

~~B.~~ 2. The ~~25~~ 20 percent contingency shall be held as retainage and not released until substantial completion of the public improvements. Substantial completion is defined as the time the binder coat is installed on roads to be dedicated, or, if there is no road to be dedicated, at the time that 90 percent of the public improvements by cost are completed. Upon substantial completion, the amount of the surety shall be reduced to the amount to complete any uncompleted public improvements plus 10 percent of the total cost of the completed public improvements, which shall remain in place for at least 14 months after the date of substantial completion. The public improvements shall be completed in their entirety no later than 12 months after substantial completion and tendered to the Village for acceptance. Upon acceptance of the project and receipt of the five percent maintenance bond as specified herein, the original surety shall be released. If the work has not been completed in its entirety 12 months after substantial completion, the Village may declare the Developer to be in default of the Development Agreement and use the surety for completion of the public improvements

B. RESERVATION OF ASSESSMENT RIGHTS. In the event that any financial guarantee does not provide sufficient funds to complete the public improvements as provided herein, or the financial guarantee expires, or the Developer does not repair or replace defects in the public improvements during the guarantee period, in addition to the remedies for default provided to the Village by the financial guarantee, the Village reserves the right without notice or hearing to impose special assessments or charges for any amount to which it is entitled by virtue of this Agreement upon

the Development and/or individual parcels in the Development. Such special assessments or charges shall be collected on the next succeeding tax roll as are other special assessments or charges. This provision shall be included in the development agreement and the signature of the developer shall constitute the waiver of notice and consent of Developer and its successors and assigns to all special assessment or special charge proceedings which may be required by law.

2. Also, because we want to have the freedom to make plea agreements and increase the cost of a ticket, please add the following language in the Header of the Deposit Schedule:

Minimum Base Forfeiture: First Offense, \$20, Second violation of the same ordinance within one year, \$40, unless a warning or higher amount is specified.

Maximum Base Forfeiture: First Offense is \$200, Second violation of the same ordinance within one year, \$400, unless a higher amount is specified.

Please let me know if you have any questions.

Marcy

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From: [Hasenstab Law Office](#)
Sent: Wednesday, April 30, 2014 12:11 PM
To: [Betty Novy](#)
Cc: [John Tierney](#) ; [Jonathan Schattner](#)
Subject: Recent Statutory Changes

Betty:

Please provide this email to the Plan Commission and the Village Board for discussion at their next meetings. Not every item will apply to the Plan Commission, and some are informational only. Some items contain questions regarding changes to the Code.

The Wisconsin Legislature has been busy this year. Of the 380 Acts passed this session, 263 Acts have been enacted since January 1st, 234 of which were enacted since March 28th.

Some of the laws that affect municipalities are noted below. Some are listed for your information, and some require that the Village determine whether changes should be made before we pass the Code, as follows:

Act 106: It's no longer illegal for passengers to drink fermented malt beverage on a commercial quadricycle unless the municipality enacts an ordinance banning or limiting it.

Does the Village want to limit or ban this activity?

Act 228: As of the January 1, 2015 property tax assessments, the Board of Review may allow a property owner or his or her representative to appear under oath by telephone or to submit written statements to the Board under oath. The Board of Review may also postpone or reschedule a hearing one time only at the request of the property owner or representative. No change to the Code is needed.

Act 270: Establishes that a municipality may enact or enforce an ordinance that establishes minimum standards for constructing, altering or adding to commercial buildings unless it is in strict conformance with the commercial code, unless the ordinance meets certain criteria and relates to fire detection, prevention or suppression components of buildings and

is submitted to and approved by the state. I have spoken with Lee Grievell, and he does not believe that the Village Building Code contains any variations from the commercial code. We have identified that Chapter 3, Fire Department, however, does require a rapid entry key box (Knox Box) on commercial buildings, and *I will send that ordinance to DSPS to request that it authorize continued enforcement of that requirement.*

Act 272: Allows the Village to enact an ordinance that allows land division by CSM (rather than Plat) for more than 4 parcels if the land is zoned for commercial, industrial or mixed use development. The statute does not place a limit on the maximum number of parcels the Village can specify. CSMs for more than 4 parcels are subject to Department of Administration review for compliance with certain platting requirements, but not all, and is subject to DOT review if the land abuts a state trunk highway or connecting highway.

Does the Village want to incorporate this change into the new Land Division chapter? If so, how many lots should be specified?

Act 274: Changes the way landlords must be notified before tenants' delinquent utility bills may be placed on the tax roll. No change to the Code is needed.

Act 280, effective on April 17, 2014 and applicable to plats submitted in the future: Changes the type of surety, the maximum amount and length of time that the Village can require to ensure the completion of public improvements for a development, as follows:

The governing body may not require the subdivider to provide security at the commencement of a project in an amount that is more than 120 percent of the estimated total cost to complete the required public improvements. It is the subdivider's option whether to execute a performance bond or whether to provide a letter of credit to satisfy the governing body's requirement that the subdivider provide security to ensure that the public improvements are made within a reasonable time.

and

If the governing body of the town or municipality requires a subdivider to provide security under this paragraph, the governing body may not require the subdivider to provide the security for more than 14 months after the date the public improvements for which the security is provided are substantially completed and upon substantial completion of the public improvements, the amount of the security the subdivider is required to provide may be no more than an amount equal to the total cost to complete any uncompleted public improvements plus 10 percent of the total cost of the completed public improvements.

It also defines substantial completion:

For purposes of subd. 1., public improvements reasonably necessary for a project or a phase of a project are considered to be substantially completed at the time the binder coat is installed on roads to be dedicated or, if the required public improvements do not include a road to be dedicated, at the time that 90 percent of the public improvements by cost are completed

The appropriate changes will be made to Chapter 30 before the public hearing and final approval.

Act 293: Changes the limit on the number of marijuana offenses that can be prosecuted as a municipal violation. The previous law was that a municipality could enact an ordinance to prohibit possession of 25 grams or less of marijuana, but only one such violation could be processed as an ordinance violation. The law was changed on April 17th to allow a municipality to prosecute violations for possession of more than 25 grams and for second and subsequent violations if the violation was sent to the DA and the case was dismissed or the DA declines to prosecute. If the Village does not change the ordinance, it is possible the subsequent violations will not be prosecuted at all in circumstances where the amount of marijuana is low or the DA doesn't have the staff to prosecute.

Does the Village want to change s. 7-19 to allow the Village to prosecute additional marijuana violations?

Act 326: The minimum fine for violation of disabled parking restrictions, even in County and Village parking lots, is now \$150.00. No change to the Code is required.

Act 358: published 4/24, effective on 8/24: Among other items, changes the form in which plats are submitted to approving authorities from paper to electronic. The Department of Administration has the option to send out electronic or paper copies to the agencies it sends the plat to. Only the executed final plat has to be a hard copy. This Act is 18 pages long and 5 of the pages make changes to Chapter 236, Subdivision, of the statutes regarding surveying requirements, and it has not yet been incorporated into the online version of the statutes. There is a potential that it will require many changes to Chapter 30.

Does the Village want the provisions of Act 358 incorporated into Chapter 30, or should we wait until it becomes effective?

**CHAPTER 30
LAND DIVISION**

ARTICLE 1 GENERAL PROVISIONS.

30-1. AUTHORITY.

These regulations are adopted under the authority granted by Wis. Stat. s. 236.45.

30-2. PURPOSE.

The purpose of this chapter is to regulate and control the division of land within the limits of the Village of Rochester, Racine County, Wisconsin in order to promote the public health, safety, and the general welfare of the Village.

30-3. INTENT.

It is the general intent of this chapter to regulate the division of land to further the orderly layout and use of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage and other public requirements; to provide for proper ingress and egress; and to promote proper monumenting of land subdivided and conveyancing by accurate legal description. This will be done in such a way as to preserve natural resource areas, farmland, and other large areas of open land, while permitting residential development at appropriate densities for the urban and rural characteristics of the Village, in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Generally this will be achieved through an appropriate combination of traditional and conservation subdivisions and carefully planned minor divisions. Specific objectives are as follows:

- A. Guide growth and development consistent with the November 2009 "A Multi-Jurisdictional; Comprehensive Plan for Racine County: 2035" as amended from time to time (the "Village Comprehensive Plan").
- B. Use ecological planning principles in the design, construction and long term management of all new developments.
- C. Guide analysis of development parcels so as to locate and coordinate appropriate areas for development and conservation.
- D. Preserve rural character and maintain scenic views where appropriate.
- E. Protect environmental corridors.
- F. Preserve productive agricultural lands.
- G. Provide permanently protected open space for residents of developments.
- H. Provide a diversity of lot size, housing choices and building densities.
- I. Provide buffer between residential development and non-residential uses.

- J. Ensure sound standards for development are met: enforce flood plain requirements; build only on proper soils; provide friendly street layouts, block configurations and open spaces; provide user friendly motorized and non-motorized traffic patterns; provide adequate utilities and effective storm water management.
- K. Ensure fiscal stability of the community by minimizing the cost of public facilities and services.
- L. Balance private property rights against the need to protect and preserve public health, safety and welfare.
- M. Provide basis for clear and accurate boundary line records.
- N. Provide for administration and enforcement of this Chapter and penalties for violations

30-4. ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations, or permits previously adopted or issued pursuant to laws. Where the revisions, conditions and restrictions of this Chapter are more restrictive than the, conditions and restrictions contained in the Village's adopted Comprehensive Plan, the provisions, conditions and restrictions contained in this Chapter shall govern. Pursuant to Wis. Stat. s. 66.1001(3), local subdivision ordinances enacted or amended after the date of adoption of the Comprehensive Plan shall be consistent with the Village's Comprehensive Plan.

30-5. INTERPRETATION.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

30-6. SEVERABILITY.

If any section, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

30-7. TITLE.

This Chapter may be referred to as the "Land Division Code, Village of Rochester, Racine County, Wisconsin" or the "Land Division Code."

30-8. JURISDICTION.

Jurisdiction of these regulations shall include all incorporated lands within the Village of Rochester, Racine County, Wisconsin.

- A. The provisions of this Chapter, as it applies to divisions of tracts of land, shall not apply to:
 - 1. Transfers of interests in land by will or pursuant to court order;
 - 2. Lease for a term not to exceed ten years, mortgages, or easements; and
 - 3. Sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by these regulations, the zoning ordinances, or other applicable laws or ordinances.

- B. The provisions of this Chapter, as it applies to all divisions of tracts of land, shall not apply to:
 - 1. Cemetery plats made under Wis. Stat. s. 157.07; and
 - 2. Assessor's plats made under Wis. Stat. s. 70.27, but such assessors' plats shall comply with Wis. Stat. ss. 236.15(1)(a) to (g) and 236.20(1) and (2)(a) to (e).

30-9. COMPLIANCE.

No person shall divide any land located within the jurisdictional limits of these regulations which results in a condominium, planned development, conservation subdivision, conventional subdivision, certified survey map or replat as defined herein, and no such condominium, planned development, conservation subdivision, certified survey map, or replat shall be entitled to recording; and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and the following:

- A. Chapters 236 and 703 of the Wisconsin Statutes;
- B. Rules of the Wisconsin Department of Safety and Professional Services, contained in Wis. Admin. Code ch. SPS 383 and related chapters of the Wisconsin Administrative Code for land division not served by public sewer;
- C. Rules of the Wisconsin Department of Transportation relating to safety of access and preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts on a state trunk highway or connecting street;
- D. Rules of the Wisconsin Department of Natural Resources, Division of Environmental Protection setting water quality standards preventing and abating pollution, and regulating development within floodplain, wetland, shoreland-wetland and shoreland areas; and
- E. All other applicable state, local and county ordinances and regulations.

30-10. APPLICABILITY TO CONVENTIONAL AND CONSERVATION SUBDIVISIONS AND MINOR DIVISIONS.

- A. Conventional and conservation subdivision standards apply to all divisions in the non-sewer district where the division of a parent parcel of 20 or more net buildable acres creates five or more parcels including the parent remnant.
- B. Conventional and conservation subdivision standards apply to all subdivisions in the sewer district where the division of a parent parcel of 20 or more net buildable acres creates five or more parcels including the parent remnant.
- C. Condominium Plats: Conventional and conservation subdivision standards apply to all condominium plats prepared under Chapter 703 of the Wisconsin Statutes. A condominium plat that does not include a land division is exempt from review under this Chapter, and must meet the regulations of the Planning and Zoning Code, i.e., if the condominium is one five unit building, it is treated as a multifamily development under the Planning and Zoning Code, and if it is five single-family units, or five duplexes, without a land division, it is treated accordingly, with the appropriate lot sizes per family, etc. If the owners/developers want to reduce yard sizes, setbacks, etc. under the Planning and Zoning Code, a PUD must be requested under the Planning and Zoning Code. If a land division is requested, this Chapter is applicable only to the land division and not the condominium plat itself.
- D. Minor Divisions standards apply to all minor divisions in the sewer and non-sewer districts.

30-11. DEDICATION OF LANDS.

Whenever a tract of land to be divided within the jurisdiction of this Chapter encompasses all or any part of a public street, drainage way, or other public way which has been designated on a duly adopted Village or regional comprehensive plan or comprehensive plan component, said public way shall be made a part of the plat and dedicated by the subdivider in the locations and dimensions indicated on said plan or component and as set forth in this Chapter.

30-12. IMPROVEMENTS.

Before final approval of any final plat located within the jurisdiction limits of this Chapter, the subdivider shall install street ~~and~~, utility and other public improvements as hereinafter provided. If such improvements are not installed as required at the time that the final plat is submitted for approval, the subdivider shall, before the recording of the plat, enter into a contract with the Village agreeing to install the required improvements and shall file with said contract a bond or letter of credit meeting the approval of the Village Attorney ~~or a certified check~~ in an amount equal to ~~125%~~ 120 percent of the estimated cost of the improvements -- said estimate to be made by the Village Plan Commission after review and recommendation by the Village Engineer -- as a guarantee that such improvements will be completed by the subdivider or the subdivider's contractors or subcontractors not later than two years from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied. In addition:

- A. Contracts and contract specifications for the construction of street and utility improvements on dedicated street rights-of-way, as well as the contractors and subcontractors providing such work shall be subject to the approval of the Village Engineer;
- B. Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section;
- C. Survey monuments: Before final approval of any plat within the Village, the subdivider shall install survey monuments (hereinafter sometimes referred to as "monuments") placed in accordance with the requirements of Wis. Stat. s. 236.15 and as may be required by the Village Engineer.

30-13. VARIANCES.

Where, in the judgment of the Village Board, it would be inappropriate to apply literally the provisions of this Chapter because exceptional or undue hardship would result, the Village Board, after review and recommendation by the Village Plan Commission, may waive or modify any requirement to the extent deemed just and proper.

- A. No variance to the provisions of this Chapter shall be granted unless the Village Board finds by the greater weight of the evidence that all the following facts and conditions exist and so indicates in the minutes of its proceedings:
 - 1. Exceptional circumstances: That there are exceptional, extraordinary, or unusual circumstances or conditions where a literal enforcement of the requirements of this Chapter would result in severe hardship. (Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that the Land Division Chapter should be changed).
 - 2. Preservation of property rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.

3. Absence of detriment: That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Chapter or the public interest.
- B. The Village Board may waive the placing of monuments, required under Wis. Stat. ss. 236.15(1)(b), (1)(c), and (1)(d), for a reasonable time on the condition that the subdivider executes or provides sufficient surety to insure the placing of such monuments within the required time limits established by the Village.

30-14. LAND SUITABILITY.

- A. Environmentally sensitive land shall not be developed except as set forth in this section. Areas identified as environmentally sensitive include, but are not limited to the following:
1. All areas mapped as floodplain by the Federal Emergency Management Agency, Wisconsin Department of Natural Resources, or other public or private entity, and unmapped flood prone areas subject to inundation by the 100-year storm event.
 2. All wetlands, including ephemeral ponds, as defined in Wis. Admin. Code s. NR 103.02(5), including a 75-foot buffer from the edge of the wetlands.
 3. All areas within the areas zoned as shoreland pursuant to Chapter 36, i.e., within the applicable distance from the high water mark of navigable streams and lake, as identified by the Wisconsin Department of Natural Resources Water Management Specialists.
 4. Regional natural areas and critical species habitat.
 5. Areas known to provide habitat for rare, threatened or endangered species.
 6. Burial sites and Indian mounds.
 7. Any drainage way where water runs during spring runoff or during a 100-year rainfall event. A 25-foot buffer from the edge of the drainage way shall be included.
 8. All areas restricted by Wisconsin Administrative Code for private on-site wastewater treatment systems including high groundwater (within 6 feet of undisturbed surface), or bedrock within 6 feet of the natural undisturbed surface, filled lands, and lands drained by farm drainage tiles or ditch systems which would otherwise be wetlands.
- B. Areas determined to be environmentally sensitive may be included as Common Space in a conservation subdivision.
- C. The Village Board, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for residential use and afford the subdivider an opportunity to present evidence in rebuttal to such finding of unsuitability if they so desire. Thereafter, the Village Board may affirm, modify, or withdraw its determination of unsuitability.

30-15. EXTRATERRITORIAL PLAT APPROVAL JURISDICTION.

Pursuant to Wis. Stat. s. 236.45(3):

- A. The subdivision ordinances adopted by the Village shall regulate the division or subdivision of land within the extraterritorial plat approval jurisdiction of the Village as well as land within the corporate limits of the Village when the Village has the right to approve or object to plats within that area under Wis. Stat. s. 236.10(1)(b)2. and (2).

- B. Notwithstanding subsection A. and Wis. Stat. ss. 236.45(1) and (2), the Village may not deny approval of a plat or certified survey map under this section or Wis. Stat. ss. 236.10 or 236.13 on the basis of the proposed use of land within the extraterritorial plat approval jurisdiction of the Village, unless the denial is based on a plan or regulations, or amendments thereto, adopted by the Village Board under Wis. Stat. s. 62.23(7a)(c).

30-16. FEES.

Fees and Costs. The fees and costs for review of Plats, CSMs and other reviews required by this Chapter shall be in amounts determined by the Village Board and set forth in the Fee Schedule. Reviews shall not occur or approvals granted until the applicant pays all applicable fees and costs to the Treasurer.

ARTICLE 2. SUBDIVISION PROCEDURE.

30-21. PRE-APPLICATION CONFERENCE.

It is recommended that, prior to filing a subdivision conceptual plan, the subdivider consult with the Village Zoning Administrator, and the Plan Commission, in order to obtain their advice and assistance. This consultation is neither formal nor mandatory, but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive land use plan, comprehensive plan components, , duly adopted plan for implementation devices of the Village, conventional subdivision requirements, conservation subdivision procedures and process as shown in Appendix A, and to otherwise assist the subdivider in planning the development. In doing so, both the subdivider and the Village Plan Commission may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible adverse effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequently required procedures.

30-22. CONCEPTUAL PLAN.

- A. Prior to the filing of an application for the approval of a preliminary plat, the subdivider shall submit ten copies of a conceptual plan of the proposed land division prepared in accordance with this chapter to the Zoning Administrator for review and comment by the Village Plan Commission and Village staff and consultants. Submission must be received at least 20 days prior to the next Plan Commission meeting in order to be added to the agenda. To facilitate the discussion, it is recommended that all members of the Commission visit the site with the developer as part of a Plan Commission meeting.
- B. The conceptual plan is intended to provide an early opportunity to review policy issues relating to the development and its possible adverse effects on the adjacent neighborhood and community. Assuming neighboring properties are likely to be developed in the future, the Plan Commission may recommend to the Village Board that a neighborhood plan be prepared prior to accepting the conceptual plan. The Village would be responsible for preparing such a plan. The plan would include, but not necessarily be limited to identifying locations of the following:
 - 1. Streets and highway access points;
 - 2. Environmentally sensitive areas which cannot be developed as defined in Section 30-14, Land Suitability;
 - 3. Environmental corridors;
 - 4. Residential development areas; and
 - 5. Business and commercial development areas.
- C. The Village Plan Commission may recommend and the Village Board may require:
 - 1. That the developer submit a conservation subdivision development plan as an alternative to a conventional subdivision; and
 - 2. For development within, or within 200 feet of, a primary or secondary environmental corridor, that a qualified ecological service provider provide a habitat assessment and a plan to minimize adverse effects on vegetation and wildlife within the corridor. When the affected corridor land is owned by another party(s), the assessment and plan will be waived if the other owner(s) do not grant permission. At the discretion of the Plan Commission, similar information may be required for isolated natural resources. These

corridors and resources are identified in "A Multi-Jurisdictional; Comprehensive Plan for Racine County: 2035" on Map VI-1, as may be amended from time to time.

30-23. PUBLIC NOTIFICATION.

Notice of any public hearing which the Plan Commission or Village Board is required to hold under the terms of this Chapter shall specify the date, time and place of said hearing and shall state the matter to be considered at said hearing. Notice shall be provided as required by applicable state statutes. The following notifications shall be required in addition to the notice required by statute:

A. Written Notice.

- ~~1. Conceptual Plan. At least 14 days prior to initial review of a land division conceptual plan or CSM by the Plan Commission, the Village Clerk shall send a written notice to property owners adjoining the subject property advising the meeting date when the proposal will be considered.~~
- ~~2. Preliminary Plat. At least 14 days prior to the initial review of a land division by preliminary plat, the Clerk shall send a written notice to the property owner adjoining the subject property advising the meeting date when the proposal will be considered.~~
- ~~3. Final Plat or CSM. At least 14 days prior to a Public Hearing or meeting to be held by the Village Board concerning a land division final plat or CSM, the Clerk shall send a written notice to the property owner and to the property owners abutting the subject property, including abutting owners on the opposite side of the street, advising of the date of the meeting ~~or public hearing~~ when the proposal will first be considered.~~
- ~~4. Public Hearing. A public hearing is not required by statute for final plat or CSM approval. In most cases, a zoning change or map amendment occurs at the same time a plat or CSM is approved; in such cases, the notice required in this section be combined with the notice of the public hearing required for the map amendment and/or by the zoning chapters.~~

B. Signs. At least 14 days prior to initial review of a land division conceptual plan or CSM by the Plan Commission, the applicant shall post one or more signs, clearly visible from each adjoining road, advising of pending review. The signs shall remain in place until the day after the Village Board meeting on at which the final plat/land division is finally approved or CSM before denied by the Village Board. The signs shall be provided by the Village and shall be returned by the applicant no later than two days after the public hearing/final determination. Improper posting may result in the Plan Commission delaying consideration until a later meeting.

30-24. PRELIMINARY PLAT REVIEW AND APPROVAL.

After submitting a conceptual plan and before submitting a final subdivision plat for approval, the subdivider shall prepare a preliminary plat with supporting data and a letter of application. The preliminary plat and supporting data shall be prepared in accordance with this chapter and Wisconsin law. The subdivider shall file 16 hard copies and one electronic copy of the plat with supporting data and application with the Village Clerk, together with all necessary fees, at least 30 days prior to the meeting of the Village Plan Commission at which first consideration is desired. The Clerk may require additional copies.

A. The Village Clerk shall forward the Preliminary Plat and letter of application within two normal working days for the following objecting and approving authorities:

1. Racine County Economic Development and Land Use Planning Committee: four copies

2. Administrator, Division of Intergovernmental Relations, Department of Administration: four copies. The Administrator will forward copies to the following State objecting authorities:
 - a. Wisconsin Department of Transportation when subdivision abuts a state highway or connecting highway;
 - b. Wisconsin Department of Safety and Professional Services when subdivision is not served by public sewer;
 - c. Wisconsin Department of Natural Resources when subdivision contains shorelands; and
- B. The Village Clerk shall forward the Preliminary Plat (which may be an electronic copy or reduced copy) and letter of application within two normal working days to each of the following:
 1. Village Trustees;
 2. Village Plan Commission Members;
 3. Zoning Administrator and Village Engineer;
 4. Contracted Fire Company.
 5. School Board with jurisdiction (for review and comment).
- C. The objecting agencies shall within 20 days of the date of receiving their copies of the Preliminary Plat, notify the subdivider and all other approving and objecting agencies of any objections. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the plat.
- D. After review and input from the objecting agencies, Village Engineer and Fire Chief, the Zoning Administrator and Village Plan Commission will review the Preliminary Plat and supporting data and suggest changes needed to comply with this chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components, and conventional and conservation subdivision procedures. Efforts will be made to resolve any differences and a recommendation made to the Village Board to approve or reject the plat.
- E. The Village Board shall, within 90 days of the date of filing of a Preliminary Plat and supporting data with the Village Clerk, approve, approve conditionally, or reject such plat. One copy of the plat shall thereupon be returned to the subdivider with the date and action endorsed thereon; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. One copy of each of the plat and letter shall be placed in the Village's permanent file.
- F. Failure of the Village Board to act within 90 days shall constitute an approval of the Preliminary Plat as filed.
- G. If the final plat conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to local plans and ordinances adopted as authorized by law, it is entitled to approval. If the final plat is not submitted within 36 months after the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat or may extend the time for submission of the final plat. The final plat may, if permitted by the approving authority, constitute only that portion of the approved preliminary plat that the subdivider proposes to record at that time. See Wis. Stat. s. 236.11(1)(b).
- H. See also s. 30-25D.

30-25. FINAL PLAT REVIEW AND APPROVAL.

- A. The subdivider shall prepare a Final Plat, letter of application and shall file 16 of copies of the Plat and the application with the Village Clerk, along with all applicable fees in accordance with this chapter and Wis. Stat. ch. 236, at least 45 days prior to the meeting of the Village Board at which action is desired. The Village Clerk may require additional copies. The Village Clerk shall forward the Final Plat and letter of application within two normal working days for the following objecting and approving authorities:
1. Racine County Economic Development and Land Use Planning Committee: four copies
 2. Administrator, Division of Intergovernmental Relations, Department of Administration: four copies, along with applicable fees. The Administrator will forward copies to the following State objecting authorities:
 - a. Wisconsin Department of Transportation when subdivision abuts a state highway or connecting highway;
 - b. Wisconsin Department of Safety and Professional Services when subdivision is not served by public sewer;
 - c. Wisconsin Department of Natural Resources when subdivision contains shorelands; and
- B. The Village Clerk shall forward the Final Plat (which may be an electronic copy or reduced copy), and letter of application within two normal working days to each of the following:
1. Village Trustees;
 2. Village Plan Commission Members;
 3. Zoning Administrator and Village Engineer;
 4. Contracted Fire Company;
 5. School Board with jurisdiction (for review and comment).
- C. The objecting agencies will, within 20 days of the date of receiving their copies of the Final Plat, notify the subdivider and all other approving and objecting agencies of any objections. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the Plat. After state objecting agencies reply, the subdivider shall revise the Final Plat as needed and submit copies of the Plat, cover letter and required fees to the Village Clerk who, within two days, shall forward these to the parties set forth in subsections A and B.
- D. The Village Plan Commission and Village Engineer shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any condition of approval of the Preliminary Plat, this chapter and all ordinances, rules, regulations, comprehensive plan components and conservation subdivision procedures which may affect it. The Village Plan Commission shall recommend approval or rejection of the Plat to the Village Board.
1. Pursuant to Wis. Stat. s. 236.11(1)(c), the Village Engineer shall provide the Village with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation on approval of the final plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the final plat is being considered and are not required to be submitted in writing.

2. Basis for Approval. Pursuant to Wis. Stat. s. 236.13:
- a. The basis for approval of a preliminary or final plat shall be conditioned on compliance with the following:
 - (1) The provisions of Wis. Stat. ch. 236;
 - (2) Any Village or applicable county ordinance that is in effect when the subdivider submits a preliminary plat, or a final plat if no preliminary plat is submitted;
 - (3) The rules of the Department of Safety and Professional Services relating to lot size and lot elevation necessary for proper sanitary conditions in a subdivision not served by a public sewer, where provision for public sewer service has not been made;
 - (4) The rules of the department of transportation relating to provision for the safety of entrance upon and departure from the abutting state trunk highways or connecting highways and for the preservation of the public interest and investment in such highways.
 - b. As a further condition of approval, the Village shall require that the subdivider make and install any public improvements reasonably necessary or that the subdivider execute a bond or letter of credit to ensure that he or she will make those improvements within a reasonable time as set forth in Article 10. The subdivider may construct the project in such phases as the Village Board approves, which approval may not be unreasonably withheld. If the subdivider's project will be constructed in phases, the amount of any bond or letter of credit required by the Village Board shall be limited to the phase of the project that is currently being constructed. The Village Board may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.
 - c. The Village shall require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that the following facilities shall have been previously provided without cost to the Village, but which are constructed according to Village specifications and under Village inspection: sewerage (where required under Chapter 10), storm water management and/or treatment facilities, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting, and other facilities as may designated by the Village Board, or that a specified portion of such costs shall be paid in advance as provided in Wis. Stat. s. 66.0709.
 - d. The Village shall require as a condition of approval that the subdivider be responsible for the cost of any necessary alterations of any existing utilities which, by virtue of the platting or certified survey map, fall within the public right-of-way.
 - e. As a further condition of approval, the Village may require the dedication of easements by the subdivider for the purpose of assuring the unobstructed flow of solar or wind energy across adjacent lots in the subdivision.
 - f. Additional bases of approval shall be as further set forth in Wis. Stat. s. 236.13.

- E. The Village Plan Commission shall, within 30 days of the date of filing of the Final Plat with the Village Clerk, recommend approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendation with the Village Board.
- F. The Village Board shall, within 60 days of the date of filing the Final Plat and application with the Village Clerk, approve or reject such Plat unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reason shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider.
- G. Failure of the Village Board to take action on the Plat within 60 days, the time having not been extended and no unsatisfied objections having been filed, the Plat shall be deemed approved. Upon demand, the Clerk shall affix a certificate on the face of the plat to that effect.
- H. When the Village determines to approve the plat, the Clerk shall give at least 10 days' prior written notice to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the proposed plat, but failure to give such notice shall not invalidate the plat.
- I. After the Final Plat has been approved by the Village Board and required improvements either installed or a contract and sureties insuring their installation is filed, the Village Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the County Register of Deeds. The Register of Deeds shall not record the Plat unless it is offered within 12 months of the last approval by the Village Board and 36 months of its first approval.
- J. The subdivider shall file ten copies of the approved Final Plat as recorded with the Village Clerk for distribution to the Village Engineer, Building Inspector, Assessor and other affected departments for their files.
- K. If permitted by the Village Board, the approved Preliminary Plat may be final platted in phases, with each phase encompassing only that portion of the approved Preliminary Plat which the subdivider proposes to record at one time; however, it is required that each such phase be final platted and be designated "a phase" or addition to the approved Preliminary Plat.

30-26. REPLATS.

When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in Wis. Stat. ch. 236 Subchapter VIII, except as may be provided by other applicable provisions of the statutes.

ARTICLE 3 SUBDIVISION CONCEPTUAL PLAN

30-31. GENERAL.

A conceptual plan shall be required for all subdivision developments. Mapping for the initial application can be done in any 8 1/2- x 11-inch or larger format as long as individual map components can be distinguished and the relationship between map components can be determined.

30-32. SUBDIVISION CONCEPTUAL MAP REQUIREMENTS.

The following information shall be required for all subdivisions.

- A. General Location Map: The subdivider shall submit a map showing the general outlines of existing buildings, land use, and natural features such as water bodies, wooded areas, wetland, primary and secondary environmental corridors, isolated natural areas, agricultural land, roads, property boundaries within 500 feet of the tract and location of the proposed buildings. This information may be presented on an aerial photograph at a scale of no less than 1 inch equals 400 feet.
- B. Inventory of existing resources: Inventory and mapping of existing resources including the following mapped at a scale of no less than one inch equals 200 feet:
 - 1. Topographic contours at two-foot intervals
 - 2. U.S. Department of Agriculture, Natural Resource Conservation Service soil type location and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems.
 - 3. Hydrologic characteristics, including surface water bodies, flood plains, groundwater recharge and discharge areas, wetlands, ephemeral ponds, natural swales, drainage way and steep slopes.
 - 4. Land cover on the site, according to general cover type (pasture, woodland, etc.). The inventory shall include comments on the health and condition of vegetation.
 - 5. Known current and past land use, all buildings and structures on the land, cultivated areas, brownfields, waste sites and history of waste disposal practices, paved areas and all encumbrances such as easements or covenants.
 - 6. Known critical habitat for threatened, endangered, or protected species as identified by the Wisconsin DNR or the U.S. Fish and Wildlife Service.
 - 7. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating where they were taken.
 - 8. Known unique geological resources, such as rock outcrops and glacial features.
 - 9. Cultural resources: brief description of historic character of buildings and structures, historically important landscapes and archeological features. This includes a review of existing inventories, including those the State Historical Society of Wisconsin maintains for historic buildings, archaeological sites, and burial sites.

30-33. SUBDIVISION DEVELOPMENT YIELD ANALYSIS.

The subdivider shall submit a table showing the maximum number of dwelling units permitted according to adopted Land Division Chapter density formulas and Village zoning requirements, and will compare this total with the number being proposed. The maximum number of parcels which can be created, including the parent remnant, is called the development yield and shall equal:

- A. Conservation subdivision in non-sewer district: Development yield equals: Gross contiguous acres minus new and existing street right-of-ways; divide this number by 3 and round to the nearest whole number.
- B. Conservation subdivision in sewer district:
 - 1. Development yield must be consistent with densities specified in Map 7 in Appendix D of the November 2009 "A Multi-Jurisdictional; Comprehensive Plan for Racine County: 2035" as amended from time to time, and the Rochester 40 or 60 percent open space requirement for conservation subdivisions.
 - 2. The Plan Commission may consider and after consideration of the Plan Commission recommendation, the Village Board may approve modifying the development yield on a conservation subdivision in the sewer district based on a PUD or conditional use, or when an environmental corridor would be part of the development.
- C. Conventional subdivision in non-sewer district: Development yield equals: Gross contiguous acres minus new and existing street right-of-ways; divide this number by 3 and round to the nearest whole number.
- D. Conventional subdivision in sewer district:
 - 1. Development yield must be consistent with densities specified in Map 7 in Appendix D of the November 2009 "A Multi-Jurisdictional; Comprehensive Plan for Racine County: 2035" as amended from time to time and the Rochester 20 percent open space requirement for conventional subdivisions.
 - 2. The Plan Commission may consider, and after consideration of the Plan Commission recommendation, the Village Board may approve modifying the development yield on a conventional subdivision in the sewer district based on a PUD, or when an environmental corridor would be part of the development.

30-34. SITE ANALYSIS AND CONCEPTUAL PLAN.

- A. Using the mapping and inventory of existing resources (s. 30-32) the development yield analysis (s. 30-33), and standards specified in Article 8, Required Land Improvements, the subdivider shall submit a conceptual plan for a conventional or conservation subdivision including at least the following information at a scale of no less than 1 inch equals 200 feet:
 - 1. Boundaries of areas to be developed and proposed street and lot layout
 - 2. Number of housing units proposed and distribution of lot sizes
 - 3. Proposed methods for and location of water supply, storm water management (e.g., best management practices), and sewerage treatment
 - 4. List preserved and disturbed natural features and prominent views
 - 5. Preliminary development envelopes showing areas for lawn, pavement, buildings and grading

- B. For a conservation subdivision, the Conservation Subdivision Requirements in Article 7 and the design principles in Appendix B Conservation Subdivision Design Process shall also be used in developing the conceptual plan and the following additional information included in the plan:
1. Open space areas which are to remain undeveloped and proposed trail location
 2. Proposed methods for ownership and management of common open space

ARTICLE 4 PRELIMINARY PLAT

30-41. GENERAL.

A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor at a map scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

- A. Title or name under which the proposed subdivision is to be recorded. Such title shall not be the same or similar to a previously approved and recorded plat, unless it is an addition to a previously recorded plat and is so stated on the plat;
- B. The location of the proposed subdivision by government lot, quarter-section, section, township, range, county and state;
- C. General location sketch showing the location of the subdivision within the U.S. Public Land Survey section;
- D. Date, graphic scale and north arrow;
- E. Names and addresses of the owner, subdivider and land surveyor preparing the plat;
- F. Entire area contiguous to the proposed plat owned or controlled by the subdivider even though only a portion of said area is proposed for immediate development.

30-42. PRELIMINARY PLAT DATA.

All preliminary plats shall show the following:

- A. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in U.S. Public Land Survey and the total acreage encompassed thereby;
- B. Location, right-of-way width and names of all existing streets, alleys, or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto;
- C. Location and names of any adjacent subdivisions, parks and cemeteries and owners of record of abutting unplatted lands;
- D. Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant natural and man-made features within the tract being subdivided or immediately adjacent thereto;
- E. Location, width and names of all proposed public and private rights-of-way and easements;
- F. Approximate dimensions of all lots together with proposed lot and block numbers and street setback lines;
- G. Location, approximate dimensions and size of any sites to be dedicated for parks, playgrounds, drainage ways, or other public use or which are to be used for group housing, shopping centers, church sites, or other private uses;
- H. Approximate radii of all curves;
- I. Existing zoning on and adjacent to the proposed subdivision;

- J. Any proposed lake and stream access clearly indicating the location of the proposed subdivision in relation to the access;
- K. Legal description of the property;
- L. Also, attach the following to the Plat:
 - 1. Name of school district;
 - 2. Proposed development yield;
- M. For a conservation subdivision attach:
 - 1. Conservation subdivision theme;
 - 2. Management plan for restoration of land and long term management of open space.

30-43. COVENANTS. -

The Village Board or the Village Plan Commission may require submission of a draft of protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision, and otherwise protect the proposed development. The Village Attorney shall review all covenants and shall approve covenants as to form.

30-44. PRELIMINARY GRADING AND STORM WATER MANAGEMENT PLAN.

All preliminary plats shall show the following on a separate sheet or sheets:

- A. The exterior boundaries of the proposed subdivision along with the proposed lots, lot numbers and drainage easements;
- B. Existing contours at vertical intervals of not more than two feet where the slope of the ground surface is less than ten percent, and of not more than five feet where the slope of the ground surface is ten percent or more. Elevations shall be marked on such contours based on National Geodetic Datum (mean sea level) where available;
- C. Water elevations of adjoining lakes and streams at the date of the submittal and approximate high and low water elevations, all referred to mean sea level datum where available, together with any proposed land and stream improvements or relocations;
- D. Floodplain limits and the contour line lying a vertical distance of two feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five feet above the elevation of the maximum flood of record;
- E. Location of all existing streets, alleys, or other public ways, easements, railroad and utility rights-of-way.
- F. Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto together with any legally established centerline elevations, all to mean sea level datum where available;
- G. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catch basins, hydrants, power and telephone poles, and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sanitary or storm sewers or water mains are located on or

immediately adjacent to the lands being platted, the nearest such sewers or water mains which might be extended to serve such lands shall be indicated by their direction and distance from the nearest exterior boundary of the plat and their size and invert elevations;

- H. Preliminary street grading showing proposed streets with their proposed elevations and grades;
- I. Preliminary storm water management features showing proposed swales, storm sewers and storm water basins. Sizes of proposed storm sewers and storm water basins shall be shown and the supporting calculations included in a report to be filed as part of the preliminary data.
- J. Any proposed lake and stream improvement or relocation;
- K. Soil, type and boundaries as shown on the detailed operational soil survey maps prepared by the U.S. Soil Conservation Service;
- L. Location of soil boring tests, where required by law. The number of such tests shall be adequate to portray the character of the soils and the depths of bedrock and groundwater from the natural, undisturbed surface. To accomplish this purpose, a minimum of one test per three acres shall be made initially. The results of such tests shall be submitted along with the Preliminary Plan;
- M. Where a subdivision is not served by public sanitary sewer, soil borings and tests shall be made to determine the suitability of the site for the use of onsite sewage treatment and disposal systems. Such borings and tests shall meet the requirements of Chapters SPS 383 and 385 of the Wisconsin Administrative Code. The location of the borings shall be shown on the Preliminary Plat and the findings, with respect to the suitability of the site for the use of onsite sewage treatment and disposal systems, shall be set forth in a separate report submitted with the plat.
- N. Wetland limits as verified by the Wisconsin Department of Natural Resources, SEWRPC or a DNR certified wetland biologist;
- O. Proposed erosion and sedimentation control practices;
- P. Proposed measures to protect areas of significant trees.

30-45. TESTING.

The Village Plan Commission, upon recommendation of the Village Engineer, may recommend that borings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to groundwater table. Where the subdivision will not be served by public sanitary sewer service, the provisions of the Wisconsin Administrative Code shall be complied with; and the appropriate data submitted with the preliminary plat and plan.

ARTICLE 5 FINAL PLAT

30-51. GENERAL.

A final plat prepared by a land surveyor licensed or credentialed by the State of Wisconsin is required for all subdivisions. It shall comply in all respects with the requirements of Wis. Stat. s. 236.20.

30-52. ADDITIONAL INFORMATION.

The plat shall show correctly on its face, in addition to the information required by Wis. Stat. s. 236.20, the following:

- A. Railroad rights-of-way within and abutting the plat;
- B. Setbacks or building lines;
- C. Utility and/or drainage easements;
- D. All lands dedicated to the public or reserved for the common use of property owners within the plat and the method of ownership of that common use; and
- E. Special restrictions required by the Village Plan Commission relating to access control along public ways, delineation of floodland limits, or to the provision of planting strips.

30-53. DEED RESTRICTIONS.

The Village Board may require that deed restrictions be filed with the final plat.

30-54. SURVEY ACCURACY.

Maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed, in horizontal distance or position, the ratio of one part in 3,000, nor in azimuth, four seconds of arc per interior angle.

30-55. SURVEYING AND MONUMENTING.

All final plats shall meet all of the surveying and monumenting requirements of Wis. Stat. s. 236.15.

30-56. STATE PLANE COORDINATE SYSTEM.

Where the plat is located within a U.S. Public Land Survey quarter-section, the corners of which have been relocated, monumented and coordinated by the Wisconsin Department of Transportation, the Southeastern Wisconsin Regional Planning Commission, or any County, City, Village or Town, the plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner, to which the plat is tied, shall be indicated on the plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error or closure herein specified for the survey of the exterior boundaries of the subdivision. All distances and bearings shall be referenced directly to the Wisconsin Coordinate System, South Zone, and adjusted to the control survey.

30-57. CERTIFICATES.

All final plats shall provide all the certificates required by Wis. Stat. s. 236.21. The surveyor's certificate shall contain a description of the survey beginning at the U.S. Public Land Survey corner to which the survey is tied.

30-58. RECORDATION.

The final plat shall only be recorded with the County Register of Deeds after the certificates have been signed by the Administrator, Division of Intergovernmental Relations, Department of Administration, the Village Board, the surveyor, and those certificates required by Wis. Stat. s. 236.21, on the face of the plat. The plat shall be recorded within the time limits set forth in Wis. Stat. s. 236.25.

ARTICLE 6 MINOR LAND DIVISION – CERTIFIED SURVEY MAP

30-61 CERTIFIED SURVEY MAP REQUIRED.

A certified survey map (CSM) prepared by a registered land surveyor shall be required for all "minor land divisions" when it is proposed:

- A. To divide land into at least two but not more than four parcels or building sites including the parent remnant, any one of which is less than 35 acres in size, within a five year period; or
- B. To create by land division not more than four parcels or building sites within a recorded subdivision plat without changing the exterior boundaries of a block, lot, or outlot.

30-62. PRELIMINARY MEETING.

It is recommended that the subdivider meet with the Zoning Administrator, and then the Village Plan Commission prior to submitting a conceptual plan to learn the objectives of the Land Use Plan and Land Division Chapter and understand how these will influence the planned development. It is also recommended to meet with Village Engineer. The Zoning Administrator will provide information on zoning, driveway access, sanitary requirements, floodplains, environmental corridors and wetlands on the site. It is also recommended that members of the Commission plan a site visit with the subdivider as part of a duly noticed public meeting prior to submission of the conceptual plan.

30-62. CONCEPTUAL DEVELOPMENT PLAN.

The subdivider shall prepare a conceptual development plan including general location map, inventory of existing resources, development yield analysis and proposed development.

- A. General Location Map (required for all CSMs): The subdivider shall submit a map showing the general outlines of existing buildings, land use, and natural features such as water bodies, wooded areas, wetland, primary and secondary environmental corridors, isolated natural areas, agricultural land, roads, property boundaries within 500 feet of the tract and location of the proposed buildings. This information may be presented on an aerial photograph at a scale of no less than one inch equals 400 feet.
- B. Inventory of existing resources: The following inventory and mapping of existing resources shall be included when creating three or more parcels including the parent remnant. These should be at a scale of no less than one inch equals 200 feet:
 - 1. Topographic contours at two-foot intervals;
 - 2. U.S. Department of Agriculture, Natural Resource Conservation Service soil type location and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems;
 - 3. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas, wetlands, ephemeral ponds, natural swales, drainage way and steep slopes;
 - 4. Land cover on the site, according to general cover type (pasture, woodland, etc.). The inventory shall include comments on the health and condition of the vegetation;
 - 5. Known current and past land use, all buildings and structures on the land, cultivated areas, brownfields, waste sites and history of waste disposal practices, paved areas and all encumbrances such as easements or covenants;

6. Known critical habitat for threatened, endangered, or protected species;
 7. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating where they were taken;
 8. Unique geological resources, such as rock outcrops and glacial features;
 9. Known cultural resources: brief description of historic character of buildings and structures, historically important landscapes, and archaeological features. This includes a review of existing inventories, including those the State Historical Society of Wisconsin maintains for historic buildings, archaeological sites, and burial sites;
- C. Development Yield Analysis: The subdivider shall submit a table showing the maximum number of dwelling units that would be permitted according to the adopted Land Division Chapter density formula and the Village Planning and Zoning chapters and will compare this total with the number being proposed.
1. Non-sewer district: The maximum number of parcels that can be created in the non-sewer district, including the parent remnant, is called the development yield and shall equal: Gross contiguous acres minus new and existing street rights-of-way; divide this number by 3 and round to the nearest whole number.
 2. Sewer district: The maximum number of parcels which can be created in the sewer district is determined by densities specified in Map 7 in Appendix D of the November 2009 "A Multi-Jurisdictional; Comprehensive Plan for Racine County: 2035" as amended from time to time, and the Zoning chapters.
- D. Using the general map location, inventory of existing resources, the development yield analysis and standards specified in Article 8, Required Land Improvements, the subdivider shall submit a conceptual development plan including at least the following information at a scale of no less than 1 inch equals 200 feet:
1. Open space areas indicating which areas are to remain undeveloped and any proposed trail locations;
 2. Boundaries of areas to be developed and proposed street and lot layout;
 3. Number of housing units proposed and distribution of lot sizes;
 4. Proposed methods for and location of water supply, storm water management (e.g., best management practices);
 5. Proposed method for sewerage treatment. Note that all new development in the sanitary sewer district shall connect to the district when a sewer line exists on the parcel road frontage. Alternate treatment systems, which meet the requirements of Chapters SPS 383 and 385 of the Wisconsin Administrative Code, may be allowed when such a line does not exist or when a line has not been approved for installation by the Western Racine County Sewerage District. Also see Chapter 10 of this Municipal Code;
 6. Inventory of preserved and disturbed natural features and prominent views;
 7. Preliminary development envelopes showing areas for lawn, pavement, buildings and grading;

8. The Plan Commission may also require the submission of a sketch plan, drawn to scale, showing the entire contiguous holdings owned or controlled by the subdivider and identifying proposed future development of the parcel including general street and parcel locations and potential effects of limitations on neighboring lands.

30-64. FILING OF CONCEPTUAL DEVELOPMENT PLAN.

Twelve copies of the plan shall be submitted, along with a letter of explanation, to the Village Clerk at least 20 days prior to the meeting date of the Village Plan Commission in which action is desired. Within two days of receipt, the Clerk will forward copies to the Village Engineer, the Zoning Administrator, the Village Board members, and the Village Plan Commission members.

30-65. CSM APPROVAL PROCEDURE.

The subdivider shall prepare the certified survey map in accordance with the requirements of this chapter and Wis. Stat. s. 236.34 as amended from time to time, and shall file at least 14 copies of the map and the letter of application with the Village Clerk.

- A. The Village Clerk shall, within two normal workdays after filing, transmit the copies of the map and letter of application to the Village Plan Commission members, Village Board members, and Village Engineer.
- B. Village staff will assist the subdivider in identifying known floodplains, wetlands, environmental corridors, shoreland-wetlands, and shorelands.
- C. Objecting and approving authority reviews and recommendations shall be transmitted to the Village Plan Commission and Village Board within 20 days from the date the map is filed. The map shall be reviewed by the Village Plan Commission for conformance with this chapter, Appendix A of this Chapter regarding Design Standards, the Rochester Land Use Plan and all other ordinances, rules, regulations, comprehensive plans and comprehensive plan components.
- D. The Village Plan Commission shall, within 30 days from the date of filing of the CSM, recommend approval, conditional approval, or rejection of the CSM and shall transmit the map along with its recommendations to the Village Board.
- E. The Village Board shall approve, approve conditionally and thereby require resubmission of a corrected certified survey map, or reject such certified survey map within 90 days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. If the map is approved, the Village Board shall cause the Village Clerk to so certify on the face of the original map and return the map to the subdivider.
- F. The subdivider shall file one hard copy and one digital copy of the certified survey map as recorded with the Village Clerk for distribution to the Village Engineer, the Zoning Administrator, Building Inspector, Assessor and other affected Village officials for their files.

30-66. CSM INFORMATION.

- A. The map shall show correctly on its face, in addition to the information required by Wis. Stat. s. 236.34, the following:
 1. All existing buildings, navigability determination, drainage ditches, flood plains and other features pertinent to proper land division;
 2. Location of environmental corridors, woodlands, isolated natural resources, wetlands and ephemeral ponds as delineated by SEWRPC;

3. Agricultural soil capability map; available from SEWRPC (if appropriate);
4. Historic, cultural and archaeological features;
5. Setbacks or building lines;
6. Easements for sewers, water mains, storm water management, access ways, agricultural drainage tiles and all other utilities;
7. Existing contours when required by the Village Engineer at vertical intervals of not more than two feet where the slope of the ground surface is less than ten percent and of not more than five feet where the slope of the ground surface is ten percent or more. Elevations shall be marked on such contours based on National Geodetic Vertical Datum (mean sea level) as available. This requirement may be waived if the parcel(s) are fully developed;
8. Proposed lot drainage as may be required by the Village Engineer or Village Plan Commission;
9. Name and address of the owner, subdivider and surveyor;
10. Connection point to public sewer line or, if an onsite sanitary system has been approved, show location of soil borings. Attach a report with findings on suitability of the site for an onsite sanitary system including tests as directed by Wis. Admin. Code chs. SPS 383 and 385;
11. Location of existing onsite sewerage treatment systems.

B. The Plan Commission may recommend to the Village Board and the Village Board may require:

1. For development within or within 200 feet of a primary or secondary environmental corridor, that a qualified ecological service provider provide a habitat assessment and a plan to minimize adverse effects on vegetation and wildlife within the corridor. When the affected corridor land is owned by another party(s), the assessment and plan will be waived if the owner(s) does not grant permission. At the discretion of the Plan Commission, similar information may be required for isolated natural resources. These corridors and resources are identified in "A Multi-Jurisdictional; Comprehensive Plan for Racine County: 2035" on Map VI-1.
2. That the entire area contiguous to the land encompassed within the proposed CSM and owned or controlled by the subdivider be included in the CSM even though only a portion of said area is proposed for immediate development.
3. The submission of a sketch plan, drawn to scale, showing the entire contiguous holdings owned or controlled by the subdivider and identifying proposed future development of the parcel, including general street and parcel locations. The Village Clerk shall attach a copy of the sketch plan to the CSM and retain both in the Village files.

30-67. STATE PLANE COORDINATE SYSTEM.

Where the map is located within a U.S. Public Land Survey quarter-section, the corners of which have been relocated, monumented and coordinated by the Wisconsin Department of Transportation, the Southeastern Wisconsin Regional Planning Commission, or any County, City, Village, or Town, the map shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the

material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the control survey.

30-68. CERTIFICATES.

The surveyor's certificate shall contain a description of the survey beginning at the U.S. Public Land Survey corner to which the survey is tied. The Village Board, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map. In addition, dedication of streets and other public areas shall require the owner's certificate and the mortgagee's certificate in substantially the same form as required by Wis. Stat. s. 236.21(2)(a).

30-69. RECORDATION.

The subdivider shall record the map with the Racine County Register of Deeds within six months of its last approval by the Village Board and within 24 months of its first approval.

ARTICLE 7 CONSERVATION AND CONVENTIONAL SUBDIVISION REQUIREMENTS.

Sections 30-71 through 30-75 include requirements that apply to conservation subdivisions.

30-71. GENERAL.

Conservation Subdivisions shall identify a conservation theme or themes. This theme shall be identified at the time of the initial application. Conservation themes may include, but are not limited to forest stewardship, water quality preservation, farmland preservation, natural habitat restoration, view shed preservation, or archaeological and historic properties preservation. The Plan Commission will work with the developer to specify which areas shall be preserved. Refer to Appendix B, Conservation Subdivision Design Process, for additional considerations of the design process.

30-72. RESIDENTIAL LOT REQUIREMENTS.

- A. A residential conservation subdivision in the sewer district shall be done as a conditional use as set forth in the Village zoning chapters. Consistent with the 40 percent open space requirement in Section 30-74, the Conditional Use will establish minimum lot size, principal building setbacks, accessory building setbacks, and maximum building height.
- B. A conservation subdivision in the non-sewer district shall be zoned R-8, R-9, A-2, or C-2. Lot sizes less than 40,000 square feet may be permitted under conditional use R-8, R-9, A-2 or C-2 zoning. In such an instance, the developer and Village of Rochester Plan Commission shall establish minimum lot size, principal building setbacks, accessory building setbacks, rear lot line, and maximum building height. In all cases, the conservation subdivision development yield analysis in Section 30-33.A. and 60 percent open space requirement in Section 30-74.B. shall be maintained.
- C. Lots shall be configured to minimize the amount of impervious surfaces. Maximum Lot Coverage equals 35 percent (includes buildings and other impervious surfaces).
- D. Maximum Building Height equals 35 feet.
- E. Access to the majority of lots shall be by interior local streets with the exception of existing farmsteads to be preserved that have an existing driveway on an arterial street.
- F. Lots shall be configured to minimize the amount of road length required for the subdivision.
- G. Development envelopes shall be configured to minimize loss of woodlands. However, when the objective is to preserve prime farmland for agricultural use, dwellings may be located within the woods, provided that no more than 20 percent of a single lot is cleared for the construction of a dwelling, driveway, garage, storage building, well and private onsite waste treatment system.
- H. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures.
- I. All lots within a neighborhood shall abut open space on at least one side. A local street may separate lots from the open space.
- J. Lots shall be oriented around one or more of the following:
 - 1. A central green or square.

- 2. A physical amenity such as a meadow, a stand of trees, or some other natural or restored feature.
- K. Development envelopes should not be located on ridges, hilltops, along peripheral public roads, or in other visually prominent areas.
- L. Residential structures should be oriented to maximize solar gain in the winter months.
- M. A 30-foot native vegetative buffer shall be maintained around open water areas, unless a specific common beach or grassed area is identified.
- N. Connectivity of environmental corridors, trails and green spaces, as well as the conservation subdivision themes of adjacent properties shall be considered in the design of the development in accordance with Appendix B, Conservation Subdivision Design Process.

30-73 RESIDENTIAL CLUSTER SITING STANDARDS.

- A. All residential lots and dwellings shall be grouped into clusters. Each cluster shall contain no more than 20 dwelling units and not less than five units.
- B. Residential clusters shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and to minimize conflicts between incompatible uses.
- C. Residential clusters shall avoid encroaching on rare plant communities; or threatened, endangered, or protected species habitat identified by the Department of Natural Resources.
- D. Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local or regional recreational trails.
- E. Residential clusters should be sited to achieve the following goals, to the extent practicable:
 - 1. Minimize impacts to prime farmland soils and large tracts of land in agricultural use and avoid interference with normal agricultural practices.
 - 2. Minimize disturbance to woodlands, wetlands, grasslands and mature trees.
 - 3. Prevent downstream impacts due to runoff through adequate onsite storm water management practices.
 - 4. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping and/or other features.
 - 5. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
- F. Landscaping around the cluster may be necessary to reduce offsite views of residences.

30-74. OPEN SPACE DESIGN.

- A. The minimum common open space required shall be owned and maintained under one of the alternatives listed in Section 30-75, as approved by the Village. The uses within the open space may be accessible to the residents of the development. These uses may also be available to the general public providing the proper approvals are received. The required open space shall be undivided and restricted in perpetuity from future development, as specified in Section 30-75.

- B. Common open space shall be designated as part of the development. The minimum required common open space is 40 percent of net buildable acres inside the sewer district and 60 percent of net buildable acres outside the sewer district.
- C. Following is an open space conservation ranking in order of significance. The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enlarge the best quality natural features of each particular site.
 - 1. First priority will be given to intact natural communities, rare and endangered species, environmental corridors, natural and restored prairies, significant historic and archaeological properties, and steep slopes.
 - 2. Second priority will be given to areas providing some plant and wildlife habitat and open spaces values.
 - 3. Third priority will be given to areas providing little habitat but providing view shed, recreation, or a sense of open space.
- D. Privately held buildings or structures may be located within the open space area provided they are accessory to the use of the open space. The area shall be counted toward the overall open space percentage requirement.
- E. Septic systems and potable water systems may be located within the open space. The area shall be counted toward the overall open space percentage requirement.
- F. Road rights-of-way shall not be counted towards the required minimum open space.
- G. No more than 50 percent of the required open space may consist of water bodies, ponds, flood plain, or wetlands.
- H. A minimum of 80 percent of the non-agricultural open space shall be maintained for plant and wildlife habitat. That portion of open space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
- I. Accessible open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archeological sites.
- J. A pathway system connecting open space accessible to neighborhood residents, and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall be identified in the PLAN.

30-75. OWNERSHIP AND MAINTENANCE OF OPEN SPACE.

- A. Alternatives. The designated common open space and common facilities may be owned and managed by one or a combination of the following:
 - 1. A homeowners' association.
 - 2. A condominium association established in accordance with the Condominium Ownership Act, Wis. Stat. ch. 703.
 - 3. A nonprofit conservation organization.
 - 4. The Village or another government body empowered to hold an interest in real property.

5. An individual who will use the land for open space purposes as provided by a conservation easement, e.g., agriculture.
- B. Conservation Easement. Common open space and/or common facilities shall be subject to a conservation easement conveyed to a qualified holder, as defined in Wis. Stat. s. 700.40 (Uniform Conservation Easement Act). The holder(s) of the easement shall have responsibility for inspecting to ensure compliance. The easement holder will negotiate a reasonable annual charge with the Homeowner Association for the annual inspection. The Village of Rochester shall have a third party enforcement right, which shall be documented in the easement documents.
- C. Homeowners' Association. A homeowners' association shall be established if the common open space and/or common facilities are proposed to be owned by a homeowners' association. Membership in the homeowners' association is mandatory for all purchasers of homes in the development and their successors. The homeowners' association bylaws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners' association shall be submitted for approval to the Village as part of the information required for the Preliminary Plat.

The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners' association shall contain the following information:

1. The legal description of the common land;
 2. A description of common facilities;
 3. The restrictions placed upon the use and enjoyment of the lands or facilities;
 4. Persons or entities entitled to enforce the restrictions;
 5. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums;
 6. A mechanism for resolving disputes among the owners or association members;
 7. The conditions and timing of the transfer of ownership and control of land or facilities to the association;
 8. Any other matter the developer deems appropriate.
- D. Condominium Associations. If the common open space and facilities are to be held under the Condominium Ownership Act, Wis. Stat. ch. 703, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space. All common open space shall be held as a "common element" as defined in Wis. Stat. s. 703.01(2).
 - E. Nonprofit Conservation Organization. If the common open space and/or common facilities are to be held by a nonprofit conservation organization, the organization must be acceptable to the Village. The conveyance to the nonprofit conservation organization must contain appropriate provisions for succession to another nonprofit conservation organization or other acceptable entity in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
 - F. Public Dedication of Open Space and Streets. The Village may accept the dedication of fee title or dedication of a conservation easement to the common space as set forth in this Chapter. The Village may accept the common open space provided:
 1. The common open space is accessible to the residents of the Village;

2. The Village agrees to and has access to maintain the common open space;
 3. Streets or other public ways which have been designated on a duly adopted official map or element of the Village comprehensive plan shall be dedicated or reserved by the subdivider to the Village. The street or public way shall be made a part of the plat in the locations and dimensions indicated in the comprehensive plan and as set forth in this Chapter.
- G. Individual Ownership. An individual may hold fee title to the land, or the owners of the land included in the plat may hold fee title in undivided shares, while a nonprofit conservation organization or other qualified organization holds a conservation easement prescribing the acceptable uses for the common open space.
- H. Maintenance Plan. Every conservation subdivision must include a plan that provides evidence of a means to properly manage the common open space in perpetuity and evidence of the long-term means to properly manage and maintain all common facilities, including any storm water facilities. The plan shall be approved by the Village prior to final plat approval.
1. The plan shall do the following:
 - a. Designate the ownership of the open space and common facilities in accordance with this section.
 - b. Establish necessary regular and periodic operation and maintenance responsibilities.
 - c. Estimate staffing needs, insurance requirements and other associated costs and define the means for funding the same on an ongoing basis.
 - d. Include a land stewardship plan specifically focusing on the long-term management of common open space lands. The land stewardship plan shall include a narrative, based on the site analysis, describing:
 - (1) Existing conditions including all natural, cultural, historic and scenic elements in the landscape;
 - (2) The proposed end state for each common open space area; and the measures proposed for achieving the end state;
 - (3) Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems;
 - (4) The operations needed for maintaining the stability of the resources, including: mowing schedules; weed control; planting schedules; invasives control; clearing and cleanup;
 - (5) If ownership is vested in a homeowners' association or condominium association, the association must contract with a qualified conservation organization or ecological services contractor to implement the management plan. It is highly recommended that the association contract with the non-profit easement holder to implement the management plan.

- (6) The Village would enforce the management plan if needed. At the Village's discretion, the applicant may be required to place in escrow sufficient funds for the maintenance and operation costs of common facilities for a maximum of one year.
2. In the event that the organization established to own and maintain the open space and common facilities, or any successor organization, fails to maintain all or a portion of the common facilities in reasonable order and condition in accordance with the maintenance plan and all applicable laws, rules and regulations, the Village may serve written notice upon such organization and upon the residents and owners of the open space and common facilities, setting forth the manner in which the organization has failed to maintain the common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made.
 - a. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Chapter, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended.
 - b. The Village may enter the premises and take corrective action.
 - c. The costs of corrective action by the Village shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties.
 - d. The Village, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the County Register of Deeds upon the properties affected by such lien.
 3. Management plans can be amended by the owner with the approval of the Village Board and easement holder.

Sections 30-76 and 30-77 include requirements which apply to conventional subdivisions.

30-76. RESIDENTIAL LOT REQUIREMENTS.

- A. A conventional subdivision in the sewer district shall meet the requirements set forth in the zoning chapters for the desired zoning district, including minimum lot size, principal building setbacks, accessory building setbacks and maximum building height.
- B. A conventional subdivision in the unsewered district shall meet the requirements set forth in Chapter 35 for the desired zoning district, including minimum lot size, principal building setbacks, accessory building setbacks, rear lot line and maximum building height. In all cases, the conventional subdivision development yield analysis in Section 30-33.C. shall be maintained.
- C. Lots should be configured to minimize the amount of impervious surfaces. Maximum Lot Coverage equals 35 percent (includes buildings and other impervious surfaces).
- D. The Maximum Building Height is specified in the zoning district regulations.
- E. Access to the majority of lots should be by interior local streets.
- F. Lots should be configured to minimize the amount of road length required for the subdivision.

- G. Development envelopes should be configured to minimize loss of woodlands. However, dwellings may be located within woodlands provided that no more than 20 percent of a single lot is cleared for the construction of a dwelling, driveway, garage, storage building, well and, if necessary, a private on-site waste treatment system.
- H. A 30-foot native vegetation buffer shall be maintained around open water areas, or if the land is in the Shoreland Zoning District, as specified in Chapter 36.
- I. Connectivity of environmental corridors, trails and green spaces shall be considered in the design of the development.

30-77. RESIDENTIAL SITING STANDARDS.

- A. Residences should be located to minimize negative impacts on the natural, scenic and cultural resources of the site and to minimize incompatible uses.
- B. Residences shall avoid encroaching on rare plant communities; or threatened, endangered, or protected species habitat identified by the Department of Natural Resources.
- C. Whenever possible, natural areas on each lot should connect with existing or potential open space lands on adjoining parcels.
- D. Residences should be sited to achieve the following goals, to the extent practicable:
 1. Minimize impacts to prime farmland soils and large tracts of land in agricultural use and avoid interference with normal agricultural practices.
 2. Minimize disturbance to woodlands, wetlands, grasslands and mature trees.
 3. Prevent downstream impacts due to runoff through adequate on-site storm water management practices. (See Chapters 31 and 32.)
 4. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping and/or other features.
 5. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.

Section 30-78 includes requirements that apply to both conservation and conventional subdivisions.

30-78. STORM WATER MANAGEMENT BEST MANAGEMENT PRACTICES.

- A. Minimize the use of curb and gutter and maximize the use of open swales.
- B. Roof down spouts should drain to porous surfaces.
- C. Comply with applicable standards of Wis. Admin. Code ss. NR216 and NR151. See also Chapters 31 and 32.
- D. Landscape plantings and rain gardens should be used to increase infiltration and decrease runoff.
- E. Natural open drainage systems shall be preserved.

ARTICLE 8. REQUIRED LAND IMPROVEMENTS.

30-81. GENERAL.

No division of land shall be approved, or construction or installation of improvements begun, without receiving a statement signed by the Village Clerk certifying that the improvements described in the subdivision's plans and specifications, together with agreements, meet the minimum requirements of all ordinances and design standards of the Village. The subdivider shall be responsible for the cost of all improvements and for any necessary alterations of any existing utilities which, by virtue of the plat or CSM, fall within the public right-of-way.

30-82. STREET PLANS, IMPROVEMENTS AND STANDARDS.

The division of land, including the arrangement, character, extent, width, grade and location of all streets, alleys, or other land to be dedicated for public use, shall conform to the highway system plan of the governing body responsible for the streets, and the comprehensive plan or plan component of the Village. They shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

- A. Street improvements are required to be constructed in conformity with the Design Standards adopted by the Village.
- B. Final surface for public streets should be delayed to avoid premature damage of the final surface course. The final surface course should be installed after approximately 75% of the lots have experienced construction, as determined in the Development Agreement, but not more than three years unless extended by mutual agreement.
- C. All minimum standards established are intended to be construed solely as minimums. Additional standards may be required depending on the topography, soil and overall geological or special conditions of each individual parcel being developed. The standards for streets shall be in conformance with the Design Standards established by the Village. The Village Engineer may recommend and the Village Plan Commission may require standards beyond the minimums set forth when geological conditions dictate the necessity for additional standards.
- D. All right-of-way widths shall conform to the dimensions shown in Design Standards adopted by the Village and set forth in the appendix hereto.
- E. Minor streets shall be so laid out that their use by non-local traffic will be discouraged, without impairing overall traffic or utility efficiency.
- F. Alleys in residential districts are not permitted, except where deemed necessary and at the discretion of the Village Plan Commission.
- G. Where an existing dedicated or platted half-street is adjacent to the tract being subdivided, the other half of the street shall be dedicated by the subdivider. The platting of new half-streets shall not be permitted.
- H. Temporary termination of the streets intended to be extended at a later date shall be accomplished with a temporary cul-de-sac in accordance with the standards set forth above, or by construction of a temporary, paved, "T" intersection, 33 feet in width and 33 feet in length abutting the right-of-way lines of the access street on each side, including appropriate easements outside of the road right-of-way.

- I. No street names may be used which will duplicate or be confused with the names of the existing streets. Existing street names must be continued when streets are extended wherever possible. Each street name shall be approved by the Village Board.
- J. Provisions should be made for serving lots abutting primary, major and arterial streets and highways by the use of restriction of access only to internal subdivision streets. Frontage streets should be avoided.
- K. Streets are the preferred routing of the overland emergency flood way.
- L. An approval letter from the jurisdiction controlling driveway access shall be provided.
- M. Streets should intersect each other at as nearly right angles as topography and other limiting factors of good design permit. In addition:
 - 1. The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two.
 - 2. The number of intersections along major streets and highways shall be held to a minimum. Wherever practicable, the distance between the intersections shall not be less than 1,200 feet.
 - 3. Minor streets shall not necessarily continue across arterial or collector streets; but if the center lines of such minor streets approach the major streets from opposite sides within 300 feet of each other, measured along the centerline of the arterial or collector street, then the location shall be adjusted so that the adjoinment across the major or collector street is continuous; and a jog is avoided.

30-83. UTILITY EASEMENTS.

Public Utility Easements, when required for Village utilities or utility district owned and/or maintained utilities, shall be at least 20 feet wide, shall include a provision prohibiting the installation of permanent structures or buildings other than those owned by the Village or utility district, and shall provide that anything placed in the easement by the landowner or tenant shall be at the risk of the landowner. All other easements provided for non-municipally owned utilities shall meet the requirements of the individual company.

- A. The Village may require utility easements of widths deemed adequate for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for electric power and communication lines, wires, conduits, side and rear yard drainage and other utility lines.
- B. Where a subdivision is traversed by a water course, drainageway, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width needed to straighten, or for maintenance access, or both, as will be adequate for the purposes. Parallel streets or parkways may be required in connection therewith.
- C. Easements shall be added when storm water from public or other private areas drain to a publicly or privately owned and maintained stormwater management area such that a perpetual right to drain is established and the Village retains the right to enter the easement and perform any necessary maintenance if the private property owner fails to adequately maintain the privately owned area.

30-84. LOT AND BLOCK STANDARDS.

- A. The lengths of blocks should, as a general rule, not be less than 600 feet or more than 1,500 feet. Blocks over 900 feet may require crosswalks. Crosswalk dedication of not less than ten feet in width shall be provided where determined necessary by the Village at the approximate centers of the blocks. A sidewalk shall be constructed on the centerline, and full length of the crosswalk. The use of additional crosswalks in any instance to provide safe and convenient access to schools, parks, or other similar destinations will be specified by the Village.
- B. No specific rule concerning the shape of blocks is made, but blocks must fit easily into the overall plan of the subdivision and their design must evidence consideration of lot planning, traffic flow and public areas.
- C. Blocks intended for commercial and industrial use must be designated as such and the plan must show adequate off-street areas suitably surfaced to provide for parking, loading docks and such other facilities that may be required to accommodate motor vehicles; all in accordance with applicable Village ordinances and codes.
- D. The minimum lot dimensions for residential development shall be pursuant to the Village Planning and Zoning chapters and at the established building line. Corner lots shall be sufficiently larger than interior lots to allow maintenance of building set back lines on both streets.
- E. Building lines shall conform to the front yard provisions of the Planning and Zoning chapters, and in no instance shall the building lines be less than 25 feet from the street line.
- F. All lots shall abut publicly dedicated streets, or private streets when allowed by the Village Board.
- G. Side lines of lots shall be approximately at right angles or radial to the street line.
- H. Double frontage lots are discouraged except where lots back upon a primary street (major thoroughfare) and in such instances, vehicular access between the lots and the thoroughfare is prohibited or where topography of the land might render subdividing otherwise unreasonable. Such lots shall have an additional rear yard depth of at least 20 feet in order to allow for a protective screen planting.
- I. Lots abutting a limited access highway, railroad, watercourse, drainage way, channel, or stream shall have additional minimum width or depth as required to provide an adequate building site and afford the minimum usable area required in the Planning and Zoning chapters for front, rear and side yards.

30-85. PUBLIC SITES AND OPEN SPACES.

In the design of the plat, due consideration shall be given to the dedication of suitable sites of adequate area for drainage ways and other public purposes. If designated on the comprehensive plan, comprehensive plan component, or official map, such areas shall be made a part of the plat as stipulated in this chapter. If not so designated, consideration shall be given in the location of such sites to the preservation of scenic and historic sites, stands of fine trees, marshes, lakes and ponds, watercourses, watersheds, and the need resulting from the land division. The specific provisions are set forth in Article 11 of this Chapter.

30-86. HYDROLOGY AND SOILS.

- A. Stormwater Runoff. Stormwater runoff from the proposed development shall be managed through ditches, swales, pipes and ponds such that the release rate for the two, ten, and 100 year frequency, 24-hour duration rainstorms shall be no greater than that of the land in its natural state prior to development.

B. Subsurface Drainage (Drain Tiles). The applicant shall submit a subsurface drainage inventory. The inventory shall include locations of existing farm and storm drainage tiles by means of slit trenching and other appropriate methods performed by a qualified subsurface drainage consultant. All existing drain tile lines damaged during the investigation shall be repaired to their previous working status.

1. The applicant shall provide a topographical map of the development site showing:
 - a. Location of and depth of each slit trench and identified to correspond with the tile investigation report and surveyed points where the tile was field staked at approximately 50 foot intervals;
 - b. Location of each drain tile with a flow direction arrow, tile size and any connection to adjoining properties; A summary of the tile investigation report showing trench identification number, tile size, material and quality, percentage of the tile filled with water, percentage of restrictions caused by silting, depth of ground cover, and working status;
 - c. Name, address and phone number of person or firm conducting tile location investigation.
2. Information collected during the drainage investigation shall be used to design and construct a stormwater management system that meets the requirements of this Code, including connecting tile lines on adjoining properties. Tiles discovered during construction that were not identified during the investigation shall be incorporated into the development stormwater system design and recorded on the development as-built documents.

C. The plans and special provisions shall include Best Management Practices (BMP's) that the developer shall utilize to eliminate the effects of soil erosion, mud tracking and the resultant sedimentation problems both on and off the site. Control of erosion shall be required both during and following construction until the soils are stabilized and expiration of the required maintenance bond. All BMP's shall meet the design criteria, standards and specifications of Wisconsin DNR Stormwater Construction and Post-Construction Technical Standards.

D. See also Chapters 31 and 32.

30-87. SEWERS AND SEWERAGE DISPOSALS; WATER FOR FIRE PROTECTION.

A. Sanitary sewerage.

1. Sanitary sewers shall be installed to comply with specifications established by the Western Racine County Sewerage District (WRCSD) and the Village, and shall be connected to the sanitary collection system of the Village as set forth in Chapter 10. The subdivider is responsible for obtaining necessary approvals from WRCSD. Where connection to public sanitary sewers is not required by Chapter 10, individual septic systems may be permitted provided they are designed in accordance with Chapter SPS 383 of the Wisconsin Administrative Code. A subdivision plat shall in no case be approved which shall be dependent upon individual septic systems and private wells, except where lots therein contain not less than 40,000 square feet each and shall not be less than 150 feet in width. All Village maintained utilities shall be placed within dedicated rights-of-way and approved easements and, specifically, those utilities shall not be placed upon private properties except for developments in which alternate agreement(s) are entered into by the Village and the developer. See also Chapter 10 of this Code.

2. Deferred assessments. The Village Board, pursuant to Wis. Stat. chs. 61, 62 and 66, shall determine the benefits to be derived from any sewer installation made after the enactment of this Municipal Code as the same may accrue to any undeveloped tract or parcel of land located within the plat approval jurisdiction of the Village. The owner of such tract or parcel shall be accorded the same legal and statutory privileges as are the owner of land immediately affected by such installation. Any assessment accordingly made by the Village Board against such tract or parcel of land shall be payable on a deferred basis; and the payment shall be made to the Village at the time such tract or parcel or any part thereof is actually connected to such sewer system, and no interest shall be charged during the interim.

B. Water Supply for Fire Protection.

1. In all commercial, industrial and recreational developments, and in all subdivisions in which five lots or more are created, the Village Plan Commission and Village Board shall consult with the contracted fire company and determine whether there is an adequate water supply for fire protection in the vicinity, and may require the Developer or Owner to install, prior to the issuance of any building permit for structures in the development or subdivision, a dry hydrant in an accessible pond, or an accessible underground cistern or holding tank, the plans for which shall be reviewed by the contracted fire company and the Village Engineer and approved by the Wisconsin Department of Natural Resources, to be used for fire protection. If required by the Village, the pond, cistern or holding tank shall contain at least 20,000 gallons of water or a greater amount determined necessary by the contracted fire company and Village Engineer.
2. It shall be the perpetual responsibility of the Developer or Owner to maintain a required pond, hydrant, and/or cistern or holding tank or to delegate the responsibility to an entity approved by the Village Board. In the event that it is not properly maintained, the Village may, but is not required to, perform said maintenance, and charge the cost thereof to the property owners in the subdivision as a special charge pursuant to Wis. Stat. s. 66.0627.

30-88. PUBLIC UTILITIES.

All existing utility lines, conduits, or cable for electric, telephone, cable television and other communication services should be placed in a minimum of 24 inches underground within the easements or within ten feet of the right-of-way line of dedicated public ways as recommended by the Village Engineer and as approved by the Village Plan Commission in conjunction with the approval of any final plat of subdivision or planned unit development. All transformer boxes shall be located so as not to be hazardous to the public.

30-89. LANDSCAPING, STREET LIGHTING, STREET SIGNS AND SURVEY MONUMENTS.

- A. Landscaping shall be required to be constructed in accordance with the Design Standards adopted by the Village as set forth in the Planning and Zoning chapters.
- B. Maintenance of the parkway area, defined as that area adjacent to any lot or parcel, between the property line and any street shoulder or curb, shall be the responsibility of the property owner of said lot or parcel including, but not limited to:
 1. Mowing of grass or ground cover.
 2. Private driveway approaches.
 3. The curb (depressed) or flare from the pavement edge extended, for a private driveway approach.

4. Tree trimming and watering to assure a healthy, well-shaped appearance and maintaining adequate roadway and sidewalk clearances.
 5. Keeping culvert opening free of debris.
 6. Mailboxes and support structures.
 7. Sidewalk installation and maintenance, where applicable.
- C. Each subdivider or subdivision owner shall provide for the adequate lighting of public streets within the proposed subdivision in accordance with the standards and requirements established by the Village Engineer or utility company, in accordance with the provisions of this chapter and subject to the approval of the Village. Such lights shall be placed at each street intersection and at such interior block spacing as may be required by the Village Board. It shall be the responsibility of the subdivider or subdivision owner to pay the installation cost of all such lighting.
- D. Street signs and guard rails shall, at the option of the Village Board, be obtained by the Village and placed where necessary by the Village and the cost of the same shall be paid for by the subdivider. See also Article 12.

ARTICLE 9 ACCEPTANCE PROCEDURE.

30-91. SUBSTANTIAL COMPLETION.

Upon written request of the subdivider, and after all the required improvements have been substantially completed, the Village Engineer shall make an inspection of the work.

- A. The Village Engineer shall then prepare a Substantial Completion Certificate and Punch List for correction of items which do not comply with the approved drawings and specifications for Design Standards of the Village which need immediate attention. Upon completion of all items listed in the punch list, the subdivider shall sign and return the Substantial Completion Certificate.
- B. If all punch list items are found to be completed, the Village Engineer shall notify the Village Clerk in writing that the project has been substantially completed.
- C. The subdivider shall provide the Village with written waivers of lien from all subcontractors that performed work on the project and a final waiver of lien from the development company.
- E. If items required for substantial completion are not taken care of in a timely manner, the Village Board reserves the right to make a claim on the developer's bond or letter of credit to complete the necessary work, or withhold building and occupancy permits.

30-92. FINAL ACCEPTANCE.

Upon written request of the subdivider, after all the required improvements have been completed and record drawings have been submitted, the Village Engineer shall make a final inspection of the completed work.

- A. The Village Engineer shall then prepare a Final Completion Certification and Final Punch List for correction of items which do not comply with the approved drawings and specifications or Design Standards of the Village. Upon completion of all items listed in the final punch list, the subdivider shall request, in writing, a reinspection. If all punch list items are found to be completed, the Village Engineer shall notify the Village Clerk, in writing, of his or her recommendation for approval and acceptance of the work. The Village Clerk shall schedule the acceptance for the next regular Village Board meeting.

~~B.~~ B. The Developer shall be responsible for repairing defects in the public improvements for a period of one year after the Village's acceptance of the improvements (the "guarantee period"). Prior to final acceptance of the public improvements, the subdivider shall pay any outstanding invoices and submit a five percent maintenance bond for the full value of the public improvements as estimated by the subdivider's engineer and verified by the Village Engineer. Said maintenance bond shall be the developer's guarantee against defects of the public improvements and shall terminate one year after acceptance of maintenance of the public improvements by the Village Board, provided, however, that the term of the maintenance bond shall not be required to extend past 14 months after substantial completion of the improvements. In the event that the Developer fails to repair or replace defective work during the guarantee period, the Village will use the Developer's maintenance bond and/or specially assess or specially charge the land for the cost of repairs as set forth in s. 30-102.C.

- C. Upon acceptance by the Village Board, the balance of the public improvements construction ~~guarantee, cash, and bond~~ or letter of credit and any deposited fees remaining shall be released to the subdivider.

30-93. BUILDING PERMIT.

No building permit shall be issued by any governing official for the construction of any building, structure, or improvement to the land or any lot within a subdivision as defined herein, which has been approved for platting or replatting, until all requirements of this chapter have been fully complied with, nor will any permit for any temporary or permanent facilities or structures be issued until all roadways are capable of supporting emergency equipment.

30-94. OCCUPANCY PERMIT.

No occupancy permit shall be granted by any governing official for the use of any structure within a subdivision approved for platting or replatting until required utility facilities have been installed and made ready to service the property, and that roadways providing access to the subject lot or lots have been substantially completed, excluding final surface course. In case of corner lots, this shall include both streets upon which the property is located.

ARTICLE 10 DEVELOPMENT AGREEMENTS

30-101. GENERAL.

Prior to improving the property, a final plat must be filed for record and be accompanied by the following:

- A. An opinion of probable cost of all public improvements prepared by a professional engineer licensed in the State of Wisconsin.
- B. Construction plans and specifications for such improvements previously approved by the Village Engineer.
- C. An Agreement executed by the Village and the subdivider wherein the subdivider agrees to make and install the improvements in accordance with the plans and specifications accompanying the final plat.
 - 1. The agreement shall be executed by the owner, subdivider and the Village President upon approval by the Village Board, and approved by the Village Attorney, and set forth the plans and specifications for improvements required by or under the authority of this chapter, this Municipal Code, or state statutes or regulations. The land division may be constructed in such phases as the Village approves, which approval shall not be unreasonably withheld, and the phasing plan, together with the terms under which the security for each phase will be provided, shall be included in the agreement.
 - 2. If land is divided by certified survey map for sale purposes only, and no development is anticipated within five years from the date of the division, a development agreement is not required at the time of the division; however, the resolution approving said division shall specifically state that a development agreement shall be required at the time of development and the certified survey map shall contain said language on its face.
 - 3. If improved land is divided and no further improvements are required, no such agreement shall be required.
 - 4. In the agreement the owner and/or subdivider shall agree that it will construct or install at its own expense all of the improvements required within the time limits prescribed in this chapter, Municipal Code or state statutes or regulations, and in accordance with the plans and specifications accompanying the final plat, certified survey map; such improvements shall be inspected during installation and construction by an inspector appointed by the Village Board or Village Engineer; and that, after completion of construction, a final inspection shall be made by the Village Engineer prior to final approval and acceptance by the Village Board by resolution, salaries and other costs in connection with such inspections be paid by the owner or subdivider, such costs to be based on the reasonable and customary charges for such service.
 - 5. The agreement shall contain an agreement by the owner and/or subdivider that it will pay all costs incurred by the Village related to the approval of the subdivision; including, but not limited to, the costs of public notices required by law or ordinance, the administrative, legal and engineering costs related to review and approval of plans, plats, and certified survey maps, the drafting and or review of all legal documents, including development agreements, ordinances and resolutions, and any other Village costs reasonably related to said subdivision.
- D. Bond or Letter of Credit in a form approved by the Village in the amount of 425120 percent of the Village Engineer's opinion of probable cost of the installation of such improvements with good

and sufficient surety thereon, to be approved by the Village Board, conditioned upon the installation of the required improvements within two years of the approval of the final plat.

1. The Village may require that the Bond or Letter of Credit be automatically renewed on an annual basis if notice of cancellation or expiration is not provided to the Village at least 90 days prior to the cancellation or expiration. The Village may extend the deadlines for completion of the installation of the improvements, and if so extended, shall require that a Bond or Letter of Credit remain in place during the extension.
 2. Village may do work. Any financial guarantee shall be conditioned so that, should the subdivider, owner or agent fail to complete the work within the time limit specified, the Village may cause all uncompleted work to be done; and the parties executing the guarantee shall be firmly bound for the payment of all necessary costs therefor.
- E. Maintenance bond. See section 30-92.B. A Maintenance Bond is required prior to the acceptance of the improvements.
- F. The work schedule for each major phase of work to be performed under this agreement, with estimated starting and completion dates.
- G. Cash deposit. In addition to the surety required in this subsection, the Village Board shall withhold its final approval until the owner or subdivider deposits with the Village, in cash or by certified check, a sum equal to the costs incurred and anticipated as set forth in the Development Agreement. The Village shall deposit said sum pursuant to policies established from time to time and shall provide itemized statements of withdrawal to the owner or subdivider at the time of withdrawal.

30-102. REDUCTION OF LETTER OF CREDIT.

A. The bond or letter of credit can be periodically reduced by the Village Clerk upon recommendation of the Village Engineer and approval by the Village Board.

A.1. The subdivider may submit to the Village Engineer a list of completed items and their cost along with copies of waivers of lien for the completed items. Upon review of these submittals, the Village Engineer shall recommend to the Village Clerk the reduction in the value of the bond or letter of credit to be approved. Each reduction shall not be more than the value of items estimated in the bond or letter of credit guarantee amount.

2.

~~B. The 25 percent contingency shall be held as retainage and not released until acceptance of the project and receipt of the five percent maintenance bond as specified herein.~~

The 20 percent contingency shall be held as retainage and shall not be released until substantial completion of the public improvements. Substantial completion is defined as the time the binder coat is installed on roads to be dedicated, or, if there is no road to be dedicated, at the time that 90 percent of the public improvements by cost are completed. Upon substantial completion, the amount of the surety shall be reduced to the amount to complete any uncompleted public improvements plus 10 percent of the total cost of the completed public improvements, which shall remain in place for at least 14 months after the date of substantial completion. The public improvements shall be completed in their entirety no later than 12 months after substantial completion and tendered to the Village for acceptance. Upon acceptance of the project and receipt of the five percent maintenance bond as specified herein, the original surety shall be released. If the work has not been completed in its entirety 12 months after substantial completion, the Village may declare the Developer to be in default of the Development Agreement and use the surety for completion of the public improvements.

B. RESERVATION OF ASSESSMENT RIGHTS. In the event that any financial guarantee does not provide sufficient funds to complete the public improvements as provided herein, or the financial guarantee expires, or the Developer does not repair or replace defects in the public improvements during the guarantee period, in addition to the remedies for default provided to the Village by the financial guarantee, the Village reserves the right without notice or hearing to impose special assessments or charges for any amount to which it is entitled by virtue of the Agreement upon the Development and/or individual parcels in the Development. Such special assessments or charges shall be collected on the next succeeding tax roll as are other special assessments or charges. This provision shall be included in the development agreement and the signature of the developer shall constitute the waiver of notice and consent of Developer and its successors and assigns to all special assessment or special charge proceedings which may be required by law.

30-103. INSURANCE.

- A. The subdivider's contractor shall provide and maintain insurance which will protect the Village and each of its officers, employees, agents and consultants from claims which may arise out of or result from the performance of work by anyone directly or indirectly employed by the contractor or subcontractor, or by anyone for whose acts the contractor may be liable. Contractors engaged to perform the work required by this Agreement within the Development and public rights-of-way shall, prior to commencing such work, submit to the Village acceptable proof of the following coverages. These certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least ten days written notice has been given to the Village.
1. Unemployment and workers compensation insurance which is in strict compliance with state laws.
 2. Comprehensive personal and public liability insurance which is not less than \$1,000,000.
 3. Comprehensive property damage insurance having limits of not less than \$500,000.
 4. Comprehensive automobile liability and property damage insurance for operations of all hired and non-hired motor vehicles of not less than \$500,000.
 5. Fire and extended coverage which shall insure against losses and damages to incomplete and completed work, materials or equipment covering the improvements to be dedicated to the Village until the same have been accepted by the Village.
 6. Umbrella coverage which is not less than \$3,000,000.
- B. The subdivider's contractor shall not commence work until certificates of insurance showing coverage of all insurance required, signed by the insurance companies or their authorized agents have been filed with both the Village Clerk and Village Engineer.
- C. The policies of insurance so required by this paragraph to be purchased and maintained shall:
1. With respect to comprehensive general liability insurance, include as additional insureds the Village and Village Engineer, all of whom shall be listed by name as additional insureds, and include coverage for the respective officers and employees of all such additional insureds;

2. Remain in effect at least until acceptance and at all times thereafter when the subdivider may be correcting, removing, or replacing defective work in accordance with this chapter, and
3. Completed operations insurance shall remain in effect for at least two years after acceptance, and the subdivider shall furnish the Village and any other additional insured to whom an insurance certificate has been furnished, evidence satisfactory to the Village and any such additional insured of continuation of such insurance at acceptance and one year thereafter.

ARTICLE 11 PUBLIC SITES AND OPEN SPACES

30-111. GENERAL.

In order that adequate open spaces and sites for public uses may be properly located and preserved as the Village develops, and in order that the cost of providing the park and recreation sites and facilities necessary to serve the additional families brought into the Village by construction of residential units may be most equitably apportioned on the basis of the additional need created by the construction of such units, the following provisions are established.

30-112. DEDICATION OR PAYMENT.

In the design of any subdivision plat submitted for Village approval, consideration shall be given to the adequate provision for and correlation with public sites or open areas.

- A. Where it is determined by the Village that a portion of any subdivision plat submitted for approval is required for such public sites or open spaces, the subdivider may be required to dedicate such land to the Village pursuant to Wis. Stat. s. 236.45(6).
- B. Where feasible and compatible with the comprehensive plan for development of the community, upon request of the Village Board, the subdivider shall provide and dedicate to the Village, adequate land to provide for the park and recreation needs of the subdivision.
- C. The amount of land to be provided shall be determined on the basis of an amount of land equal in value to \$550.00 per residential unit created by the subdivision.
- D. If the Village Board, after consultation with the Plan Commission, determines that such dedication is not feasible or compatible with the comprehensive plan, there shall be paid to the Village in lieu of land dedication, a public site fee of \$550.00 for each residential unit to be constructed in the subdivision. Such fee shall be used exclusively for immediate or future park or recreation area site acquisition or capital improvement and development.
- E. Payment of the public site fee shall be made in a lump sum (100%) at the time of issuance of a building permit for construction of the residential units in the subdivision. It shall be the obligation of the subdivider/owner or his successor in title to pay the public site fee to the Village and the subdivider/owner shall cause written notice of such obligation to pay the public site fee to be recorded at the office of the Register of Deeds of Racine County, Wisconsin, contemporaneous with the recording of the final plat.

30-113. PUBLIC SITE FEE FOR OTHER CONSTRUCTION.

- A. Except as set forth in Section 30-112 above for subdivision development, the Village requires payment of a public site fee by each new residential unit to be used exclusively for immediate or future park or recreational area, site acquisition, or capital improvement or development.
- B. Payment of the public site fee shall be made in a lump sum (100%) at the time of issuance of a building permit for construction of a new residential unit. It shall be the obligation of the person or entity applying for the building permit to pay the public site fee to the Village.
- C. Payment of the public site fee hereunder shall apply to new construction only or where an additional residential unit is created.

ARTICLE 12 STREET NAMES AND NUMBERS

30-112. UNIFORM SYSTEM FOR STREET NAMES.

There is hereby established an official system of street names in the Village of Rochester as shown on the "Street Names" map as maintained on file with the Village Clerk. Names of streets in the Village of Rochester shall remain as shown on said map unless officially changed by specific ordinance or resolution passed subsequent to this date.

30-113. NEW STREET NAMES.

No new streets shall be accepted by the Village of Rochester; nor municipal improvements made thereon until such streets have been named.

- A. If streets are extensions of existing streets, the existing names shall be continued, and if not extensions, names recorded shall not duplicate or closely approximate street names already assigned.
- B. Proposed names of new streets shall be submitted to the Zoning Administration Office for review and approval. The Zoning Administrator shall compare new street names with the master index maintained in the Clerk's office. The Village Zoning Administrator shall report to the Village of Rochester within 30 days after receipt of the new street names as to approval or disapproval of the same.
- C. Name signs shall be erected and maintained at the direction of Village of Rochester Public Works Department.

30-114. UNIFORM NUMBERING SYSTEM.

- A. There is hereby established a uniform system of numbering all structures used for residence, business, industry, or public assembly fronting on all streets within the Village of Rochester as shown on the "street numbering" map on file in the office of the Village Zoning Administrator.
- B. The Village of Rochester Zoning Administrator shall assign address numbers as outlined by the numbering systems adopted by the Village.
- C. The Zoning Administrator will notify the United States Postal Service and Racine County Emergency Services of all new addresses issued.

30-115. UNIFORM ADDRESS SIGNS.

The Village board finds that uniform address signs and the uniform location of such signage serves the health, safety, and welfare of the residents of the village by providing an efficient means for locating properties in the event of a necessary law enforcement, fire, rescue or other emergency response, as well as serving the interests of the traveling public at large.

- A. Signs displaying a parcel's official address shall be installed on all improved parcels within the Village. Such address signs shall be obtained through the Village Clerk and shall be installed by the Village or its contractors. Except where the installation at such a location would be impossible or incompatible with the policy underlying uniform address signage, such signs shall be installed in the village's right-of-way near to the parcel's driveway or other point of access, or at such other location as is designated by the village.

- B. At the time of application for a building permit for a new or previously unimproved parcel, the parcel owner shall apply to the Village Clerk for the assignment of a new address to such parcel, if necessary. The Village Clerk shall also collect, in connection with the application for a new address for such parcel, for the actual costs of acquiring and installing a new address sign on such parcel, and an address sign shall thereafter be installed on the new parcel in conformance with the requirements of this Article.
- C. All property owners shall maintain the uniform address signs on their properties keeping the signs clear of organic growth, debris, and any other impediments to provide a direct line of sight either way from the street at all times.
- D. Within 20 days after a uniform address sign is stolen, destroyed, or materially damaged beyond repair (such determination, when in doubt, to be made by the Public Works Supervisor), the parcel owner shall apply for a replacement address sign with the Village Clerk. The first sign replacement shall be at the Village's expense, with additional sign replacements at the owner's expense. If any landowners refuse to pay for the replacement of their address sign with the exception of the first one, the Village will order it, install it, and the cost will be added to the appropriate homeowner's tax bill as a special charge. If the parcel owner fails to apply for a new sign, or violates any provision of this Chapter, the condition shall be considered as creating a public nuisance, subject to the abatement procedures set forth in Chapter 8 of this Municipal Code.
- D. It shall be unlawful for any person to remove, intentionally damage, or intentionally cause to be damaged any uniform address sign installed under this article, or to change the sign installation from the original vertical post/horizontal sign array to any other configuration.

ARTICLE 20 DEFINITIONS

30-201. DEFINITIONS

The definitions in this Article shall be observed and applied, except when the context clearly indicates otherwise. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular. The word “shall” is mandatory and the words “may” and “should” are permissive.

“Common Open Space” means undeveloped land within a Conservation Subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development, or for the preservation, restoration and management of historical, agricultural, or environmentally sensitive features. Common open space shall not be part of individual residential lots, but undivided shares of the common open space may be owned as part of the ownership of the lots. Common Open Space shall be substantially free of structures, but may contain historical structures and archaeological sites including Indian mounds and/or such recreational facilities for residents as indicated on the approved development plan. It shall be restored and managed, as appropriate, and a stewardship and management plan shall be prepared for the open space.

“Common Facilities” means those facilities which are designated, dedicated, reserved, restricted, or otherwise set aside for the use and enjoyment by residents of the development.

“Condominium” means property subject to a condominium declaration that combines individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Wis. Stat. ch. 703. A condominium is a legal form of ownership of real estate and not a specific building type or style.

“Comprehensive Plan” means the plan required by Wisconsin Statutes and currently adopted as the November 2009 “A Multi-Jurisdictional; Comprehensive Plan for Racine County: 2035” as amended from time to time (the “Village Comprehensive Plan”).

“Conservation Easement” means a non-possessory interest in real property designed to protect natural, scenic and open space values in perpetuity as defined in Wis. Stat. s. 700.40 (Uniform Conservation Easement Act) and 26 U.S. Code s. 170(h).

“Conservation Subdivision” means a development in which dwelling units are concentrated and/or clustered in specific areas at a higher density than provided for by the zoning classification or Village’s Comprehensive Plan in order to allow other portions of the development to be preserved for common open space, including restoration and management of historical, agricultural, or environmentally sensitive features.

“Density Factor” means the average number of acres required for a dwelling unit according to the Village’s Comprehensive Plan, the Village’s ordinances, and applicable zoning regulations.

“Development Envelopes” means areas within which pavement and buildings will be located.

“Development Yield” means the number of dwelling units authorized for a Conservation Subdivision or Minor Land Division.

“Ecological Restoration” means to protect, enhance, recreate, or remediate functional and healthy plant and animal communities. Ecological restoration is accomplished by implementing a Stewardship Plan for upland, wetland areas, and aquatic resource areas, which include specific remedial and management activities for sustainable maintenance of each of these areas and planting of those varieties of plants that are indigenous to the area.

“Floodplains” means those lands, including the floodplains, floodways, depressions and channels, mapped or unmapped, subject to inundation by the 100-year recurrence interval flood or, where such data are not available, the maximum flood of record. See also Chapter 37.

“Homeowners’ Association” means a community association, incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or facilities.

“Habitat Assessment” means a habitat assessment and plan to minimize adverse effects on vegetation and wildlife on land developed within or within 200 feet of a primary or secondary environmental corridor:

- A. Begin with cursory survey of plant life; expand to detailed survey of all species on high quality sites with broad diversity, rare species and/or few invasive plants.
- B. Survey wildlife based on observed species and signs; quantify populations and provide more detailed evaluation of habitat when rare species are found.
- C. Recommend areas to preserve and/or restore based on value of what exists.
- D. Provide site management plan which ensures that development activities will not reduce the number of existing rare or unusual plant and animal species. Activities may reduce the number of common species as long as local populations on the site remain viable.

“Known” means existing information which can be gathered by the DNR, SEWRPC, Rochester Plan Commission, Rochester Village Board, Rochester Village Clerk, or any concerned citizen volunteering the information.

“Net Buildable Acres” means gross contiguous acres of a development parcel minus right-of- ways for new and existing state, county and Village roads.

“Non-Profit Conservation Organization” means any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic, or open space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property. Typically, such organizations have the legal right to hold conservation easements.

“Parent Parcel” means the existing parcel of record, as of the effective date of this Chapter.

“Primary Environmental Corridor” means a concentration of significant natural resources at least 400 acres in area, at least 2 miles in length, and at least 200 feet in width, as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

“Professional Ecological Services” means an individual or firm with professional qualifications to prepare and implement an ecological Stewardship Plan for upland, wetland areas, and aquatic resource areas, including specific remedial and management activities for sustainable management of each of these areas and the planting of the variety of plants that are indigenous to the area.

“Residential Unit” means a building or portion of a building, the principal use of which is intended to provide a residence for a single family. A single-family dwelling shall be one residential unit. A duplex dwelling shall be two residential units. A multiple-family apartment building shall contain as many residential units as the number of apartments contained therein.

“Secondary Environmental Corridor” means a concentration of significant natural resources at least 100 acres in area and at least 1 mile in length. Where such corridors serve to link primary environmental

corridors, no minimum area or length criteria apply. Secondary environmental corridors are delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

“Sewer District” means the area of the Village to which sanitary sewer service is available or nearby. The Sewer District lies within the SEWRPC sewer service area, i.e., the area approved for construction of sanitary sewers by the Southeastern Wisconsin Regional Planning Commission (SEWRPC). Public sewers have not been constructed throughout the service area. When land is to be divided under this chapter, it must be evaluated to determine first whether it is in the service area, and if so, where it lies in proximity to existing public sanitary sewers on lands comprising the Western Racine County Sewerage District No. 1, the “Sewer District.” If the land to be divided is required to connect to an existing sewer under Chapter 10, the landowner must apply to be annexed to the Western Racine County Sewerage District No. 1 and fulfill the requirements for annexation. Once WRCSD approves the annexation, the land will be part of the Sewer District.

“Stewardship Plan” means a comprehensive management plan for the long-term enhancement and sustainability of natural ecosystems including forests, prairies, meadows, wetlands, shore lands, lakes, river systems and other ecosystems. Such plans shall include but not be limited to management goals, monitoring schedules, identification and description of measures to be taken should degradation of the system(s) be noted, and programs for the removal and control of invasive vegetation species.

“Storm Water Treatment Train” means a combination of physical and biological features that are constructed or planted to convey, cleanse and enhance storm water quality before the remaining water is released to receiving waters.

“Street” means any road, street, alley, avenue, boulevard, highway, or other thoroughfare used or useable for vehicular traffic in the Village.

“Subdivider” means any person or entity dividing or proposing to divide land resulting in a conservation subdivision, subdivision, or minor land division.

“Threatened, Endangered, or Protected Species” means wildlife or plants designated as being threatened, endangered or protected by the Wisconsin Department of Natural Resources or the Federal government.

ARTICLE 50 ENFORCEMENT.

30-501. VIOLATIONS.

It shall be unlawful to build upon, divide, convey, record, or place monuments on any land in violation of this chapter or the Wisconsin Statutes; and no person or entity shall be issued a building permit by the Village authorizing the building on or improvement of any subdivision, minor land division, or replat within the jurisdiction of this chapter not of record as of the effective date of this chapter until the provisions and requirements of this chapter have been fully met. The Village may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.

30-502. PENALTIES.

- A. Penalty for Violation of Article 12, Street Names and Numbers. Any person or entity violating any provision of Article 12 shall, upon conviction, pay a forfeiture of not less than \$50.00 nor more than \$400.00 plus all applicable costs allowed by law, including restitution, for each and every offense as set forth in Chapter 50. Each day of violation or each street sign damaged or moved in violation of this chapter shall constitute a separate offense.
- B. General Penalty. Any person or entity who violates or fails to comply with the provision of this chapter shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$400.00 plus all applicable costs allowed by law, including restitution, for each offense as set forth in Chapter 50. Each day a violation exists or continues shall constitute a separate offense.
 - 1. Recordation improperly made carries penalties as provided in Wis. Stat. s. 236.30.
 - 2. Conveyance of lots in unrecorded plats carries penalties as provided for in Wis. Stat. s. 236.31.
 - 3. Monuments disturbed or not placed carries penalties as provided for in Wis. Stat. s. 236.32.
 - 4. An assessor's plat made under Wis. Stat. s. 70.27 may be ordered as a remedy by the Village, at the expense of the subdivider, when a subdivision as defined herein is created by successive divisions.

30-503. APPEALS.

Any person aggrieved by an objection to a plat or CSM or a failure to approve a plat or CSM may appeal such objection or failure to approve as provided in Wis. Stat. s. 236.13(5) within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable, or discriminatory.

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CHAPTER 35 PLANNING AND ZONING

35-1 AUTHORITY

This Chapter is adopted under the authority granted by Wis. Stat. chs. 61, 62 and 87, and such other statutes as may be applicable under the circumstances.

35-2 PURPOSE

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

35-3 INTENT

It is the general intent of this Chapter to regulate and restrict the use of all structures, lands, and waters; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to: lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers; provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; provide adequate sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; preserve and promote the beauty of the community; and implement those municipal, watershed, county and regional comprehensive plans or components of such plans adopted by the Village of Rochester. Floodplain zoning regulations, specifically set forth in Chapter 37 of this Municipal Code, have been adopted to prevent and control erosion, sedimentation, and other pollution of surface waters; to further the maintenance of safe and healthful water conditions and prevent flood damage to persons and property; and to minimize expenditures for flood relief and flood control projects. To this end, it is further intended to provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

35-4 ABROGATION OR GREATER RESTRICTIONS

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

35-5 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 possessed by the Village powers or powers granted by the State. If any provision could be construed to regulate the property or to exclude such use from regulation, the provision shall be construed as regulating such use.

35-6 FEES

All persons performing work or using land which by this Chapter or Chapters 30 through 39 requires the issuance of a permit, or review or action by the Village, shall pay a fee to the Treasurer in an amount determined by the Village Board and set forth in the Fee Schedule. Fees shall be charged for applications including but not limited to the following:

- A. Zoning Permit
- B. Land Use Plan Amendment and Application for Rezoning or change to Planning and Zoning Code

- C. Site and Operational Plan Review
- D. Conditional Use Application (Submit Zoning Permit and Conditional Use Applications)
- E. Sign Permit (use Zoning Permit form)
- F. Home Occupations.
- G. Variance or Appeal Petition (Submit Zoning Permit and Variance or Appeal Applications)
- H. Annexation Petition (by applicant)
- I. Construction Site Erosion Control Permit (see Chapter 31)
- J. Post Construction Stormwater and Pond Application (see Chapter 32)
- K. Extraterritorial Plat Review
- L. Shoreland/Wetland and Shoreland Application, [Certificate of Compliance](#) (see Chapter 36)
- M. Floodplain Application and Certificate of Compliance (see Chapter 37)
- N. Historic Preservation Certificate of Appropriateness (See Chapter 38)
- O. Temporary Use Permit

35-7 JURISDICTION.

The jurisdiction of this Chapter shall include all lands and waters within the corporate limits of the Village of Rochester, Wisconsin. The terms of this Chapter shall govern the remaining land use chapters where no specific provisions for the items covered by this Chapter are provided therein.

35-8 COMPLIANCE.

No structure, land, or water shall hereafter be used and no land or structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located.

35-9 ZONING PERMIT REQUIRED.

- A. No land shall be occupied or used, and no building or structure hereafter erected, altered or moved shall be occupied, and no nonconforming use shall be renewed, changed or extended until a Zoning Permit in compliance with the provisions of this Chapter has been issued by the Zoning Administrator. Such permit shall show that the land, building, structure or premises or part thereof is in compliance with the provisions of this Chapter.
- B. A Zoning Permit must be obtained from the Zoning Administrator prior to the issuance of a Building Permit by the Village Building Inspector. In areas not served by municipal sanitary sewer, an applicant must obtain sanitary approval from the Racine County Code Administration office prior to obtaining a Zoning Permit from the Village to ensure that the proposed on-site sanitary system is in compliance with State and County regulations and will not interfere with the existing on-site sanitary system.
- C. This section shall also apply in cases where the use of any building or premises is changed by owner or occupant, or where any nonconforming use is renewed, changed or extended. No structure within the floodplain districts hereafter erected, altered or moved shall be occupied until the applicant submits to the Zoning Administrator the certification required in Chapter 37 of this Municipal Code.

35-10 DUTIES OF ZONING ADMINISTRATOR

The duties of the Zoning Administrator shall include the administration of this Chapter and the evaluation and, if appropriate, the issuance of all permits required by this Chapter. The Zoning Administrator shall maintain records of all permits issued, and shall perform all floodplain related duties set forth in Chapter 37 of this Municipal Code and administer all other land use provisions as set forth in this Municipal Code. In addition:

- A. The Zoning Administrator shall investigate all complaints, give notice of violations, issue orders to comply with this Chapter, and assist the Village Attorney in the prosecution of ordinance violators.
- B. The Zoning Administrator and his duly appointed deputies may enter at any reasonable time onto any public or private lands or water to make a zoning inspection as deemed necessary by him to ensure compliance with this Chapter. If, however, he is refused entry after presentation of his identification, he may procure a inspection warrant in accordance with Wis. Stat. s. 66.0119.
- C. It shall be the duty of the Zoning Administrator, with the aid of law enforcement and the Building Inspector, to enforce the land use provisions of this Code. The Zoning Administrator shall keep a record of all permits and certificates issued by him, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in any land or building, or as required by the Open Records laws. 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.
- D. The Zoning Administrator shall give all notices related to Floodplain Zoning as set forth in Chapter 37 of this Municipal Code.

35-11 ZONING PERMIT REQUIREMENTS.

- A. Each principal and accessory use and structure shall require the issuance of a Zoning Permit prior to the issuance of building permits under Chapter 11 and prior to a new or change in the use of a property. An application for a Zoning Permit shall be completed in triplicate and submitted to the Zoning Administrator and shall include the following (additional permits may be required under Chapter 30 to 39 of this Municipal Code):
 - 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; address of the subject site; type of structure; existing and proposed operation or use of the structure and/or site; number of families or employees; and the zoning district within which the subject site lies.
 - 3. Plat of Survey prepared by a registered land surveyor, or, at the discretion of the Zoning Administrator, a location sketch drawn to scale, showing the location, boundaries, dimensions, setbacks, elevations if required by the discretion of the Zoning Administrator, uses and sizes of the following: subject site; existing and proposed structures; accessory buildings; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; wetland, high water, channel, floodway and floodplain boundaries; and existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevations, and use of any abutting lands and their structures within forty feet of the subject site. Elevations shall be referenced to the National Geodetic Vertical (NGVD) Datum of 1929. When the subject site is subject to other land use restrictions set forth in this Code, the permit application shall include the information required by the applicable chapter(s).
 - 4. Structures may not be constructed within any easements, e.g., utility easements, drainage easements, preservation easements, driveway easements, etc., without a recordable written approval from the holder of the easement allowing the encroachment.
 - 5. In any case, no permit for excavation or for erection of any building or part of a building or for repairs to or alterations of a building shall be issued by the Building Inspector until

after a statement of its intended use has been filed with the Zoning Administrator by the applicant.

6. Minimum Utility Connections. Electricity and sanitary sewerage and water supply connections are required for all structures used or intended to be used for human habitation or occupancy. If municipal sewer service is not available, the proposed on-site sanitary sewer disposal plan must be approved by the Racine County Code Administration office, which shall state in writing that a satisfactory, adequate and safe sewage disposal system is possible on the site as proposed by the plan in accordance with the applicable local, county and state regulations.
 7. Fee receipt. The Zoning Administrator shall not proceed until a receipt showing payment of the Fees required by the Village of Rochester is submitted to him.
 8. Additional Information. The applicant shall submit additional information as may be required by the Village Plan Commission, Village Engineer, and/or Zoning Administrator.
- B. Continuance of Existing Uses. Nothing in this Chapter shall 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.
- C. A Zoning Permit shall be granted or denied in writing by the Zoning Administrator within 30 business days of receipt of all forms, fees, plans and documents required to process the application, and completion of any other Village prerequisite permitting requirements. Refusal to issue a Zoning Permit shall be given in writing, with the reasons for such refusal. ~~The Permit shall expire within six months unless substantial work has commenced. Unless otherwise set forth in the Chapter or by statute, the Permit shall expire at the same time as the building permit issued by the Building Inspector under Chapter 11. Certificates of Compliance, and Zoning Permits for uses that do not involve building permits, shall not expire but shall be automatically void if a change is made without application for an amended or new Certificate or Zoning Permit.~~ A Zoning Permit that was issued prior to the enactment of this Chapter that has expired will not be re-issued upon application unless the plans meet the requirements of this Chapter. A Zoning Permit issued in conflict with this Chapter shall be null and void.

35-12 USES NOT REQUIRING A ZONING PERMIT.

No Zoning Permit shall be required in any of the following instances: for repairs or improvements to an existing building not involving a change in the use of a structure, or an increase in the floor area of the structure, except in compliance with Section 35-190, Architectural Control, of this Chapter and other applicable chapters of this Municipal Code; provided, however, that any work not requiring a permit shall comply with the applicable setback, yard, height and other requirements of this Chapter. No zoning permit shall be required for the necessary and customary construction, reconstruction or maintenance of overground or underground public utility service lines and mechanical appurtenances; except in compliance with floodplain districts (see Chapter 37). No permit shall be required for gardening accessory to a principal use. See also Chapters 36 to 39 for specific uses.

35-13 CERTIFICATE OF COMPLIANCE

Upon written request from the owner, the Zoning Administrator shall issue a certificate of 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 the Chapter.

35-14 EXISTING PERMITS

Nothing contained in this Chapter shall require any change in the plans, construction, size or designated use of any building or part thereof for which a Zoning Permit was issued before the effective date of this Chapter, or the applicable amendment thereto, the construction of which was started within six months from the date of such permit.

35-15 SITE RESTRICTIONS.

- A. No permit shall be issued and no land shall be used or structure erected where the land is unsuitable for such use of structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. Such determination shall be made by the Village Board, and the Zoning Administrator shall be responsible for making the Village Board aware of such unsuitable conditions that come to his attention. The Village Board in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the Village Board may affirm, modify, or withdraw its determination of unsuitability.
- B. All Lots shall abut upon a public street, or a private road approved by the Village, or other means of access if that access was in existence prior to the adoption of this Chapter and was previously approved by the municipality. Each lot shall have a minimum frontage of 33 feet and shall also be a minimum width at the street yard setback line as prescribed for the particular zoning district in which the lot is located.
- C. All Principal and Accessory Structures shall be located on a lot, and only one principal structure shall be located, erected, or moved onto a lot, unless the specific zoning for the lot allows for more than one principal structure or more buildings are allowed by conditional use permit or site plan review. All residential structures shall be attached to a permanent foundation, and shall meet the minimum area requirements for the use of the dwelling, as set forth in the specific zoning district.
- D. No Zoning Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its platted width. No zoning permit shall be issued for a lot which abuts upon the termination of a non-through public street unless such street has been or is to be provided with a permanent cul-de-sac or other type of permanent turnaround as determined by the Plan Commission and the Village Board.
- E. Width and area of all lots not served by public sanitary sewer system, or other sewage disposal system by the State or County having jurisdiction over the approval or disapproval of such systems, shall be sufficient to permit the use of a private on-site wastewater treatment system (POWTS) designed in accordance with applicable state and county sanitary regulations but in no case shall be less than 150 feet in width and 40,000 square feet in area unless lot width and area has been approved by the Plan Commission through the land division or conditional use process.
- F. Where public water supply systems are not available, private well construction shall be required to conform to Wis. Admin. Code ch. NR 812, and, if applicable, Wis. Admin. Code ch. NR 811. Where public sewer collection and treatment is not available, design and construction of private sewage systems shall be governed under Chapter 19 of the Racine County Code of Ordinances, pursuant to Wis. Stat. s. 145.20. No private waste disposal system or part therefore shall be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or its use changed without full compliance with this chapter. A Zoning Permit for any structure or an

addition to a structure served by or to be served by a private sewage system may not be issued until evidence of such compliance is provided to the Zoning Administrator.

- G. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district.
- H. Notwithstanding any other provision of this Chapter, a commercial structure shall not be greater in height than its distance from a lot line, provided however that if the applicant presents to the Village a report by a licensed structural engineer certifying the fall-down radius of the proposed structure to be less than its height, the allowed setback shall be that certified distance or the setback required in this Chapter, whichever is greater, unless specifically provided in this Chapter.
- I. Single family dwelling and two family dwelling requirements. No single family dwelling or two-family dwelling shall be erected or installed in any zoning district unless it meets all of the following:
 - 1. The dwelling is set on an enclosed foundation in accordance with the standards set forth in Subchapters III, IV and V of Wis. Admin. Code ch. SPS 321.
 - 2. The dwelling is properly connected to utilities;
 - 3. The dwelling has a core area of living space, measured at the ground floor, of at least 20 feet by 20 feet in size; and
 - 4. The dwelling and lot meet the minimum size requirements of the applicable zoning district.
 - 5.
 - a. Subject to the provisions of subsections 1. through 4. above, a modular home, as defined in Wis. Stat. s. 101.71(6), that is installed on an enclosed foundation in accordance with State of Wisconsin requirements is permitted in any district where single family or two-family dwellings are shown as permitted or conditional uses.
 - b. Subject to the provisions of subsections 1. through 4. above, a manufactured home, as defined in Wis. Stat. s. 101.91(2), that is installed on an enclosed foundation in accordance with State of Wisconsin requirements may be allowed as a conditional use in any district where single family or two-family dwellings are shown as permitted or conditional uses. The Plan Commission must determine whether the manufactured home is aesthetically similar to the homes in the vicinity of the proposed manufactured home, and whether the manufactured home would have an adverse effect on the tax base or property values when determining whether to grant the conditional use permit.

35-17 to 35-19 reserved for future use.]

35-20 CHANGE OF USE.

A Zoning Permit shall be required for a new use or a change of use to property or buildings.

35-21 USE RESTRICTIONS.

The following use restrictions and regulations shall apply:

- A. Principal Uses. Only those principal uses and structures specified for a district, their essential services, uses required by State or Federal law, and the uses set forth in this Section shall be permitted in that district.

- B. Accessory uses, buildings and structures. Accessory uses, buildings and structures are permitted in any district (except the floodplain districts, see Chapter 37), but, except as set forth in this Section, not until the principal structure on the lot is present or under construction. Accessory uses, buildings and/or structures shall not involve the conduct of any business, trade or industry unless the use, building and/or structure is related to an allowed professional home office as defined in Section 35-300 or home occupations as set forth below. Accessory buildings and structures may be used for storage, parking facilities, gardening, private swimming pools, and private emergency shelters, and must be directly related to the principal use. Outdoor storage is not an authorized accessory use in residential, commercial, C-2, M-1 and M-2 districts, except storage of registered vehicles (also see Section 35-180 of this Chapter and Chapter 37 of this Code). Examples of accessory structures (regardless of whether attached to a foundation) include, but are not limited to: barns, detached garages, playhouses, sheds, private greenhouses, gazebos, storage sheds, boathouses, wind energies facilities, swimming pools and pump houses, wind energy structures, and tower facilities.
 - 1. Accessory uses.
 - a. In-law suites. In-law suites (herein "suite") may be allowed as an accessory use to a single family residence located in the residential, agricultural, urban reserve and C-2 zoning districts, subject to the following:
 - (1) Up to two persons who will be living together as a single housekeeping entity with the residents occupying the principal structure may reside in the suite and must be allowed unrestricted access to the common areas of the dwelling.
 - (2) The suite shall not have separate gas, water, and/or electric meters (more than one meter per utility would constitute a multi-family dwelling unit, and that is prohibited).
 - (3) The suite shall not be located in any detached accessory structure.
 - (4) The gross floor area of the suite shall not exceed 800 square feet (not including areas for common utilities such as water heater, furnace, etc.).
 - (5) The suite shall be connected to the main heated living area of the dwelling by way of common walls (the suite shall not be connected to the dwelling by a breezeway, garage, or corridor as this would constitute a multi-family dwelling unit, and that is prohibited). A code-compliant suite may be located above a garage that is attached in its entirety to a single-family residence.

- (6) There shall be only one address and one mailbox for the lot containing the residence and suite.
- (7) The suite addition shall be constructed so as to be compatible and in harmony in terms of architecture, color, materials and texture with the exterior of the principal residence.
- (8) In areas not served by public sanitary sewer, any suite that is added onto or created within an existing residence must have private onsite wastewater treatment system (POWTS) sanitary approval prior to zoning permit issuance.
- (9) The suite shall have its principal means of access to the outdoors from the main dwelling unit via said dwelling unit's main exterior doorways (a sole segregated doorway from the suite to the outdoors would constitute a multi-family dwelling unit and that is prohibited).
- (10) The suite may have up to one bedroom, bathroom, along with a sitting room or parlor. It may not have a full kitchen (stove, refrigerator and sink).
- (11) There may be no more than one suite addition within or attached to a single-family residence.
- (12) Evidence of a recorded deed restriction will be required at the time of the filing of the zoning permit application that establishes that persons within the home are required to be living together in the dwelling as a single housekeeping entity, that the living area shall not be utilized as a two-family dwelling, and that the suite will be in compliance with this Code.

b. Home Occupations. "A", "C-2" and "R" district residential accessory uses and structures shall not involve the conduct of any business, trade, or industry, except if allowed as a principal or conditional use, or as set forth in section L, below.

2. Accessory Buildings and Structures on Sewered Lots. Accessory buildings and structures on lots served by public sanitary sewer are limited as set forth herein, and may modify the yard requirements, as follows:

a. Number of Accessory Buildings Limited. No more than two accessory buildings that are not part of the principal structure may be located on any building site. If two accessory buildings are present, the size of at least one of the structures is limited to no more than 200 square feet.

b. Accessory Structures, Including Buildings, Regulations.

- (1) A detached accessory structure 150 square feet or less in area may be located in a side yard or rear yard provided that the structure is at least ten feet from the principal structure, is at least three feet from any lot line, is not intended for human habitation or animal shelter, and is not greater than fifteen feet in height. The five foot setback requirement of s. 35-180.B.6. of this Chapter does not apply to any accessory structure which is 150 square feet or less in area.

- (2) A detached accessory structure greater than 150 square feet but no greater than 720 square feet in area may be located in a side yard or rear yard provided that the structure is at least ten feet from the principal structure, at least four feet from the lot line, is not intended for human habitation or animal shelter, and is not greater than fifteen feet in height. The five foot setback requirement of s. 35-180.B.6. of this Chapter does not apply to any detached accessory structure which is greater than 150 square feet and no greater than 720 square feet in area.
- (3) A detached accessory structure greater than 720 square feet, but no greater than 1,200 square feet in area may be located in a side yard or rear yard provided that the structure is at least ten feet from the principal structure, is at least ten feet from any lot line, is not intended for human habitation or animal shelter, and is not greater than fifteen feet in height.
- c. No detached accessory structure greater than 720 square feet may be located in the following zoning districts: R-1 Single Family Residential, R-2 Single Family Residential, R-3 One and Two Family Residential, and R-4 Multiple Family Residential.
- d. A detached garage of masonry construction which is greater than 150 square feet but no greater than 720 square feet in area shall not be located less than five feet from any residential building. A detached garage of masonry construction which does not fall within these size parameters shall be governed by all of the other provisions set forth in this Section.
- ~~e. Accessory structures, including buildings, shall not extend into the required shore yard unless otherwise specifically permitted by this Municipal Code.~~
- ~~e. Accessory structure regulations for lots abutting shorelands in the area of the Village not subject to Chapter 36 are in s. 35-21E. See Chapter 36 for accessory structures in the Shoreland-wetland and Shoreland Districts.~~
- f. Surrounding Area. No Zoning Permit shall be issued for any accessory structure, including buildings, if the plan, general design and architecture do not substantially conform to the plan, general design and architecture of the surrounding area.
- 3. Accessory Buildings and Structures Located on Unsewered Lots. Accessory buildings and structures, located on lots not served by public sanitary sewer, are limited as set forth herein, and may modify the yard requirements, as follows:
 - a. Accessory structures may be permitted in the agricultural districts prior to the presence of the principal structure provided that the parcel on which the accessory structure will be located is ten contiguous acres in size or larger, the accessory structure is intended for an agricultural use, the proposed accessory structure meets the setback requirements needed for a principal structure in that district, and the accessory structure is at least 100 feet from any existing residence on abutting parcels.
 - b. Except for signs and tower facilities and/or wind energy facilities, which are regulated separately, any detached accessory structure less than 36 square feet in area is exempt from the requirement for obtaining a Zoning Permit. In addition, any temporary, seasonal outdoor above-ground swimming pool, hot tub, or whirlpool bath that does not remain erected on the same lot for more than 120

consecutive days is exempt from the requirement for obtaining a Zoning Permit.

- c. Detached accessory structures constructed in residential districts shall not be closer than ten feet to the principal structure; not closer than three feet to a side or rear lot line if less than or equal to 720 square feet in footprint area, or five feet to a side or rear lot line if greater than 720 square feet in footprint area; not closer than five feet to an alley line; shall not exceed 15 feet in building height; and are permitted in the rear and side yards only, except as follows:
- (1) Accessory structures are permitted in the street yard portion of waterfront lots provided that they are not placed within the required minimum street yard setback.
 - (2) For lots with multiple street yards and no defined rear yard area, accessory structures are permitted in the street yard portion of the secondary or non-access street provided that they are not placed within the minimum required street yard setback.
 - (3) Accessory structures located in the nonresidential districts are limited in height to that listed for the principal structures in those districts. A greater height may be approved through a site plan review process and as allowed in Section 35-180. The minimum setback from a lot line shall be one-half of the building height or that required by s. 35-180.B.6., whichever is greater.
 - (4) Any portion of an accessory structure placed or constructed in a side yard area of a nonconforming principal structure shall not encroach into the minimum required street and/or shore yard setback.
 - (5) See Sections 35-130 to 35-151 for Solar Energy Systems, Wind Energy Systems, and Tower regulations.
- d. The aggregate total footprint area for all accessory structures constructed in the unsewered areas shall not exceed the following square footage for the stated lot size, exclusive of road right-of-way:

Lot Size/ Accessory Structure(s) Maximum Aggregate Total Footprint Area

Less than 10,000 sq. ft. lot:	720 square feet
10,000 sq. ft. to less than 20,000 sq. ft. lot:	1,000 square feet
20,000 sq. ft. to less than 1 acre lot:	2,600 square feet
1 acre to less than 2 acre lot:	4,000 square feet
2 acre to less than 3 acre lot:	5,000 square feet
3 acre to less than 4 acre lot:	6,000 square feet
4 acre to less than 5 acre lot:	7,500 square feet
5 acre to less than 10 acre lot:	four percent of lot area
10 acre lot or more:	five percent of lot area

Note: A greater amount of square footage per lot size may be allowed if approved as part of a conditional use permit or site plan review when needed as an integral part of the plan of operation and where said structure(s) is used solely accessory to the permitted principal or conditional use on said lot.

4. Accessory Structures in General. Where an accessory structure is permanently attached

to the principal structure by a roof or wall-to-wall, such accessory structure shall be considered as a part of the principal structure. Decks, stairs and landings that abut a principal structure, whether or not physically attached, and outdoor swimming pools, hot tubs or whirlpools on top of, within, or immediately abutting such shall be considered to be part of the principal structure and principal structure setbacks would apply for required setbacks except where Section 35-180 Modification setbacks apply. Items such as a fence, trellis, retaining wall, and sidewalk, driveway or patio less than six inches from grade are not considered an attachment, and are exempt from setbacks except where regulated by shoreland, shoreland-wetland, floodplain or traffic visibility regulations.

C. Exemptions from yard requirements

1. Essential services, utilities, electric power and communication transmission lines and mechanical appurtenances thereto where reasonable and necessary for the preservation of the public health, safety, convenience and welfare are exempt from the yard and distance requirements of this chapter, provided, however, that tower facilities, wind energy facilities and solar energy facilities shall meet the requirements in the applicable sections of this Chapter, and the placement of utilities shall be regulated as follows:
 - (a) The placement of said utilities in Village rights-of-way shall be subject to section 6-6 of this Code; and
 - (b) The placement of said utilities in the front or side yard of any lot in the Village shall be subject to the following:
 - (1) All above-ground structures, cabinets or boxes shall be precisely indicated on plans submitted to the Zoning Administrator, or, if applicable, the Plan Commission, including the size and appearance thereof. The Zoning Administrator or Plan Commission may require alternative placement of said structures, cabinets or boxes as part of the permitting process if the Administrator or Plan Commission determines that the planned placement interferes with public safety, health or welfare. The Zoning Administrator or Plan Commission may also reasonably require screening of said structures, cabinets or boxes if either determines that the public welfare is harmed by the potential diminution of property values in the area because of the appearance of said structures, cabinets or boxes.
 - (2) Except for sanitary sewerage service in Floodplain and Shoreland Districts, no separate Zoning Permit under this Chapter shall be required for the necessary and customary construction, reconstruction or maintenance of above ground or underground public utility neighborhood service lines and mechanical appurtenances thereto, however, this section shall apply to the review of the placement of said utility facilities. When a single site is being developed, review of the placement of the sanitary facilities shall be performed as part of the building and/or zoning review.
2. Landscaping and vegetation are exempt from the yard requirements of this chapter, unless they interfere with the vision clearance triangle.

- D. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Plan Commission and Village Board in accordance with Section 35-100 of this Chapter.

E. Shoreyard Uses- in Areas of the Village Not Subject to Chapter 36. The shoreyard is defined in Section 35-300 of this Chapter.

1. ~~4.~~ Boathouses, The rear yard setbacks applicable to the zoning district for principal uses on lots abutting navigable water in areas of the Village not subject to Chapter 36 apply to the shore yards, provided that no setback averaging set forth in s. 35-180.B. may allow a principal structure to be placed closer than 25 feet to the ordinary high-water mark.

2. Except as set forth in subsection 3., detached accessory ~~to residential uses~~ buildings and structures may be placed in shoreyards but may not be placed closer than 25 feet to the ordinary high-water mark, shall be limited in size to 300 square feet or less in area, must be at least five feet but no greater than ten feet from the principal structure, must be at least three feet from any side lot line, may not be used for human habitation or animal shelter, and may not be greater than fifteen feet in height.

3. Boathouses may be located within the shoreyard, but shall not be closer than 20 feet to the average annual ordinary high water ~~elevation mark~~ of a stream, lake, river, pond or wetland; shall not exceed one boathouse per shoreyard lot; shall not exceed 15 feet in height above the ordinary high water mark; shall not exceed 250 square feet in horizontal area covered; and shall not be closer than 15 feet to any side lot line. In no case, however, shall boathouses be allowed to project beyond the shoreline. Boathouses shall be constructed in such a manner as to orient the main opening of the boat house toward the body of water and shall be used strictly for the storage of boats and water-related recreational accessories. The use of a boat house for human habitation is prohibited. No plumbing, heating or cooking facilities may be provided in or for a boathouse. ~~The roof of the boathouse shall not be used as a deck or for any other purposes, nor shall railings be placed on top of the boat house.~~

4.4. Where a lot contains a shoreyard, accessory structures meeting the other requirements of this Chapter may be placed in side and street yards provided that the setbacks for those yards are met.

F. Unclassified or Unspecified Uses may be permitted by the Zoning Board of Appeals after the Village Plan Commission had made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the district, except as limited in a specific zoning district.

G. Temporary Uses of Land and Temporary Structures.

1. In this section:

“Temporary Structure” means a structure that is not permanently attached to the ground that is removed when the designated time period, activity or use for which the temporary structure was erected or placed has ceased.

“Temporary Use” means a use that is established for a limited duration with the intent to discontinue such use upon the expiration of the time period. A temporary use may not be permitted for more than 30 days unless the use is specifically permitted in this section.

2. Temporary Use Permits.

a. Required. A zoning Temporary Use Permit is required for temporary uses and for the use of land for temporary structures as set forth in this section. The permit shall be referred to as a Temporary Use Permit whether it is for a

temporary use or for a temporary structure or both. When such a permit has been issued, an occupancy permit for the use is not required.

b. Fees; Applications.

- (1) Fees. The applicant for a Temporary Use Permit shall pay a fee at the time of application in an amount set by the Village Board and set forth in the Fee Schedule.
- (2) Applications. All applications shall contain a location sketch, drawn to scale, showing the location, actual shape and dimensions of the lot to be used and the size and location on the lot of the proposed use along with the existing buildings. The location and setbacks of temporary structures related to the proposed use shall be shown, as well as the proposed parking areas. The Zoning Administrator and Plan Commission may require such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this section.

3. General Standards. The Zoning Administrator may issue a Temporary Use Permit after Plan Commission review and approval as set forth in this section.

a. Zoning Administrator Review. The Zoning Administrator will review an application for a Temporary Use Permit and determine:

- (1) Whether the use is allowed in the zoning district. If it is not allowed, the Zoning Administrator will deny the application.
- (2) If the use is allowed in the zoning district, the Zoning Administrator will determine whether the proposed use will be served adequately by streets, off-street or on-street parking, police and fire protection, refuse disposal, and other public facilities or if the applicant will provide adequately for such facilities as well as provide for safe vehicular and pedestrian access and egress to the site. The Zoning Administrator will provide comments to the Plan Commission regarding these items, and forward the application to the Plan Commission.

b. Plan Commission Review. The Plan Commission will review the application and determine:

- (1) Whether the proposed temporary use will cause undue traffic congestion or draw significant amounts of traffic through residential streets or upon residential property. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. If that cannot be accomplished, the Plan Commission will deny the application.
- (2) Whether the proposed temporary use will be in harmony with the general and specific purposes for which this chapter was enacted and for which the regulations of the zoning district affected were established. Prior to approving a permit, the Plan Commission must determine that the proposed use will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the aesthetics and character of the area, or the public health, safety, comfort, and general welfare and

will not diminish or impair property values within the community or neighborhood.

4. Conditions.

- a. If the Plan Commission approves a permit, it may impose such conditions and limitations concerning use, location, maintenance, screening, operation, hours of operation (except as may be allowed by other federal, state, or village requirements), and other matters relating to the purposes and objectives of this chapter upon the premises as the Commission deems necessary or appropriate to prevent or minimize adverse effects upon other property and improvements near the subject property and upon public facilities and services, to protect the public interest, and to secure compliance with the standards and requirements specified in this chapter. Such conditions shall be expressly set forth in the Temporary Use Permit.
- b. The Plan Commission may require the applicant to mail or deliver notice of the temporary use to the neighboring property owners prior to the event. The applicant shall provide a copy of the notice, proof that the notice was mailed or delivered, and a list of the persons to whom it was mailed or delivered prior to the temporary use.
- c. Violation of any condition, limitation or requirement for notice shall be a violation of this chapter and shall constitute grounds for revocation of the Temporary Use Permit.

5. Effect Of/On Other Permits.

- a. The amendment of a Conditional Use Permit or Specific Implementation Plan is not required in order to obtain a Temporary Use Permit.
- b. The approval and issuance of a Temporary Use Permit does not amend a Conditional Use Permit or Specific Implementation Plan.
- c. A Temporary Use Permit is required even when no Conditional Use Permit or Specific Implementation Plan is required under the zoning regulations.
- d. When an event that utilizes both public and private land is allowed by the Village Board, no Temporary Use Permit is required.
- e. If the terms of a Conditional Use Permit, Specific Implementation Plan or variance existing on the date of the adoption of this Chapter includes the use of the property for the specific temporary uses covered in this section, no new Temporary Use Permit is required under this section. If the CUP, Specific Implementation Plan or variance does not cover the specific temporary use, a Temporary Use Permit is required.

6. Limitations on Temporary Use Permits.

- a. Time Limitations. No Temporary Use Permit will be issued for a total of more than 30 days in any one calendar year, except as may otherwise be set forth in the specific regulations for the use or structure set forth in this section.
- b. Temporary Use Discontinuance. A Temporary Use Permit shall be deemed to

authorize only the particular temporary use for which it was issued. The Permit will automatically expire and cease to be of any force or effect if the use is discontinued.

- c. A Temporary Use Permit is effective only for the dates listed in the Permit.
7. Amendments to Temporary Use Permits. Temporary Use Permits may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this section for the original approval of a Temporary Use Permit.
8. Review of Temporary Use Permit. An existing permit may be reviewed by the Village as follows:
- a. The Zoning Administrator may review a permit if any of the following determinations are made by the Zoning Administrator:
 - (1) The temporary use has not continued in conformity with the Village's conditions of approval of the permit or with any subsequent amendments to the permit.
 - (2) Violations of other statutes, ordinances, or laws.
 - (3) A change in the character of the surrounding area or in the temporary use itself which has caused the temporary use to become incompatible with the surrounding uses.
 - b. The determination of a review of a granted Temporary Use Permit shall be made by the Zoning Administrator after due notice to the property owner, occupant, or agent as indicated on the Temporary Use Permit as to the reason(s) for the review.
 - c. Upon review of the Temporary Use Permit, the Zoning Administrator may: take no action, revise the Temporary Use Permit, specify additional conditions to be added to the Temporary Use Permit, or may terminate the Temporary Use Permit. The Zoning Administrator will report the review and action to the Plan Commission.
 - d. If the permit holder is found to be out of compliance with the terms of the permit, or there has been a violation of statutes, ordinances or other laws, the permit holder shall be charged the actual cost of the review.
9. Standards applicable to all temporary uses. The following standards shall apply to all temporary uses unless different standards are provided for the specific use.
- a. Trash and debris. All trash and debris shall be removed or contained daily.
 - b. Written consent is required. Written consent from the owner, or authorized agent, of the property shall be provided in the application for the Temporary Use Permit.
 - c. Signage. All signage shall be according to the Village of Rochester sign regulations.
 - d. Removal of materials and equipment. All materials and equipment shall be removed within three days of the end of the use.

10. Detailed standards for specific temporary uses. The following standards shall apply for the temporary use listed.
- a. Temporary Fairs and Amusement Parks. All temporary fairs and amusement parks shall be located contiguous to an arterial or collector street.
 - b. Temporary Outdoor Sales. This land use includes the display of any items outside of the confines of a building which is not otherwise permitted as a permitted or conditional use or as part of an event utilizing the public right-of way that is authorized by the Village Board. Examples of this land use include, but are not limited to, seasonal garden shops, tent sales, Christmas tree sales, and food stands. Temporary outdoor sales shall adhere to the following regulations:
 - (1) Location. Material for sale (such as trees, pumpkins, etc.) shall not be located in any right-of-way.
 - (2) Visibility. The location of materials for sale on the property shall not block visibility for vehicles or pedestrians on or off the lot in a way that would create a safety hazard.
 - (3) Hours of operation. The sales shall be limited to between the hours of 7:00 a.m. and 9:00 p.m.
 - (4) The user shall provide a layout of activities as part of the permit application.
 - c. Garage and yard sales. No Temporary Use Permit is required, provided that garage and yard sales shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m. No more than three rummage sales in one calendar year may be conducted from any premises. Each sale may last no longer than three consecutive days and must be conducted on the seller's property.
 - d. Preconstruction Sales Offices. Preconstruction sales offices that are stand-alone (not located in a model home or model dwelling unit) used exclusively as sales offices by a builder/developer and to display the builder/developer's product or to display to prospective buyers the builder/developer's features (such as exterior siding treatments, roofing materials, interior trim, moldings, floor coverings, etc.) may be staffed by the builder/developer's sales force and are subject to the following restrictions:
 - (1) District dimensional requirements to be met. The preconstruction sales office shall meet all district requirements for lot and yard dimensions.
 - (2) Sign illumination. Signs shall not be illuminated after 9:00 p.m.
 - (3) Business activity not permitted before 8:00 a.m. or after 9:00 p.m. The preconstruction sales office shall not be used for any business activity before 8:00 a.m. or later than 9:00 p.m.
 - (4) Screening and trash receptacles. Landscape drawings shall be required and show adequate landscaping and screening from adjoining residential lots or units, with the clear marking of the boundaries of the model home lot or unit. Trash receptacles shall be provided around the model home

for use by the public.

(5) Termination of use. The use of a preconstruction sales office within a residential subdivision or condominium development, or within any single phase of a multi-phase subdivision or condominium development, is not subject to the 30 day time limit, but shall terminate when building permits have been issued for 90% of the lots therein, provided however, that the Plan Commission may extend the permit upon application by the builder or developer. The preconstruction sales office shall be removed within 30 days of the termination of the permit.

e. Outdoor concerts. Outdoor concerts shall be subject to the conditions imposed by the Plan Commission as necessary for the specific duration and attendance expected at the concert.

f. Fireworks possession, sales and use. This section is enacted pursuant to Wis. Stat. s. 167.10(5), as may be amended from time to time.

(1) Definitions. As used in this section, the following terms shall have the meanings indicated:

“Novelty Fireworks” means the following types of fireworks:

- A cap containing not more than 1/4 grain of explosive mixture, if the cap is used or possessed or sold for use in a device which presents direct bodily contact with a cap when it is in place for explosion.
- A toy snake which contains no mercury.
- A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.
- A device designed to spray out paper confetti or streamers and which contains less than 1/4 grain of explosive mixture.
- A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than 1/4 grain of explosive mixture.
- A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
- A cylindrical fountain that consists of one or more tubes and that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
- A cone fountain that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

“Novelty Fireworks, Commercial” means novelty fireworks for which a permit is required in this section.

“Statutory Fireworks” means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, inclusive of pyrotechnics, but not including any of the following:

- Fuel or a lubricant.

- A firearm cartridge or shotgun shell.
- A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- A model rocket engine.
- Tobacco and a tobacco product.
- Anything defined herein as "novelty fireworks."

(2) Regulation of statutory fireworks.

- (a) No person may possess, use or sell statutory fireworks in the Village except as provided in this section.
- (b) Possession and use of statutory fireworks. Statutory fireworks may be possessed or used in the Village only under the following circumstances.

[1] Statutory fireworks may be used for fireworks and pyrotechnic displays given by public authorities, civic organizations, or groups of individuals that have been granted a permit for such display by the Plan Commission and Fire Chief as set forth in this subsection.

[2] Statutory fireworks may be possessed while transporting the fireworks to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance, but the person doing the transporting may not remain in the Village for more than 12 hours.

[3] Statutory fireworks may be sold or possessed by persons delivering the fireworks to a person or group granted a permit under this section.

[4] Statutory fireworks may be possessed and used by the Village without a permit, but Village fire and law enforcement officials must be notified of the proposed use of fireworks at least two days in advance.

(3) Statutory fireworks permit required. No person may sell, store, use or display statutory fireworks without a permit issued hereunder, or, if the sales, storage or display is to be a permanent use of land, under the appropriate zoning designation.

- (a) Application. The application for a temporary use permit hereunder for statutory fireworks shall include the date of the display, and shall specify the name and address of the permit holder, the kind and quantity of fireworks that will be displayed, and the date and location of permitted use. The owner or person in authority of the site of the sales or display shall consent in writing to the use of the site. Applicants must submit a site plan for the sales or display.

- (b) Review and issuance. The application shall be reviewed by the Plan Commission and Fire Chief, who shall issue the permit only if the requirements of this section are met.
- [1] No permits shall be issued to minors.
 - [2] No permit shall be issued unless the Plan Commission and the Fire Chief determine that the use will be of such composition, character, and so located, discharged or fired as in the opinion of the Plan Commission and Fire Chief shall not be hazardous to property or endanger any person or persons.
 - [3] No permit shall be issued unless the permittee has and maintains adequate liability insurance with minimum limits of \$1,000,000 bodily injury and property damage, combined single limit, naming the Village, its officers, employees and agents as additional insureds. Said insurance shall indemnify and defend the Village, its officers, employees and agents against all claims, liability, loss damages or expenses, whether caused by or contributed to by the negligence of the Village, its officers, employees or agents. Said insurance shall provide that the Village receive written notice 30 days prior to any cancellation, nonrenewal or material change in the policy. Proof of said insurance shall be submitted to the Plan Commission and Fire Chief prior to the issuance of the permit.
 - [4] No permit shall be issued for the manufacture of statutory fireworks, and no permit shall be issued for the storage of statutory fireworks, except as that storage may be necessary in preparation for a display permitted hereunder, and then only for a period no longer than 72 hours, or except as may be permitted pursuant to the provisions of this Chapter for permanent uses.
 - [5] No person may sell statutory fireworks in the Village unless the person purchasing the statutory fireworks is a Village official or has a permit issued under this section.
 - [6] No permit shall be issued for the indoor display or use of statutory fireworks.
- (c) Permit regulations. The use or display of permitted statutory fireworks shall conform to the standards set forth in NFPA 1, Chapter 65, Explosives, Fireworks and Model Rocketry, as may be amended from time to time. Every display shall be handled by a competent adult operator. After the permit is issued, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder is transferable.

- (4) Novelty fireworks regulation.
 - (a) No person may sell novelty fireworks, or store or possess novelty fireworks for other than personal use, without a permit from the Village.
 - (b) Individuals may possess and use novelty fireworks on private property with the permission of the owner or person in charge thereof. Novelty fireworks may be used in Village rights-of-way, but not in the paved portion of streets. Novelty fireworks may not be used in Village parks or in or on other Village property.
- (5) Commercial novelty fireworks permit required.
 - (a) No person may sell, store, or possess novelty fireworks for other than personal use without a permit issued hereunder.
 - (b) Application. Application for novelty fireworks permits for seasonal sales shall specify the kind and quantity of fireworks that will be possessed and sold, and the dates and location of the sales. The owner or person in authority of the site of the storage and sales shall consent in writing to the use of the site. Applicants must submit a site plan identifying the location of the storage, the sales, and any existing structures on the property and within 100 feet of the property lines.
 - (c) Review and issuance.
 - [1] The application shall be reviewed by the Plan Commission and the Fire Chief.
 - [2] No permits shall be issued to minors.
 - [3] No permit shall be issued unless the Plan Commission and the Fire Chief determine that the novelty fireworks are stored in a safe and secure trailer and that sales of the novelty fireworks will be made from a temporary shelter or tent in an outdoor area that, in the opinion of the Plan Commission and Fire Chief, will not be hazardous to property or endanger any person or persons. In addition:
 - [a] The site must be at least 80,000 square feet.
 - [b] The storage and sales of the novelty fireworks must be at least the minimum distances required by NFPA 1 Chapter 65.
 - [c] The site must be served by adequate parking, ingress and egress.
 - (d) No permit shall be issued unless the permittee has and maintains adequate liability insurance with minimum limits of \$1,000,000 bodily injury and property damage,

combined single limit, naming the Village, its officers, employees and agents as additional insureds. Said insurance shall indemnify and defend the Village, its officers, employees and agents against all claims, liability, loss damages or expenses, whether caused by or contributed to by the negligence of the Village, its officers, employees or agents. Said insurance shall provide that the Village receive written notice 30 days prior to any cancellation, nonrenewal or material change in the policy. Proof of said insurance shall be submitted to the Plan Commission and Fire Chief prior to the issuance of the permit.

- (e) No permit shall be issued for the manufacture of novelty fireworks, and no permit shall be issued for the storage of novelty fireworks, except as storage may be necessary to sales permitted hereunder, or except as may be permitted for permanent uses allowed under this Chapter.
 - (f) A permit for the sales of novelty fireworks issued hereunder shall not be valid for a period of longer than three weeks.
 - (g) Temporary shelters or tents for the sale of novelty fireworks permitted hereunder may be erected no earlier than June 18 and must be removed no later than July 11. Storage trailers containing novelty fireworks may be placed on the site no earlier than June 15 and must be removed no later than July 11.
 - (h) No permit shall be issued to any person who, in the previous 18 months, was found guilty of two or more violations of this section.
 - (i) Permit regulations. The display and sales of permitted novelty fireworks shall conform to the standards set forth in NFPA 1, Chapter 65, Explosives, Fireworks and Model Rocketry, as may be amended from time to time. After the permit is issued, storage, sale and possession for sale shall be lawful for that purpose only. No permit granted hereunder is transferable.
- (6) Storage and handling of statutory and novelty fireworks.
- (a) No person may store or handle statutory fireworks or commercial novelty fireworks on any premises unless the premises are equipped with fire extinguishers approved by the Fire Chief or Fire Inspector.
 - (b) No person may smoke where statutory fireworks or commercial novelty fireworks are stored or handled.

- (c) A person who stores or handles statutory fireworks or commercial novelty fireworks shall immediately notify the Fire Chief or Fire Inspector of the location, description and quantity of the fireworks.
 - (d) No person may store statutory fireworks or commercial novelty fireworks closer than the separation distances required in NFPA 1 Chapter 65 to a dwelling.
 - (e) No person may store statutory fireworks or commercial novelty fireworks closer than the separation distances required in NFPA 1 Chapter 65 to public assemblages or places where gasoline or volatile liquid is sold in quantities exceeding one gallon.
 - (f) No person may use statutory fireworks while attending a fireworks display for which a permit has been issued under this section.
- (7) Parental liability. A parent, foster, or family-operated group home parent or legal guardian of a minor who consents to the use of any statutory or novelty fireworks by the minor who is under the age of 18 years of age is liable for damages caused by the minor's use of the fireworks, and in addition shall be subject to the penalty provided in this Municipal Code.
- (8) Inspection, search and seizure of fireworks.
- (a) Inspection and search of permitted premises. An applicant for a permit under this chapter thereby consents to the entry of the Fire Chief, Fire Inspectors, Police, or authorized representatives of the Village upon the permitted premises, including but not limited to storage areas, containers and vehicles, at all reasonable hours for the purposes of inspection and search and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter of all things found therein in violation of this chapter or state law.
 - (b) Seizure. The Police or Fire Department shall seize, at the expense of the owner, all statutory or novelty fireworks stored, handled, sold, possessed or used by any person who violates this chapter. Such seized fireworks shall be destroyed after conviction for a violation, or, if storage is deemed to be dangerous, may be destroyed pursuant to statute. Statutory or novelty fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner if they have not been destroyed pursuant to statute.
- (9) Emergency revocation of permit or authority to use statutory or novelty fireworks. The Fire Chief, Fire Inspectors, and/or Plan Commission may revoke a permit or prohibit or terminate the sale, use or display of statutory or novelty fireworks when, in the opinion of the Chief and Plan Commission, atmospheric conditions or local circumstances make such sale, use or display a fire hazard or other hazard to the safety of the public. During such period of such prohibition, no person may use or display, or permit the starting of any use or display of, or sell statutory

fireworks or novelty fireworks anywhere within the Village. The failure to allow the inspection and/or search of a permitted premises pursuant to this section shall be grounds for the immediate revocation of the permit. The presence of statutory fireworks on premises permitted for commercial novelty fireworks shall be grounds for the immediate revocation of a permit. The Fire Chief, Fire Inspectors and/or Plan Commission may reinstate a permit upon the permittee's compliance with this chapter.

- (10) Violations and penalties. In addition to the penalties found elsewhere in this Chapter, any person who shall violate any provision of this section, violation of this section shall also constitute a public nuisance which may be enjoined in a civil action in addition to prosecution therefore.

11. Temporary Structures. The following temporary structures may be permitted as specified:

- a. Construction trailers as temporary offices. A licensed contractor engaged in a construction project for which a building permit has been issued or is otherwise authorized by the Village may temporarily use a construction trailer for office facilities in the location where the work is being done for the duration of the construction, provided that the construction trailer is placed on the property on which the construction is authorized, is not placed more than 15 days prior to the commencement of the work, and is removed within 15 days after completion of the work. No Temporary Use Permit is required.
- b. Fireworks stands. See s. 35-10.G.10.f., above.
- c. Temporary Storage Containers. These containers are portable storage containers designed and used primarily for the temporary storage of household goods and other such materials for use on a limited basis. Temporary storage containers that adhere to the following regulations and meet the requirements of subsection (2) below shall not require a Temporary Use Permit. All temporary storage containers that do not meet these requirements must obtain a Temporary Use Permit.
 - (1) The container shall not exceed outside dimensions of 20 feet in length, ten feet in width, and nine feet in height.
 - (2) The container shall be permitted on the property for up to 14 days associated with each change of occupancy as defined by a recorded change in property ownership or valid lease.
 - (3) The container cannot encroach on the public right-of-way, neighboring property, sidewalk, or be placed in the street.
 - ~~(4) The unit must be placed on asphalt, concrete, gravel, or other hard-paved surface.~~
 - ~~(5)~~(4) This section does not apply to a temporary storage container to be placed in public right-of-way. Placement of a temporary storage container or dumpster in the right-of way requires a permit from the Public Works Manager.
- d. Temporary Construction Storage. Temporary construction storage includes any

structure or outdoor storage area designed for the on-site storage of construction equipment and/or materials for an active construction project. Temporary construction storage, including dumpsters, may be used for the duration of the project subject to the following regulations:

- (1) The structure shall be removed within 10 days of issuance of an occupancy permit.
- (2) Projects requiring the structure to be in place for more than 365 days shall require a conditional use permit. Said time limit may be extended with Village Board approval.
- (3) The structure shall be limited to a maximum area not exceeding 10 percent of the property's gross site area.
- (4) This section does not apply to temporary construction storage or dumpsters to be placed in public right-of-way. Placement in the right-of-way requires a permit from the Public Works Manager.

e. **Relocatable Buildings.** A relocatable building includes but is not limited to any manufactured building, shed or other rigid structure that is not permanently attached to a foundation, that can be or is used for the storage of personal property or equipment of any kind, and that is located outside of an enclosed building. When used in conjunction with a Temporary Use Permit, no separate permit is required. When used as part of the permanent use of the property, relocatable buildings are considered accessory structures that must meet the requirements of this Municipal Code for accessory structures and do not require a Temporary Use Permit. Relocatable buildings larger than 200 square feet in area require Building Permits under Chapter 11 of this Municipal Code.

f. **Tents, Canopies or Other Flexible Structures.**

- (1) A tent, canopy or other flexible or semi-flexible structure associated with a permitted temporary use is allowed for the time period for the temporary use if it is incidental to the permitted temporary use and was approved as part of the application. It shall not be located in the vision clearance triangle.
- (2) Tents used for temporary recreational purposes in residential zoning districts shall not be regulated when they are incidental to the residential use and are placed in the side or rear yard.
- (3) Tents, canopies and other flexible or semi-flexible structures shall not be used for storage of any kind in any zoning district.

H. **Livestock.** No livestock, sheep, poultry, or swine shall be kept, raised or bred in any district that does not specifically allow livestock.

I. **Parking.**

1. Parking of vehicles accessory to a residential use shall be limited to vehicles actually used by the residents or for temporary parking for guests. Vans or pickup trucks used for private and recreational use, or a motor home (recreational vehicle), or a van or pickup

truck used in a business or trade, and a commercial vehicle per subsection 2. used for transportation to and from a place of employment or workplace of the occupant may be parked on a residential property.

2. One commercial vehicle of not over one-ton rated capacity may be parked per residential dwelling unit, providing all of the following conditions are met: the vehicle is registered and licensed; used by a resident of the premises; gross weight does not exceed 10,000 pounds, including any load; height does not exceed nine feet as measured from ground level, including any load, bed, or box; and total vehicle length does not exceed 26 feet, including attachments thereto (such as plows, trailers, etc).
3. Recreational vehicles shall be parked in the rear or side yards only or in compliance with the same setbacks allowed for accessory uses and structures. Recreational vehicles must maintain a minimum of a six-foot setback from the rear and side lot lines, but are not restricted to a minimum setback to the principal structure. For the purpose of this section, recreational vehicles shall include boats and trailers, snowmobiles and their trailers, mini-bikes or trail bikes and their trailers, and unoccupied tent campers, motor homes and travel trailers, all-terrain vehicles and personal watercraft and their trailers.
4. No other vehicular equipment of a commercial or industrial nature, except as stated above, shall be parked or stored for more than two consecutive hours and four accumulated hours during any 24-hour period on any lot in any zoning district except business and industrial districts or as permitted by conditional use in the A-2 district.
5. Outdoor parking of semi-tractors/trailers on commercial property (B-districts), that is not a principal use (e.g., truck sales), an accessory use (e.g., delivery vehicles), or which has not been approved through the conditional use or site plan review process is prohibited.
6. Agricultural equipment (such as farm tractors, plows, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of the farm, etc.) used in a farm operation are permitted in all agricultural districts.

J. Home Occupations.

1. It is the intent of this section to regulate the operation of home occupations so that the average neighbor, under normal circumstances, will not be aware of their existence other than for a permitted sign. A permit is required for a home occupation.
2. A home occupation is any gainful occupation or profession engaged in by an occupant of a dwelling unit which meets the following criteria:
 - a. The occupation must be clearly incidental to the use of the dwelling unit as a residence, with one-half or less of any floor being used for the home occupation.
 - b. No outdoor display or storage of materials, goods, supplies or equipment used in the home occupation shall be permitted on the premises.
 - c. There shall be no visible evidence that a home occupation is being operated in the residence, except for the permitted sign, one non-illuminated nameplate (name, address and type of home occupation) not to exceed two square feet in area either mounted flat on the dwelling or a yard light post or signpost set back a minimum of five feet from the street right-of-way line.
 - d. A maximum of two persons other than members of the immediate family residing

in the dwelling may be employed in the dwelling unit at any given time. The applicant for a home occupation permit must reside at the location of the proposed home occupation.

- e. Except for indoor storage of materials not exceeding 200 square feet in area, no activity related to a home occupation shall be conducted outside or in any detached structure or in any attached garage.
 - f. No stock in trade shall be displayed or sold upon the premises.
 - g. A home occupation shall not generate noise, vibration, glare, odors, fumes, or hazards detectable to the normal senses off the property.
 - h. No toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials shall be used or stored on the site for home occupation purposes.
 - i. The use shall not require more than two additional off-street parking spaces for clients or customers.
 - k. No equipment or process shall be used which creates visual or audible electrical interference in any radio or television receiver off the premises or causes fluctuations in line voltage off the premises, or interferes in any way with telephone or computer communications.
3. Permits granted under this section shall be temporary in nature (they do not run with the land) and shall be granted to a designated person who resides at a specific residential address. Tenants must provide written evidence of the property owner's approval prior to issuance of a permit. The permits are not transferable from person to person, or from address to address.

K. Conditional Uses.

- 1. 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 Section 35-100** of this Chapter.
- 2. Any development within 50 feet of any existing or mapped state trunk highway or county trunk highway or within 150 feet of an existing or mapped centerline of an intersection with any other road shall be deemed to be a conditional use. Such development shall be specifically reviewed in accordance with Section 35-100 of this Chapter.
- 3. Unless otherwise provided in the permit, a conditional use permit shall have an indeterminate duration provided that the use for which it was obtained has commenced as required and continues without abandonment as provided in Section 35-100 in accordance with its terms, and a conditional use permit shall be transferable with the land, provided that the use for which it was obtained does not change.

- L. Performance Standards. Performance standards listed in Section 35-250 shall be complied with by all uses in all districts.

35-22 PRINCIPLES AND STANDARDS FOR THE AESTHETIC EVALUATION OF SITE AND BUILDING PROJECTS.

A. Introduction and Intent.

1. The process of private building and development in a community may be simple or complex depending upon the size of the project, the number of participants, the ease of communication among the various private and public parties involved, and the content and clarity of the public rules and regulations. While the community representatives cannot usually directly affect either the project size or the number of project participants; they can have a direct effect on the content and clarity of rules and regulations as well as the communication, and indeed, interpretation of any such rules and regulations.
2. Like inhabitants of most developing communities, Rochester officials and citizens have legitimate concerns about both the future character of the community and the integrity of existing (and even historic) development. One such concern is in regard to land uses or the mix of land uses, both existing and planned. Another concern is the financial capability of development (developers) to provide the required and promised improvements and the financial capability of the community to provide the necessary and requested services. A third major concern, importantly, is in regard to the visual impact or image of the community by people living within or only traveling through the Village. The intent and purpose of this subsection is to provide principles and standards for use by both the potential developer and Village officials in the preparation and review of site and building plans proposed within the Village with emphasis on, and the primary objective of, heightening the visual character of the sites and buildings proposed and, thereby, the entire community. It is understood that such visual enhancement is also expected to be maintained over time and not be only an initial accomplishment to be forgotten.
3. The proponents of any new single or multiple use development (other than single and two-family single lot development) proposed to be undertaken within the Village of Rochester, must, pursuant to Section 35-230, present a site and building plan to the Plan Commission for review and approval. Such approval must be tendered prior to receipt by the builder/developer of a zoning permit or other permit to commence building or site development activity. The intent of this zoning section is twofold: to provide a systematic, equal basis for review and discussion of projects; and to provide general guidelines to be used in the review of a development or building project. In this regard the "principles", as stated in Section 35-230, are not true principles, but rather, general standards.

Any amendment to an approved site and building plan or change to an existing building or development (other than single or two-family building or lot development) must be submitted to the Zoning Administrator for review and approval. Minor amendments that are in conformance with this Chapter may be approved by the Zoning Administrator or, at the Zoning Administrator's discretion, referred to the Plan Commission. All others will be submitted to the Plan Commission for review and approval.

4. In order to identify specific standards for the visible elements of site, and building design which embody the general desires of the community, a set of agreed upon principles have been established which form the foundation for the standards which will follow.

B. Site Planning and Design Principles. It must be noted that a principle is a truth or tenet--a statement of fact as it relates to a particular topic--in this case, site planning and design. Following is a list of principles which should be utilized by everyone concerned in any Site Planning and Design Projects in the Village of Rochester:

1. The development or building site must be viewed as only one element of the total developed and undeveloped environment in the vicinity of the site. Therefore, attention

must be given to how the site and the development on the site will ultimately fit into the total environment.

2. Site planning and design is the process by which site features and uses on the site are made to be compatible, functional and visually pleasing.
3. All elements and aspects of the site, both natural and man-made, are important to the aesthetic character of the site.
4. Adjacent or contiguous uses or facilities may have a major effect on the site or site uses.
5. Major changes in land forms on the site, which thereby change the character and/or physical capabilities of the site are not, generally, conducive to good site development unless such changes are well planned and are necessary, as an example; a quarry, to final development.
6. The specific location of site access is critical to both the future use of the site and the safety and convenience of persons traveling on adjacent public ways.
7. Site grading, landscaping, paving, fencing, lighting, signage, and other site enhancement are an integral part of any building and development project.

C. Building, Design, Layout and Construction Principles. The following is a list of principles which should be utilized by everyone concerned in any Building, Design, Layout and Construction project in the Village of Rochester.

1. No side or facade of a building or structure is exempt from public view and, consequently, all sides or facades should be visually pleasing and architecturally and aesthetically compatible.
2. The shape, size, dimension, architectural style, facade material, texture and color, building landscaping, building signage, and the setting of the building within its immediate environment are all elements of the building structure design addressed by the designer, both individually and in concert.
3. Each color, texture or material of which the exterior of a building is composed may, individually, present a visual statement to the viewer and, therefore, in order not to present a conflicting or complex visual statement, the arrangement and mix of colors, textures and materials should be carefully considered and the number of such elements minimized.
4. Some building materials present a visual statement of strength and permanence to the immediate environment and to the community and should be encouraged, while other materials which make a building or structure appear temporary should be avoided.
5. Individual buildings may be attractive but when duplicated or triplicated on the same or adjacent parcels or on the same horizontal plane may detract from the visual character of the overall development.
6. Some use elements of a building structure, such as outside mechanical equipment, loading docks and areas, trash storage areas, and raw material storage areas are not, usually, attractive and often detract from the visual appearance of the building unless careful attention is given to placement, construction, structural and/or landscape screening of such areas.

7. Building landscaping, that is landscaping which is or appears to be an integral part of the building facade design, must be carefully planned and the appropriate plant materials used so as not to detract from the architecture of the building.
8. Building signage, that is signage which is or appears to be an integral part of the building facade design, must be carefully planned and the appropriate sign materials, sign lighting and color used so as not to detract from the architecture of the building or be disruptive.

D. Site Planning and Design Standards.

A standard (or criteria) is either a quantitative or qualitative model or value level by or against which all related actions or activities are measured. In this regard a standard is sometimes referred to as a "yardstick". Moreover, quantitative standards are those which, when applied, will reveal a quantitative difference or similarity between the standard and the action or activity being measured by the standard. For example; the action related to a site planning standard that states that, "No man-made slope or disturbed natural slope shall be greater than 3:1, when 3 is the horizontal measurement", can be measured quantitatively to determine if, indeed, the standard has been met.

A qualitative standard, on the other hand, is a standard which, when applied, involves a judgment, usually subjective, that the action or activity has met or can meet the stated standard. For example; a site planning standard that states that "All parking areas shall be screened in a visually pleasing manner to soften the visual presentation of parked cars and asphalt" requires that the person(s) making the determination as to whether or not the standard is met actually looks at the screening structure, device or plant materials and makes a qualitative judgment. If it can be concluded that the materials, device or structure as designed or constructed are individually or collectively visually pleasing, there should be no problem making such a judgment. If, however, the materials are different in character the judgment is usually more difficult. Even the arrangement of individually pleasing materials may not be pleasing. Whenever possible we try to avoid purely qualitative standards.

Following are both quantitative and qualitative standards related to site development which will be used by the Zoning Administrator and/or Plan Commission, as applicable, in the review of every site plan or development. Historic Preservation Committee approval is also required if the site is located in the HPO District.

1. Size, Visual and Aesthetic Characteristics.
 - a. Size, Facades and Exterior Walls including Sides and Backs
 - (1) Intent: Size should be limited to what is appropriate for rural development. Facades should be articulated to reduce the massive scale and the uniform, impersonal appearances of large retail buildings and provide visual interest that will be consistent with the community's identity, character, and scale. The intent is to encourage a more human scale that residents of Rochester will be able to identify with their community. The resulting scale will ensure a greater likelihood of reuse of structure by subsequent tenants.
 - (2) Standard: Building size shall not exceed 15,000 square feet. Anything larger shall require "conditional use" approval. Developments with a facade over 100 feet in linear length shall incorporate wall projections or recesses with a minimum of 3 foot depth and a minimum of 20

contiguous feet within each 100 feet of facade length and shall extend over 20 percent of the facade. Developments shall use animating features such as arcades, display windows, entry areas, or awnings along at least 60 percent of the facade.

b. Detail Features.

- (1) Intent: Buildings shall have architectural features and patterns that provide visual interests, at the scale of the pedestrian, reduce massive aesthetic effect, and recognize local character. The elements in the follow standard shall be integral parts of the building fabric, and not superficially applied trim or graphics, or paint.
- (2) Standard: Building facades shall include a repeating pattern that shall include no less than three of the elements listed below:
 - (a) Color change
 - (b) Texture change
 - (c) Material module change
 - (d) Expression of architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib.

c. Roofs.

- (1) Intent: Variations in rooflines should be used to add interest to, and reduce the massive scale of a large building. Roof features shall complement the character of adjoining neighborhoods.
- (2) Standard: Rooflines shall be varied with a change in height every 100 linear feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and roof top equipment from public view. Alternating lengths and designs may be acceptable and can be addressed during the preliminary development plan.

d. Materials and color.

- (1) Intent: Exterior building materials and colors comprise a significant part of the visual impact of a building. Therefore, they shall be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.
- (2) Standard: Predominant exterior building materials shall be of high quality. These include, without limitation:
 - (a) Brick
 - (b) Wood
 - (c) Sandstone
 - (d) Tinted, textured, concrete masonry units.
- (3) Facade colors shall be low reflective, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.

- (4) Building trim and accent areas may feature bright colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accents.
- (5) Predominant exterior building materials as well as accents shall not include the following:
 - (a) Smooth-faced concrete block
 - (b) Tilt-up concrete panels
 - (c) Pre-fabricated steel panels

2. Open Space Requirements. 20 percent of land is to remain in open space.

- a. Intent: Significant existing vegetation within all setbacks shall be preserved (i.e., wetlands, prairie, vegetation, woodlands). Significant existing vegetation within the building area of any commercial lot shall be preserved through innovative site design.
- b. Standard: Preservation of significant existing vegetation through careful site design is desired. The preserved areas are considered part of the 20% open space.

3. Site Landscaping.

- a. Landscaping Required. Landscaping is required in bufferyards, in off-street parking areas, and in building foundation planting areas (foundation planting areas are those areas located within ten feet of principal and accessory structures). The area and/or length of each, as required herein, must be measured in order to determine the minimum amount of landscaping required.
- b. Exemptions and Modifications. All developments shall meet the provisions of this Section except as specifically exempted below:
 - (1) Residential development on existing lots of record as of the date of the adoption of this Chapter.
 - (2) Additions to existing buildings where the total floor area is not increased more than ten percent of the existing total floor area.
 - (3) Additions to buildings which increase their overall building area from ten to 50 percent shall conform to the landscaping standards specified in this Section to the maximum extent achievable. All off-street parking areas and bufferyards shall conform to the applicable landscaping requirements of this Section. If insufficient dimensions exist on-site, in order to achieve a sufficient level of landscaping, the standards may be reduced by up to 30 percent by the Plan Commission.
 - (4) Floodplain, Floodway, Floodlands, and Wetland Areas. Areas located within floodplains, floodways, floodlands, and wetlands are exempt from the landscaping requirements set forth in this Section.
- c. Bufferyards Required. Bufferyards are required to ameliorate nuisances between certain adjacent zoning districts.

- (1) Definition. A bufferyard is a combination of a setback and a visual buffer or barrier, and is a yard or area together with the planting and/or landscape structure required thereon. The amount of land, the type of planting, and the amount of planting specified for each bufferyard requirement of this Chapter are designed to ameliorate nuisances between certain adjacent zoning districts.
- (2) Bufferyards Required to Separate Different Zoning Districts. Bufferyards shall be required to separate different zoning districts from each other. Bufferyards function to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.
- (3) Standard Plant Units. All landscaping requirements of this Section are stated in terms of the number of standard plant units required. This Section defines the standard plant unit and its alternatives. All required landscaping shall conform to one or more of the plant unit alternatives of this Section. The following Table 35-22(1) specifies the plant unit alternatives. The five alternative plant mixes are interchangeable. Where a year-round screen is required, alternative Unit A is preferred and may be required by the Plan Commission.

Table 35-22(1) “PLANT UNIT TYPE ALTERNATIVES”

ALTERNATIVE PLANT UNIT TYPE	TYPES OF PLANTS REQUIRED	MINIMUM SIZE OF PLANTS	MINIMUM QUANTITY OF PLANTS REQUIRED	
TYPE A	Canopy/Shade Trees		1	
	Single Stem:	3-inch caliper		
	Multi-stem Clump:	12 feet tall		
	Ornamental Trees	1.5 inch caliper	2	
	Shrubs	2 feet tall	8	
TYPE B*	Canopy/Shade Trees		1	
	Single Stem:	3-inch caliper		
	Multi-stem Clump:	12 feet tall		
	Ornamental Trees	1.5 inch caliper		1
	Evergreen Trees	6 feet tall		1
	Shrubs	2 feet tall	6	
TYPE C*	Canopy/Shade Trees		1	
	Single Stem:	3-inch caliper		
	Multi-stem Clump:	12 feet tall		
	Evergreen Trees	6 feet tall		2
	Shrubs	2 feet tall	5	
TYPE D*	Evergreen Trees	6 feet tall	3	
	Evergreen Shrubs	2 feet tall	14	
TYPE E	Canopy/Shade Trees		2	
	Single Stem:	3-inch caliper		
	Multi-stem Clump:	12 feet tall		
	Shrubs	2 feet tall	10	

*Note: Not to be used in off-street parking areas.

- d. Credit for Existing Plant Materials. Credit for existing plant material will be allowed to offset required plant unit landscaping in the bufferyards and parking lots as follows:
 - (1) Bufferyards. Existing canopy trees six feet in height or more shall be counted on an individual basis towards the planting requirements; all other components of a plant unit are required including all ornamental trees, evergreen trees, and shrubs.
 - (2) Parking Lots. Any existing canopy trees six feet in height or more, and located within parking lot areas, shall be subtracted from the required amount of parking lot landscaping on a tree-by-tree basis.

- e. General Landscaping Requirements.
 - (1) Physical Containment of Landscaped Areas. All landscaped areas located within or adjacent to a parking area, or adjacent to a public street or sidewalk, shall be designed to contain landscape materials and to prevent vehicular encroachment (i.e., through the use of continuous concrete curbing, railroad ties, headers, or depressed construction).
 - (2) Artificial Landscape Materials. Artificial trees, shrubs, turf, or plants shall not be permitted as landscaping.
 - (3) Groundcover. The use of landscape fabrics under all areas landscaped with non-living materials, except those areas set aside for stormwater retention/detention, is recommended to prevent weed growth.
 - (4) Location. New vegetation shall be selected, planted, and maintained so that at maturity it will not interfere with utility lines, snow storage areas, vehicular parking, pedestrian circulation, traffic sight visibility at driveways and street intersections, and will not cause damage or upheaval of sidewalks and pavement
 - (5) Installation.
 - (a) Timing of Installation. Landscaping shall be installed in accordance with the approved landscape plan prior to issuance of an Occupancy Permit. The Village of Rochester will have the right to refuse approval of any project not meeting the provisions of this Section.
 - (b) Financial Surety Required. If approved landscaping cannot be installed prior to the issuance of an Occupancy Permit by the Building Inspector, an Occupancy Permit may be issued by the Building Inspector if the applicant provides a form of surety acceptable by the Village Attorney which meets the total estimated costs of the approved landscaping improvements. The application shall be accompanied by a complete estimate of the total cost of the approved landscaping. All landscape materials shall be guaranteed by the applicant, or applicant's contractor, for two years.
 - (c) Return of Financial Surety. When it is determined by the Zoning

Administrator that the landscaping has been installed in accordance with the approved plans, the Village of Rochester shall return the financial surety to the applicant

- (6) Maintenance. Landscaping shall be maintained as follows:
 - (a) Maintenance of all landscaping shall be the responsibility of the property owner or homeowners' association (as applicable) and shall consist of regular watering, pruning, mowing, fertilizing, and the removal and replacement of irrigation systems and architectural features.
 - (b) The owner or liable entity in control of any private premises shall at all times maintain the premises free of litter and weeds.
 - (c) Landscape Phasing. Future building pads within a phased development shall be maintained in a dust-free condition vegetated with ground cover.
 - (d) Plant Replacement. Any plant materials included in an approved landscaping plan that do not survive a plant establishment period of two years after installation shall be replaced with plant material(s) of the same or like species of equal size within the next planting season, but in any event, within six months of the plant's demise. Said replacement shall be made by the property owner or, in the case of landscape plant materials located within a landscape easement under the control of a homeowners' association, the homeowners' association shall be responsible for said replacement

f. General Bufferyard Requirements.

- (1) Basis of Standards. Bufferyard standards are based on a required relative bufferyard intensity value. A variety of combinations of bufferyard width, planting intensity, and structural options (i.e., fences and earthen berms) may be selected from Table 35-22(2) to reach the required bufferyard intensity value.
- (2) Location of Bufferyards. Bufferyards shall be located along the outer perimeter of a lot or parcel, and shall extend to the lot or parcel boundary line. Bufferyards shall not be located on any portion of an existing or dedicated public or private street or right-of-way.
- (3) Bufferyard Plant Material Groupings. Required bufferyard plantings may be planted in natural-appearing groupings along the total length of the bufferyard and need not be spaced uniformly along said total bufferyard length.
- (4) Plant Materials.
 - (a) For each bufferyard listed, a specific combination of deciduous canopy, shade, and ornamental trees; evergreen trees; and shrubs is required as indicated in Table 35-22(2).

- (b) All bufferyard areas shall be seeded with lawn or native groundcover unless such vegetation is already fully established.
 - (c) The exact placement of required plants and structures shall be the decision of the property developer.
 - (d) Fences. Fences used to achieve the required bufferyard intensity factor shall be constructed of rock, masonry or wood. Chain link fences and chain link with slats shall be prohibited from being used to achieve required bufferyard intensity factors. All fences used shall also meet the requirements for the construction of fences in Section 35-180.
 - (e) Height of Required Vegetation. Height of vegetation selected for required bufferyards shall be measured from the highest finished adjacent grade of the element to be screened.
- (5) Berming. Earthen berms shall be designed to transition to existing surrounding grades, not to exceed a slope ratio of two to one (2:1) and shall be covered with plant material, groundcover, or partially rip-rapped to prevent erosion. Berms with vegetative cover shall be designed to retain irrigation water rather than encourage run off. All earthen berms shall be safely designed in order to accommodate mowing when needed.
- (6) Calculation of Bufferyard Requirements.
- (a) Bufferyard requirements are calculated using the standards listed in this Section for bufferyards.
 - (b) Bufferyard standards listed in this Section are to be calculated for every 100 linear feet of peripheral lot line boundary and/or street frontage present on a given lot.
 - (c) In instances where the zoning district boundary and/or street frontage is less than 100 feet, the required bufferyard planting shall be one plant unit (See Table 35-22(1)).
- (7) Procedures for Determining Minimum Required Bufferyards. To determine the type of bufferyard required on a parcel, between two parcels or lots, or between a parcel or lot and a street, the following procedures shall be used:
- (a) Identify whether any portion or property line of the parcel or lot coincides with a zoning district boundary. If it does, determine the abutting zoning districts on both sides of the property line.
 - (b) Refer to Table 35-22(2) to determine the required bufferyard intensity factor needed to be achieved between the two zoning districts.
 - (c) Based upon the bufferyard intensity factor required, refer to the applicable Tables 35-22(3) to 35-22(7) to select the minimum number of plant materials (per 100 feet of bufferyard length), the bufferyard width, and required structure type combination by

selecting the desired alternative bufferyard type.

- (d) Calculate the actual number of plants required by selecting the minimum number of plant materials (per 100 feet of bufferyard length) from the alternatives indicated in the applicable Tables 35-22(3) to 35-22(7) and multiply by the hundreds of feet of bufferyard to be planted.
- (8) Limitations on Bufferyard Use. A bufferyard may be used for passive recreation. It may contain pedestrian or bike trails provided that
- (a) No plant material is eliminated;
 - (b) The total width of the bufferyard is maintained; and
 - (c) All other regulations of this Chapter are met. In no event, however, shall swimming pools, decks, drives, curbing, stormwater detention/retention ponds, tennis courts, sports fields, golf courses, parking lots, or other similar uses (as determined by the Plan Commission) be permitted in bufferyards.
- g. Table of Required Bufferyards Between Zoning Districts. The minimum required bufferyard intensity factor for bufferyards between zoning districts set forth in Table 35-22(2) refers to the bufferyard width and plant unit standards set forth in Tables 35-22(3) through 35-22(7) of this Section. Bufferyards are required between adjacent zoning districts.

Table 35-22(2) MINIMUM REQUIRED BUFFERYARD INTENSITY FACTOR LEVELS OF BUFFERYARDS BETWEEN ZONING DISTRICTS. See Instructions, Key and Notes, Below.

ABUTTING ZONING DISTRICT

	R-1 R-2 R-6	R-8 R-9	R-3 R-5	R-4 R-7	B-1 Thru B-6	M-1 Thru M-4	A-1 Thru A-4 & UR	C-1 C-2	P-1 P-2	F-1 GFP FF	SW SD	PUD	HPO
R-1 R-2 R-6	0	1	1	0	0	0	0	0	0	(a)	(a)	(a)	(a)
R-8 R-9	1	0	1	1	0	0	0	0	0	(a)	(a)	(a)	(a)
R-3 R-5	2	2	0	2	2	0	0	0	0	(a)	(a)	(a)	(a)
R-4 R-7	3	3	1	0	1	0	0	0	0	(a)	(a)	(a)	(a)
B-1 Thru B-6	4	4	4	4	0	0	4	4	4	(a)	(a)	(a)	(a)
M-1 Thru M-4	5	5	5	5	5	0	5	5	5	(a)	(a)	(a)	(a)
A-1 Thru A-4 & UR	0	0	0	0	0	0	0	0	0	(a)	(a)	(a)	(a)
C-1 C-2	0	0	0	0	0	0	0	0	0	(a)	(a)	(a)	(a)
P-1 P-2	3	3	3	3	3	3	3	3	0	(a)	(a)	(a)	(a)
F-1 GFP FF	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)
SW SD	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)
PUD	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)
HPO	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)

INSTRUCTIONS, KEY AND NOTES

Read the table down to find the Applicable District, then across to find the Abutting District. The Applicable District is the district that the land that is the subject of the permit application lies in. This is the land upon which the Bufferyard must be installed.

The Abutting District is the land that is adjacent to the land that is the subject of the permit, whether or not there is a pre-existent development on that land.

(a) As determined by the underlying zoning district(s).

0 = No bufferyard is required. All applicable zoning district setbacks are required.

1 = Bufferyard Intensity Factor 1 (See Table 35-22(3))

2 = Bufferyard Intensity Factor 2 (See Table 35-22(4))

3 = Bufferyard Intensity Factor 3 (See Table 35-22(5))

4 = Bufferyard Intensity Factor 4 (See Table 35-22(6))

5 = Bufferyard Intensity Factor 5 (See Table 35-22(7))

- h. Minimum Required Bufferyard Width and Plant Material Standards. The following Tables 35-22(3) through 35-22(7) set forth the minimum bufferyard width and plant material standards required for achieving required bufferyard intensity levels. Tables 35-22(3) through 35-22(7) are designed so as to allow for choice from a variety of alternative bufferyard widths and general landscape plant material types in order to meet the required bufferyard intensity levels required elsewhere in this Section.

**Table 35-22(3) BUFFERYARD INTENSITY FACTOR 1:
ALTERNATIVE PLANT MATERIAL STANDARDS**

BUFFERYARD ALTERNATIVES	TYPE OF PLANTS REQUIRED (a)	MINIMUM QUANTITY OF EACH PLANT TYPE REQUIRED PER 100 FEET OF BUFFERYARD LENGTH	MINIMUM REQUIRED BUFFERYARD WIDTH (feet)	MINIMUM STRUCTURE TYPE (if required)
Type 1	Canopy/Shade Trees	0.0	5	Minimum 5-foot tall solid fence
	Ornamental Trees	0.0		
	Shrubs	5.6		
Type 1A	Canopy/Shade Trees	0.7	5	None
	Ornamental Trees	1.4		
	Shrubs	5.6		
Type 1B*	Canopy/Shade Trees	0.6	10	None
	Ornamental Trees	0.6		
	Evergreen Trees	0.6		
	Shrubs	3.6		
Type 1C*	Canopy/Shade Trees	0.5	15	None
	Evergreen Trees	0.9		
	Shrubs	2.3		
Type 1D*	Evergreen Trees	1.1	20	None
	Evergreen Shrubs	4.9		
Type 1E	Canopy Trees	0.5	25	None
	Shrubs	2.5		

*Note: Not to be used in off-street parking areas.

(a) See Table 35-22(1) for minimum required plant material sizes.

TABLE 35-22(4) BUFFERYARD INTENSITY FACTOR 2: ALTERNATIVE PLANT MATERIALS STANDARDS

BUFFERYARD ALTERNATIVES	TYPE OF PLANTS REQUIRED (a)	MINIMUM QUANTITY OF EACH PLANT TYPE REQUIRED PER 100 FEET OF BUFFERYARD LENGTH	MINIMUM REQUIRED BUFFERYARD WIDTH (feet)	MINIMUM STRUCTURE TYPE (if required)
Type 2	Canopy/Shade Trees	0.4	10	Minimum 6-foot tall solid fence
	Ornamental Trees	0.9		
	Shrubs	3.4		
Type 2A	Canopy/Shade Trees	1.7	15	2-foot berm
	Ornamental Trees	3.4		
	Shrubs	13.6		
Type 2B*	Canopy/Shade Trees	2.3	20	None
	Ornamental Trees	2.3		
	Evergreen Trees	2.3		
	Shrubs	13.5		
Type 2C*	Canopy/Shade Trees	2.1	25	None
	Evergreen Trees	4.2		
	Shrubs	10.5		
Type 2D*	Evergreen Trees	5.9	30	None
	Evergreen Shrubs	27.3		
Type 2E	Canopy Trees	2.2	30	3-foot berm
	Shrubs	11.0		

*Note: Not to be used in off-street parking areas

(a) See Table 35-22(1) for minimum required plant material sizes.

Table 35-22(5) BUFFERYARD INTENSITY FACTOR 3: ALTERNATIVE PLANT MATERIAL STANDARDS

BUFFERYARD ALTERNATIVES	TYPE OF PLANTS REQUIRED (a)	MINIMUM QUANTITY OF EACH PLANT TYPE REQUIRED PER 100 FEET OF BUFFERYARD LENGTH	MINIMUM REQUIRED BUFFERYARD WIDTH (feet)	MINIMUM STRUCTURE TYPE (if required)
Type 3	Canopy/Shade Trees	2.3	15	Minimum 6-foot tall solid fence
	Ornamental Trees	4.6		
	Shrubs	12.4		
Type 3A	Canopy/Shade Trees	2.3	20	3-foot berm
	Ornamental Trees	4.6		
	Shrubs	18.4		
Type 3B*	Canopy/Shade Trees	3.4	20	None
	Ornamental Trees	3.4		
	Evergreen Trees	3.4		
	Shrubs	20.4		
Type 3C*	Canopy/Shade Trees	3.2	25	None
	Evergreen Trees	6.4		
	Shrubs	16.0		
Type 3D*	Evergreen Trees	9.2	30	None
	Evergreen Shrubs	42.7		
Type 3E	Canopy Trees	5.8	35	None
	Shrubs	29.0		

*Note: Not to be used in off-street parking areas.

(a) See Table 35-22(1) for minimum required plant sizes

Table 35-22(6) BUFFERYARD INTENSITY FACTOR 4: ALTERNATIVE PLANT MATERIAL STANDARDS

BUFFERYARD ALTERNATIVES	TYPE OF PLANTS REQUIRED (a)	MINIMUM QUANTITY OF EACH PLANT TYPE REQUIRED PER 100 FEET OF BUFFERYARD LENGTH	MINIMUM REQUIRED BUFFERYARD WIDTH (feet)	MINIMUM STRUCTURE TYPE (if required)
Type 4	Canopy/Shade Trees	3.0	20	Minimum 6-foot tall solid fence
	Ornamental Trees	6.0		
	Shrubs	24.0		
Type 4A	Canopy/Shade Trees	3.0	25	4-foot berm
	Ornamental Trees	6.0		
	Shrubs	24.0		
Type 4B*	Canopy/Shade Trees	3.7	25	2-foot berm
	Ornamental Trees	3.7		
	Evergreen Trees	3.7		
	Shrubs	22.2		
Type 4C*	Canopy/Shade Trees	4.3	30	None
	Evergreen Trees	8.5		
	Shrubs	21.3		
Type 4D*	Evergreen Trees	12.3	35	None
	Evergreen Shrubs	57.4		
Type 4E	Canopy Trees	7.9	40	None
	Shrubs	39.5		

*Note: Not to be used in off-street parking areas.

(a) See Table 35-22(1) for minimum required plant sizes

Table 35-22(7) BUFFERYARD INTENSITY FACTOR 5: ALTERNATIVE PLANT MATERIAL STANDARDS

BUFFERYARD ALTERNATIVES	TYPE OF PLANTS REQUIRED (a)	MINIMUM QUANTITY OF EACH PLANT TYPE REQUIRED PER 100 FEET OF BUFFERYARD LENGTH	MINIMUM REQUIRED BUFFERYARD WIDTH (feet)	MINIMUM STRUCTURE TYPE (if required)
Type 5	Canopy/Shade Trees	4.1	20	Minimum 6-foot tall solid fence
	Ornamental Trees	8.2		
	Shrubs	32.8		
Type 5A	Canopy/Shade Trees	4.1	25	4-foot berm
	Ornamental Trees	8.2		
	Shrubs	32.8		
Type 5B*	Canopy/Shade Trees	4.8	30	2-foot berm
	Ornamental Trees	4.8		
	Evergreen Trees	4.8		
	Shrubs	28.5		
Type 5C*	Canopy/Shade Trees	5.3	35	None
	Evergreen Trees	10.6		
	Shrubs	26.5		
Type 5D*	Evergreen Trees	15.6	40	None
	Evergreen Shrubs	72.8		
Type 5E	Canopy Trees	9.0	40	None
	Shrubs	45		

*Note: Not to be used in off-street parking areas.

(a) See Table 35-22(1) for minimum required plant sizes

- i. Minimum Plant Material Standards. All new landscape plant material shall meet those standards set forth under the requirements of **Section 2.08(d)(2)(d)** of this Chapter.
4. Parking area requirements. The number of spaces required for use, relation to building and road, and landscaping can be found in Sections 35-160 through 162.
 - a. Intent. Parking areas should provide safe, convenient, and efficient access for vehicles and pedestrians. They should be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks; and to reduce the overall scale of paved surfaces.
 - b. Standard. No more than 60 percent of the off-street parking area for the entire property shall be located between the front facade of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by outlot development (such as restaurants) and additional tree plantings and/or berms approved by the Plan Commission. Green islands

shall be located between double loaded parking bands. A double loaded parking band is a 19 foot wide parking stall, 22 foot wide travel aisle, and 19 foot wide parking stall.

5. Sign Requirements. See Sections 35-170 through 178 of this Chapter.
6. Pedestrian Flows
 - (a) Intent. Pedestrian accessibility opens auto-oriented developments to the neighborhood, thereby reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This section sets forth standards for public sidewalks and internal pedestrian circulation systems that can provide user-friendly pedestrian access as well as pedestrian safety, shelter, and convenience within the center grounds.
 - (b) Standards.
 - (1) How people get from one building to another on foot. Sidewalks shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas.
 - (2) How people from neighboring areas get to store on foot. Continuous internal pedestrian walkways shall be provided from the public sidewalk or right-of-way to the pedestrian entrances of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points pursuant to Chapter 6, subject to review by the Plan Commission.
7. Outdoor Lighting.
 - a. Intent. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is safely illuminated and off-site glare is fully controlled. Non-residential sites shall have a Lighting Plan designed by an Engineer and approved by the Plan Commission.
 - b. Standards.
 - (1) Lighting of the site shall be of a type, design, color and height to blend with the site and landscaping.
 - (2) Lighting of the site shall be of a design and height and shall be located so as to illuminate only the site and not be a beacon of distraction or potential hazard to traffic or to people working or living in the vicinity of the site.
8. Noise Abatement. Refer to Section 35-250, Performance Standards.
9. Location and Design of Loading Facilities and Waste Storage.
 - a. Intent. Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas, when visible from adjoining properties and/or public streets, should be screened, recessed or enclosed. While screens and recesses can effectively mitigate these impacts, the selection

of inappropriate screening materials can exacerbate the problem.

b. Standards.

- (1) Visibility. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from roadways and neighboring properties.
- (2) Location. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public street, public sidewalk, or internal pedestrian way.
- (3) Visual and acoustic impact. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.
- (4) Non-enclosed and seasonal. Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.

35-23 REDUCTION OR JOINT USE OF LOTS

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 except pursuant to a Conditional Use Permit or Planned Unit Development approved by the Plan Commission.

[35-24 to 35-28 reserved]

35-29 ZONING DISTRICTS.

For the purpose of this Chapter, the Village of Rochester is hereby divided into basic districts and overlay districts designated as follows:

R-1	Single-Family Residential District
R-2	Single-Family Residential District
R-3	One and Two Family Residential District
R-4	Multiple-Family Residential District
R-5	Two Family Residential District
R-6	Suburban Residential District (Sewered)
R-7	Suburban Residential District (Sewered-Large Lot)
R-8	Suburban Residential District (Unsewered)
R-9	Suburban Country Estates Residential District (Unsewered)
B-1	General Business District
B-2	Limited Business District
B-3	General Business District
B-4	Highway Business District
B-5	Mixed Use Business District
B-6	Water-oriented Business District
M-1	Limited Industrial District
M-2	General Industrial District
M-3	Heavy Industrial District
M-4	Quarrying District
A-1	General Farming District
A-2	General Farming and Residential District
A-3	General Farming- Holding District
A-4	Truck Farming District
UR	Urban Reserve District
C-1	Resource Conservation District
C-2	Upland Resource Conservation District
P-1	Institutional Park District
P-2	Recreational Park District
F-1	Floodway District
GFP	General Floodplain District
FF	Flood Fringe District
SW	Shoreland-Wetland District
SD	Shoreland District
PUD	Planned Unit Development Overlay District
HPO	Historic Preservation Overlay District

Boundaries of these Districts are established as shown on the map entitled "Zoning Map - Village of Rochester, Wisconsin," as established and updated pursuant to s. 35-30 of this Chapter. Such boundaries shall be construed to follow: corporate limits, U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements and railroad or utility right-of-way or such lines extended, unless otherwise noted on the Zoning Map. The boundaries of the F-1 Floodway District, the GFP General Floodplain District and the FFO Flood Fringe Overlay District shall be determined as set forth in Chapter 37. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

Annexations to or consolidations with the Village subsequent to the effective date of this Chapter shall be placed in the R-1 Residential District, or as specifically set forth in the Ordinance annexing the land. Annexations or consolidations in the floodplain shall be placed in the appropriate district as set forth in Chapter 37.

35-30 ZONING MAP

A copy of the Zoning Map shall be adopted and approved with the text as part of this Chapter and shall be available to the public in the office of the Village Clerk. The Zoning Map shall also show the airport affected area as defined by Wis. Stat. s. 62.23(6)(am)1.b., i.e., the area located within three miles of an airport. Changes to the zoning districts shall be shown on the Zoning Map after adoption. Changes in the floodplain districts shall not be effective until approved by the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA), as set forth in Chapter 37.

35-31 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

The R-1 Single-Family Residential District is intended to provide for high quality single family development, including accessory uses and essential services.

A. Uses. Uses in the R-1 Single Family Residential District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses:

Single-family dwellings at a maximum density of 3.6 units per acre on lots served by public sanitary sewer.

2. Accessory and Other Uses: See s. 35-21.

3. Conditional Uses: See s. 35-100.

Bed and Breakfast Establishments

B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 90 feet
	Area	Minimum 12,000 sq. ft.
Building	Height	Maximum 35 ft.
	Area	Minimum without garage: 1,200 sq. ft. one story; 1,700 sq. ft. multi-story.
Yard (Setbacks)	Street	Minimum 40 ft. from property line.
	Side	Minimum 8 ft. one side with a minimum total of 20 ft.
	Rear	Minimum 25 ft. or 20% of total lot depth, whichever is greater.

35-32. R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT

The R-2 Single-Family Residential District is intended to provide for high quality single family residential development, including accessory uses and essential services.

A. Uses. Uses in the R-2 Single Family Residential District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses:

Single-family dwellings at a maximum density of 4.6 units per acre on lots served by public sanitary sewer.

2. Accessory and Other Uses: See s. 35-21.

3. Conditional Uses: See s. 35-100.

Bed and Breakfast Establishments.

B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 66 feet*
	Area	Minimum 10,000 sq. ft.
Building	Height	Maximum 35 ft.
	Area	Minimum without garage: 1,200 sq. ft. one story; 1,700 sq. ft multi-story.
Yard (Setbacks)	Street	Minimum 25 ft. from property line
	Side	Minimum 8 ft. one side with a minimum total of 20 ft.
	Rear	Minimum 25 ft. or 20% of total lot depth, whichever is greater.

*The minimum width of the lot at the street setback line must be maintained for at least 50% of the depth of the lot for all lots divided after November 1, 2006.

35-33. R-3 ONE AND TWO-FAMILY RESIDENTIAL DISTRICT

The R-3 One and Two-Family Residential District is intended to provide for high quality one and two family residential development, including accessory uses and essential services.

A. Uses. Uses in the R-3 One and Two-Family Residential District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses:

One and Two-Family dwellings at a maximum density of 7.3 units per acre on lots served by public sanitary sewer.

2. Accessory and Other Uses: See s. 35-21.

3. Conditional Uses: See s. 35-100.
Bed and Breakfast Establishments.

B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 66 feet - single family* Minimum 100 feet - two family*
	Area	Minimum 10,000 sq. ft. for single family and 6,000 sq. ft per unit for two family.
Building	Height	Maximum 35 ft.
	Area	Minimum without garage: 1,200 sq. ft. one story single family; 1,700 sq. ft. multi-story single family; 1,800 sq. ft. two-family
Yard (Setbacks)	Street	Minimum 25 ft. from property line.
	Side	Minimum 8 ft. one side with a minimum total of 20 ft.
	Rear	Minimum 25 ft. or 20% of total lot depth, whichever is greater.

*The minimum width of the lot at the street setback line must be maintained for at least 50% of the depth of the lot for all lots divided after November 1, 2006.

35-34. R-4 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

The R-4 Multiple-Family Residential District is intended to provide for high quality multiple family residential development, including accessory uses and essential services.

- A. Uses. Uses in the R-4 Multiple Family Residential District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.
 1. Permitted Principal Uses:

Single-family dwellings at a maximum density of three to eight units per structure on lots served by public sanitary sewer. All R-4 Multiple Family Residential development is subject to Village Plan Commission approval of building site and operational plans. **(See Section 13)**
 2. Accessory and Other Uses: See s. 35-21.
 3. Conditional Uses: See s. 35-100.

Bed and Breakfast Establishments.
- B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 120 feet.
	Area	Minimum 18,000 sq. ft. with a minimum of 4,500 sq. ft. per one bedroom unit; and 6,000 sq. ft. per two bedroom and three bedroom units.
Building	Height	Maximum 35 ft.
	Area	Minimum 750 sq. ft. per one bedroom unit and 900 sq. ft. per unit for 2 or 3 bedroom units.
Yard (Setbacks)	Street	Minimum 40 ft. from property line.
	Side	Minimum 40 feet from each side.
	Rear	Minimum 40 ft. or 20% of total lot depth, whichever is greater.

35-35. R-5 Two-Family Residential District

A. Uses. Uses in the R-5 Two-Family Residential District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses:

Two-family dwellings on lots served by a public sanitary sewer

2. Accessory and Other Uses: See s. 35-21.

3. Conditional Uses: See s. 35-100.

Bed and Breakfast Establishments.

B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 100 feet
	Area	Minimum 10,000 sq. ft.
Building	Height	Maximum 35 ft.
	Area	Minimum without garage: 1,800 sq. ft.
Yard (Setbacks)	Street	Minimum 25 ft.
	Side	Minimum 10 ft.
	Rear	Minimum 25 ft.
	Shore	Minimum 75 ft.

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35-36. R-6 SUBURBAN RESIDENTIAL DISTRICT (Sewered)

A. Uses. Uses in the R-6, Suburban Residential District (Sewered) are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses:

One family dwellings on large lots served by public sanitary sewer.

2. Accessory and Other Uses: See s. 35-21.

3. Conditional Uses: See s. 35-100.

Bed and Breakfast Establishments.

B. Area Requirements.

Lot	Width	Minimum 100 ft.
	Area	Minimum 20,000 sq. ft.
Building	Height	Maximum 35 ft.
	Area	Minimum without garage: 1,200 sq. ft. for one story; 1,700 sq. ft. for multi-story.
Yard (Setbacks)	Street	Minimum 35 ft.
	Side	Minimum 10 ft.
	Rear	Minimum 50 ft.
	Shore	Minimum 75 ft.

35-37. R-7 Suburban Residential District (Sewered-Large Lot)

A. Uses. Uses in the R-7 Suburban Residential District (Sewered – Large Lot) are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses:

Single family dwellings on large lots served by public sanitary sewer.

2. Accessory and Other Uses: See s. 35-21.

3. Conditional Uses: See s. 35-100.

Bed and Breakfast Establishments..

B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 150 ft.
	Area	Minimum 40,000 sq. ft.
Building	Height	Maximum 35 ft.
	Area	Minimum without garage: 1,200 sq. ft. for one story; 1,700 sq. ft. for multi-story.
Yard (Setbacks)	Street	Minimum 50 ft.
	Side	Minimum 15 ft.
	Rear	Minimum 50 ft.
	Shore	Minimum 75 Ft.

35-38. R-8 Suburban Residential District (Unsewered):

A. Uses. Uses in the R-8 Suburban Residential District (Unsewered) are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses:

Single family dwellings on lots not served by public sanitary sewer.

2. Accessory and Other Uses: See s. 35-21.

3. Conditional Uses: See s. 35-100.

Bed and Breakfast Establishments.

B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 150 ft.
	Area	Minimum 40,000 sq. ft.
Building	Height	Maximum 35 ft.
	Area	Minimum without garage: 1,200 sq. ft. for one story; 1,700 sq. ft. for multi-story.
Yard (Setbacks)	Street	Minimum 50 ft.
	Side	Minimum 15 ft.
	Rear	Minimum 50 ft.
	Shore	Minimum 75 ft.

35-39. R-9 Country Estates Residential District (Unsewered)

- A. Uses. Uses in the R-9 Country Estates Residential District (Unsewered) are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.
1. Permitted Principal Uses:
Single family dwellings on estate lots and sustained yield forestry, not served by sanitary sewer.
 2. Accessory and Other Uses: See s. 35-21.
 3. Conditional Uses: See s. 35-100.

Bed and Breakfast Establishments
Stables, riding stables
Nurseries, orchards

B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 300 feet
	Area	Minimum five acres
Building	Height	Maximum 35 ft.
	Area	Minimum without garage: 1,200 square feet for one story; 1,700 square feet for multi-story.
Yard (Setbacks)	Street	Minimum 100 ft.
	Side	Minimum 100 ft.
	Rear	Minimum 50 ft.
	Shore	Minimum 75 ft.

35-40 [Reserved for Future Use]

35-41 B-1 Central Business District

The B-1 Central Business district is intended to provide for the orderly continuation of the traditional central business district. The business activities are of a general nature and have been characterized by on-street parking and structures that abut the street right-of-way. While continuing those existing business at their present level of service, new business structures located in the B-1 business district are required to provide for off-street parking and loading, unless exempted under other provisions of this Chapter. Conditional uses require a public hearing because of their particular characteristics. These uses may also be subject to Village Plan Commission approval of building site and operational plans. (See Sections 35-100 and 35-230.)

- A. Uses. Uses in the B-1 Central Business District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses:

Animal hospitals or veterinary clinics, provided that no service, including the boarding of animals, is offered outside of an enclosed building.

Antique or collector stores

Appliance stores

Bakeries

Banks, Savings and Loan Associations, and other financial and lending institutions

Barbershops

Bars, taverns and cocktail lounges

Beauty shops

Bookstores

Camera and photographic supply stores

Caterers

Clinics, medical or dental

Clothing and clothing repair or alteration stores

Clubs, fraternities and meeting halls (private)

Computer Stores

Confectioneries

Delicatessens

Department stores

Drugstores

Dry cleaners with no on-site cleaning facilities

Fish markets

Florists

Fruit stores

Furniture stores

Gift stores, card stores

Grocery stores

Hardware stores

Heating supply stores

Hobby and craft shops

Jewelry stores

Liquor stores, packaged beverage stores

Meat markets

Monument sales

Movie rental stores

Museums, historical societies

Music stores

Newspaper and magazine stores

Newspaper offices and press rooms

Office supply stores

Optical stores

Photographic studios and supplies

Plumbing supply stores

Professional offices, business offices

Public utility offices

Public parking lots and structures

Radio and television stores

Restaurants (sit-down, without drive-through service)

School of dance

Second-hand stores

Self-service laundromats, including pick-up laundry

Shoe stores and leather goods stores
 Soda fountains, ice cream stores
 Sporting goods stores
 Stationery stores
 Supermarkets
 Tanning salons
 Tobacco stores
 Trade and Variety stores
 Vegetable stores
 Other uses similar to or customarily incidental to the uses listed above
 Note: All drive-in facilities require Conditional Use Permits
 Note: All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

2. Accessory and Other Uses:

- a. Garages for storage of vehicles in conjunction with the operation of a permitted use.
- b. Off-street parking areas, provided that no truck with more than six wheels may be parked on the property, unless the vehicle is parked entirely inside of a building, for more than two hours.
- c. See s. 35-21 of this Chapter.

3. Conditional Uses. See s. 35-100.

Uses set forth in s. 35-100E, provided that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours, unless otherwise allowed by the Plan Commission.

Funeral homes, provided all principal structures and uses are not less than 25 feet from any lot line

B. Lot, Area and Yard Requirements.

1. Sewered Lots.

Lot (sewered)	Width	Minimum 66 feet
	Area	Minimum 10,000 sq. ft.
Building	Height	Maximum 35 feet
	Area	Minimum: 1,200 sq. ft. single story; 1,700 sq. ft. multiple-story.
Yard (Setbacks)	Street	Minimum 25 feet
	Side	Minimum 6 feet

	Rear	Minimum 25 feet
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2. Unsewered Lots.

Lot (unsewered)	Width	Minimum 150 feet
	Area	Minimum 40,000 sq. ft.
Building	Height	Maximum 35 feet
	Area	Minimum 1,200 sq. ft. single story 1,700 sq. ft. multiple story
Yard (setbacks)	Street	Minimum 50 feet
	Side	Minimum 25 feet
	Rear	Minimum 35 feet

35-42 B-2 LIMITED BUSINESS DISTRICT.

The B-2 Limited Business District is intended to provide for individual or limited office, professional, and special service uses where the activity would be compatible with other neighborhood uses and not exhibit the intense activity of other business districts.

A. Uses. Uses in the B-2 Limited Business District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Special Regulations. To encourage a business use environment that is compatible with the residential character of the Village, zoning permits for permitted uses in B-2 Limited Business District shall not be issued without prior review by and approval of the Village Plan Commission. Said review and approval shall be concerned with adjacent uses, need for public or private water supply and sanitary sewage disposal facilities, general layout, building site and operation plans, ingress, egress, parking, loading and unloading, screening and landscape plans pursuant to this Chapter.

2. Permitted Principal Uses: (See Section 35-230 for review requirements).

All Permitted Principal Uses in the B-1 Central Business District, except as limited below

- Furniture and upholstery repair
- Crockery stores
- Electric Supply stores
- Food Lockers
- Hotels, motels, bed & breakfast & lodges
- Laundry and dry cleaning establishments employing not over seven employees
- Night clubs
- Paint, glass and wallpaper stores
- Pawn shops
- Personal service establishments

Pet shops
Places of entertainment
Printing shops
Private clubs
Publishing
Radio and television broadcasting studios
Second-hand stores
Sign stores
Tattoo parlors
Other uses similar to or customarily incidental to the uses listed above

Note: All drive-in facilities require Conditional Use Permits

Note: All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

3. Accessory and Other Uses:

- a. Garages for storage of vehicles in conjunction with the operation of a permitted use.
- b. Off street parking areas, provided that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours.
- c. See s. 35-21 of this Chapter.

4. Conditional Uses. See s. 35-100.

Animal hospital or veterinary clinic, provided that no service, including the boarding of animals, is offered outside of an enclosed building.

Child care centers, provided that any outside play area is surrounded by a security fence not exceeding a height of six feet and set back at least five feet from any street right-of-way line with landscaping provided between the fence and the street right-of-way line; that no play area shall consist of entirely a hard surface.

Funeral homes, provided that all principal structures and uses are not less than 25 feet from any lot line

Hobby use, as that term is defined by the Internal Revenue Service, provided that sales made from the site shall be limited to those occasional sales as allowed during the conditional use permitting process.

Light manufacturing, of a limited nature and size, that is found by the Plan Commission not to be detrimental to the neighborhood and will not emit noise, smoke, dust, dirt, odorous or noxious gases. Provided further that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours

Storage / Warehouse, provided that storage of hazardous materials, including but not limited to explosive, flammable or combustible solid, liquid or gas, radioactive material, etiological (disease causing) agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment shall not be allowed. Provided further that no truck with more than

six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours.

Vehicle Sales, Service and /or Repair Structures, provided that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours.

Other conditional uses as set forth in Section 35-100E, provided that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours.

B. Lot, Area and Yard Requirements.

1. Sewered Lots.

Lot (sewered)	Width	Minimum 75 feet
	Area	Minimum 15,000 sq. ft.
Building	Height	Maximum 35 feet
	Area	Minimum 1,200 sq. ft. single story 1,700 sq. ft. multiple story
Yard (Setbacks)	Street	Minimum 25 ft.
	Side	Minimum 10 feet
	Rear	Minimum 25 feet

2. Unsewered Lots.

Lot (Unsewered)	Width	Minimum 150 feet
	Area	Minimum 40,000 sq. ft.
Building	Height	Maximum 35 feet
	Area	Minimum 1,200 sq. ft. single story 1,700 sq. ft. multiple story
Yard (Setbacks)	Street	Minimum 50 ft.
	Side	Minimum 25 feet
	Rear	Minimum 35 feet

35-43. B-3 General Business District

This district is intended to provide for the orderly and attractive grouping at appropriate locations of commercial activities of a more general retail and wholesale nature, and of the office and service facilities

serving a larger community trade area. The size and location of such districts shall be based upon relationship of the community need and economy. No such district should be less than 30,000 square feet in area.

A. Uses. Uses in the B-3 General Business District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Special Regulations. To encourage a business use environment that is compatible with the residential character of the Village, zoning permits for permitted uses in B-3 General Business District shall not be issued without prior review by and approval of the Village Plan Commission. Said review and approval shall be concerned with adjacent uses, need for public or private water supply and sanitary sewage disposal facilities, general layout, building site and operation plans, ingress, egress, parking, loading and unloading, screening and landscape plans pursuant to this Chapter.

2. Permitted Principal Uses:

Those Permitted Uses set forth under s. 35-41 for the B-2 Limited Business District, except as limited below

Auction Galleries

Bicycle Sales and Service

Building Materials and Product sales

Electronic Repair

Employment Agencies

Exterminating Shops

Garden sales

General Merchandising

Medical Appliance Stores

Physical Culture and Health studios

Radio and Television Recording studios

Trade and Contractors offices

Transportation Terminals, not including Trucking

Vending Machine Sales, Service and Repair

Welding Repair Shops

Wholesale Establishments

Note: All drive-in facilities require Conditional Use Permits

Note: All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

3. Accessory and Other Uses:

a. Garages for storage of vehicles in conjunction with the operation of a permitted use.

~~b. Off-street parking areas, provided that no truck with more than six wheels may be parked on the property, unless the vehicle is parked entirely inside of a building, for more than two hours.~~

~~c.~~ b. See s. 35-21 of this Chapter.

4. Conditional Uses. See s. 35-100.

~~Uses as set forth in s. 35-100E, provided that no truck with more than six wheels may be~~

~~parked on the property, unless the vehicle is entirely inside of a building, for more than two hours, unless otherwise allowed by the Plan Commission.~~

Brew pubs

Child care centers, provided that any outside play area is surrounded by a security fence not exceeding a height of six feet and set back at least five feet from any street right-of-way line with landscaping provided between the fence and the street right-of-way line; and that no play area shall consist of entirely a hard surface.

Drive-in establishments serving food or beverages for consumption outside the structure

Experimental, testing and research laboratories.

Flea markets

Funeral homes, provided that all principal structures and uses are not less than 25 feet from any lot line

General warehousing.

Hobby Use, as that term is defined by the Internal Revenue Service, provided that sales made from the site shall be limited to those occasional sales as allowed during the conditional use permitting process.

Landscaping contractor's offices and yards

Light manufacturing, of a limited nature and size, that is found by the Plan Commission not to be detrimental to the neighborhood and will not emit noise, smoke, dust, dirt, odorous or noxious gases. ~~Provided further that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours.~~

Lumber and building supply yards.

Printing and publishing houses and related activities.

Self-service storage facilities including incidental manager's office/quarters along county trunk highways and other similar major arterials. The maximum lot coverage by structures for a self-service storage facility, shall not exceed 50 percent, and such facility shall not exceed 15 feet in height, and shall meet the required setbacks

Off season boat storage facilities for boats and other recreational vehicles, such as campers, travel trailers, snowmobiles, off-road vehicles and motor homes, however, this is allowed only as an accessory use to an approved self-service storage facility

Service and sales establishments for automobiles, including body repair shops and used car lots but not including the storage of junked or wrecked automobiles and/or parts.

Storage / Warehouse, provided that storage of hazardous materials, including but not limited to explosive, flammable or combustible solid, liquid or gas, radioactive material, etiological (disease causing) agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance, or any solid, liquid or gas having a deleterious effect on the environment shall not be allowed. ~~Provided further that no truck with more than~~

~~six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours.~~

B. Lot, Area and Yard Requirements.

1. Sewered Lots.

Lot	Width	Minimum 120 feet
	Area	Minimum 30,000 sq. ft.
Building	Height	Maximum 35 feet
	Area	Minimum 1,200 sq. ft. single story 1,700 sq. ft. multiple story
Yard (Setbacks)	Street	Minimum 40 ft.
	Side	Minimum 10 feet, or equal to the required sideyard in the adjacent district, whichever is greater
	Rear	Minimum 25 feet

2. Unsewered Lots.

Lot (Unsewered)	Width	Minimum 150 feet
	Area	Minimum 40,000 sq. ft.
Building	Height	Maximum 35 feet
	Area	Minimum 1,200 sq. ft. single story 1,700 sq. ft. multiple story
Yard (Setbacks)	Street	Minimum 50 ft.
	Side	Minimum 25 feet
	Rear	Minimum 35 feet

35-44 B-4 Highway Business District

The B-4 Highway Business District is intended to provide the orderly and attractive grouping at appropriate locations along principal highway routes of those businesses and customer service establishments which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.

A. Uses. Uses in the B-4 Highway Business District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Special Regulations. To encourage a business use environment that is compatible with the residential character of the Village, Zoning Permits for uses in B-4 Highway Business District shall not be issued without prior review by and approval of the Village Plan Commission. Said review and approval shall be concerned with adjacent uses, need for public or private water supply and sanitary sewage disposal facilities, general layout, building site and operation plans, ingress, egress, parking, loading and unloading, screening and landscape plans pursuant to this Chapter.
2. Permitted Principal Uses (see Section 35-230 for review requirements):

Those Permitted Principal Uses set forth under Section 35-43 for the B-3 General Business District, except as limited below

Lumber and Building Supply Stores

Drive-in or drive-through restaurants or other establishments providing service to customers without the necessity of entering the building

Fast food stores and restaurants

Fuel service stations, provided that all islands and pumps shall meet the setback and yard requirements set forth herein

Transit bus service

Note: All drive-in facilities require Conditional Use Permits

Note: All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

3. Accessory and Other Uses:
 - a. Garages for storage of licensed vehicles in conjunction with the operation of the business or for occupants of the business.
 - b. Off-street parking areas.
 - c. See s. 35-21 of this Chapter.
4. Conditional Uses. See s. 35-100.

~~Uses as set forth in s. 35-100E, provided that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours, unless otherwise allowed by the Plan Commission.~~

Child care centers, provided that any outside play area is surrounded by a security fence not exceeding a height of six feet and set back at least five feet from any street right-of-way line with landscaping provided between the fence and the street right-of-way line; and that no play area shall consist of entirely a hard surface.

Experimental, testing and research laboratories.

Funeral homes, provided all principal structures and uses are not less than 25 feet from any lot line

General warehousing.

Hobby Use, as that term is defined by the Internal Revenue Service, provided that sales made from the site shall be limited to those occasional sales as allowed during the

conditional use permitting process.

Light manufacturing, of a limited nature and size, that is found by the Plan Commission not to be detrimental to the neighborhood and will not emit noise, smoke, dust, dirt, odorous or noxious gases. ~~Provided further that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours.~~

Printing and publishing houses and related activities.

Storage / Warehouse, provided that storage of hazardous materials, including but not limited to explosive, flammable or combustible solid, liquid or gas, radioactive material, etiological (disease causing) agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance, or any solid, liquid or gas having a deleterious effect on the environment shall not be allowed. ~~Provided further that no truck with more than six wheels may be parked on the property, unless the vehicle is entirely inside of a building, for more than two hours.~~

Truck and Bus Terminals for the parking, repair and service of the vehicles, provided no trans-shipment or warehousing facilities are provided

B. Lot, Area and Width Requirements.

Lot	Width	Minimum 200 feet
	Area	Minimum two acres
Building	Height	Maximum 35 feet
	Area	Minimum 1,200 sq. ft. single story 1,700 sq. ft. multiple story
Yard (Setbacks)	Street	Minimum 55 ft.
	Side	Minimum 30 feet, or equal to the required sideyard in the adjacent district, whichever is greater
	Rear	Minimum 30 feet

35-45 B-5 Mixed Use Business District

The B-5 Business District is intended to provide for the orderly and attractive grouping of buildings which encompass more than one type of non-industrial business use which are compatible from a traffic, density and general use standpoint.

A. Uses. Uses in the B-5 Mixed Use Business District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Special Regulations. To encourage a business use environment that is compatible with the residential character of the Village, zoning permits for uses in B-5 Mixed Use Business District shall not be issued without prior review by and approval of the Village

Plan Commission. Said review and approval shall be concerned with adjacent uses, need for public or private water supply and sanitary sewage disposal facilities, general layout, building site and operation plans, ingress, egress, parking, loading and unloading, screening and landscape plans pursuant to this Chapter.

2. Site Development. If the development is proposed to be completed in phases or divided into saleable parcels, the owner/developer of each phase or separate parcel will be required to submit, and receive approval of a detailed site and operations plan as set forth in Section 35-230 of this Chapter.
3. Any division of the overall development parcel shall be accomplished in accordance with Chapter 30, Land Division, of this Municipal Code, and review and approval of the Plan Commission per the Design Standards specified in Section 35-22 of this Chapter.

4. Permitted Principal Uses:

Those Permitted Principal Uses set forth under s. 35-44 for the B-4 Highway Business District

Note: All drive-in facilities require Conditional Use Permits

Note: All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

5. Accessory Uses:

- a. Garages for storage of vehicles in conjunction with the operation of a permitted use.
- b. Off-street parking areas, ~~provided that no truck with more than six wheels may be parked on the property, unless the vehicle is parked entirely inside of a building, for more than two hours.~~ Off street parking and loading space adequate to meet the initial and projected needs of the principal use shall be provided for individual lot development within the development. No loading or unloading will be allowed on the streets or access ways within the parcel or on adjacent streets, roads or highways. See the parking requirements in Sections 35-160 through 162 of this Chapter.
- c. See s. 35-21 of this Chapter.

6. Conditional Uses. See s. 35-100.

Uses as set forth in s. 35-100E.

The conditional uses set forth in s. 35-44, B-4 Highway Business District

Animal Hospitals provided the lot area is not less than three acres, and all principal structures and uses are not less than 100 feet from any residential district

Drive-in theaters provided that a planting screen at least 25 feet wide is created along any side abutting a residential district and no access is permitted within 1,000 feet of any arterial street

Drive-in establishments serving food or beverages for consumption outside the structure

Flea markets

Funeral homes, provided all principal structures and uses are not less than 25 feet from any lot line

Motels

Self-service storage facilities including incidental manager's office/quarters. The maximum lot coverage by structures for a self-service storage facility, shall not exceed 50 percent, and such facility shall not exceed 15 feet in height, and shall meet the required setbacks

Off season boat storage facilities for boats and other recreational vehicles, such as campers, travel trailers, snowmobiles, off-road vehicles and motor homes, however, this is allowed only as an accessory use to an approved self-service storage facility

B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 200 ft.
	Area	Minimum 87,120 sq. ft. (2 acres)
Building	Height	Maximum 35 ft.
	Area	Minimum 1,200 sq. ft. single story 1,700 sq. ft. multiple story
Yard (Setbacks)	Street	Minimum 55 ft.
	Side	Minimum 30 ft.
	Rear	Minimum 30 ft.

35-46. B-6 Water-Oriented Business District

A. Uses. Uses in the B-6 Water-Oriented Business District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses.

Bathing and fishing areas

Bait shops

Boat launching areas

Fishing equipment sales

Restaurants and taverns without outside facilities

Water oriented commercial uses in existence on the day of the adoption of this Chapter, such as bathhouses, boat and marine sales, boat liveries, boat storage, repair and service marinas, dance halls, motels, resorts, and restaurants and taverns with outside facilities are grandfathered; any extension or expansion of these uses requires a Conditional Use Permit.

Note: All drive-in facilities require Conditional Use Permits

Note: All developments within 50 feet of any existing or mapped state trunk highway or

county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

2. Accessory Uses. See s. 35-21 of this Chapter.
3. Conditional Uses. See s. 35-100.

New, extended or expanded water oriented commercial uses, not listed as permitted uses, such as bathhouses, boat and marine sales, boat liveries, boat storage, repair and service marinas, dance halls, motels, resorts, and restaurants and taverns with outside facilities

B. Area Requirements.

Lot	Width	Minimum 150 feet
	Area	Minimum 40,000 sq. ft.
Building	Height	Maximum 35 feet
	Area	Minimum 1,200 sq. ft. single story; 1700 sq. ft. multiple story
Yard (Setbacks)	Street	Minimum 50 ft.
	Side	Minimum 50 ft.
	Rear	Minimum 75 ft.
	Shore	Minimum 75 ft.

35-47 to 35-50 [Reserved for Future Use]

35-51. M-1 Limited Industrial District

A. Uses. The following uses are allowed and/or limited in the M-1 Limited Industrial Zoning District, provided that the Village Plan Commission, in approving or disapproving proposed locations for uses under this subsection, shall give due consideration to the character and suitability for development of the neighborhood in which any such use is proposed to be located and shall also base its decision on such evidence as may be presented to the Plan Commission regarding the attributes of the proposed use, such as increased traffic on the public streets, heavy vehicular traffic, and the emission of noise, smoke, dust, or dirt, odorous or noxious gases and the like, that would be detrimental to such character and such suitability for development.

1. Permitted Principal Uses

- Apparel and findings products
- Baked goods, bakeries (wholesale)
- Blank Books, loose leaf binders and devices
- Books: publishing, printing, and binding
- Boot and shoe cut stock

Brooms and brushes
 Dental equipment and supplies
 Electrotyping and stereotyping
 Electrical appliances manufacturing,
 Engineering, laboratory and scientific and research instruments and associated
 equipment
 Envelopes
 Greeting cards
 Mechanical measuring and controlling instruments
 Morticians' goods
 Musical instruments and parts
 Ophthalmic goods
 Optical instruments and lenses
 Orthopedic, prosthetic, and surgical appliances and supplies
 Pens, pencils and other office and artist materials
 Photoengraving instruments and apparatus
 Photographic equipment and supplies
 Pleating, decorative and novelty stitching and tucking for the trade
 Signs and advertising displays
 Surgical and medical instruments and apparatus
 Watches, clocks, clockwork-operated devices and parts
 Yarns and threads
 Other uses similar to or customary incidental to any such use
 All drive-in facilities require Conditional Use Permits
 All developments within 50 feet of any existing or mapped state trunk highway or county
 trunk highway and/or within 150 feet of an existing or mapped centerline of intersection
 with any other road require Conditional Use Permits

2. Accessory Uses:

Garages for storage of vehicles used in conjunction with the operation of the industry.
 Off-street parking and loading areas

Office, storage, power supply and other uses normally auxiliary to the principal industrial
 operation.
 See s. 35-21 of this Chapter

3. Conditional uses. See s. 35-100.

Adult Oriented Entertainment Business (see specific provisions in s. 35-100).

Bus and rail depots

Experimental and research laboratories

Office use not related to principal industrial operations

Veterinary clinic, provided no service, including the boarding of animals, is offered
 outside of an enclosed building

Recycling center, provided no chemicals or hazardous materials are collected, stored, or
 processed and all storage and processing operations are conducted in an enclosed
 building

Construction services, including general building contractors, carpentry, wood flooring, concrete services, masonry, stonework, tile setting, plastering services and roofing, sheet metal services and water well drilling services

Indoor skating parks. Issues that the Plan Commission should consider are as follows, but are not limited to:

- a. The use shall be housed completely indoors
- b. Outdoor skating and or bicycling on the premises shall not be allowed
- c. No outdoor storage is permitted, and all skates, bicycles, and equipment used in the operation of said use shall be stored indoors
- d. All trash and debris shall be removed or contained weekly
- e. Any repair of skates, bicycles, and equipment used in the operation of said use shall be done indoors
- f. The indoor skate park conditional use permit shall be reviewed by the Village Plan Commission one year after issuance to assure compliance with the conditions stated in the conditional use permit

Vocational schools, including data processing, business and secretarial schools, provided that adequate off-street parking is provided as determined by the Plan Commission

- 4. Site Plans. Every builder of any building hereafter erected or structurally altered for manufacturing uses shall, before a zoning permit is issued, present detailed site plans pertaining to the proposed structure to the Village Plan Commission, which will approve said plans only after determining that the proposed building will not impair an adequate supply of light or air to adjacent property or substantially increase the danger of fire or traffic congestion or otherwise endanger the public health or safety or substantially diminish or impair property values within the neighborhood.

B. Lot, Area and Yard Requirements.

Lot	Width	Minimum 120 feet (sewered) Minimum 150 feet (unsewered)
	Area	Minimum 18,000 sq. ft.(sewered) Minimum 40,000 sq. ft. (Unsewered)
Building	Height	Maximum 35 feet
Yard (Setbacks)	Street	Minimum 25 ft.
	Side	Minimum 20 feet with no buildings, structure, stockpile or equipment storage being located within 50 feet of any residential district property line.
	Rear	Minimum 25 feet with no building, structure,

		stockpile or equipment storage being located within 50 feet of any residential district property line.
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C. Lighting Plans and Standards. Exterior lighting standards must be met and submission of a lighting plan is required. Exterior lighting plans are required for new development or redevelopment of existing exterior lighting in the M-1 Limited Industrial District. At the time any exterior light is installed or substantially modified in the M-1 District, and whenever a zoning permit application is required for new development or redevelopment, an exterior lighting plan shall be submitted to the Plan Commission in order to determine whether the requirements of this subsection have been met and that adjoining property will not be adversely impacted by the proposed lighting.

1. A lighting plan submitted pursuant to the requirements of this subsection shall have, at a minimum, the following elements:
 - a. A catalog page, cut sheet, or photograph of the luminaire, including the mounting method, a graphic depiction of the luminaire lamp (or bulb) concealment, and graphic depiction of light cutoff angles.
 - b. A photometric data test report of the proposed luminaire graphically showing the lighting distribution in all angles vertically and horizontally around the luminaire.
 - c. A plot plan, drawn to a recognized engineering or architectural scale, indicating the location of the luminaire(s) proposed, mounting and/or installation height in feet, the overall illumination levels (in footcandles) and lighting uniformities on the site, and the illumination levels (in foot candles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.
2. Exterior lighting in the M-1 District shall be limited to total-cutoff-type luminaires (with angle greater than 90°). The maximum permitted illumination shall be two foot candles and the maximum permitted luminaire height shall be 30 feet as measured from surrounding grade to the bottom of the luminaire. (Note: This standard does not address illumination levels or fixture height which may be required by the Village of Rochester for the adequate lighting of public street rights-of-way. It represents maximum illumination levels on private property.)
3. For the purposes of this subsection, light shall be measured as follows:
 - a. Metering equipment. Lighting levels shall be measured in foot candles with a direct-reading, portable light meter. The meter shall be read within an accuracy of plus or minus 5%. The meter shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within 30 days of its use.
 - b. Method of measurement. The meter sensor shall be mounted not more than six inches above ground level in a horizontal position at the interior line of the buffer yard or at the property line, as required herein. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading. In order to eliminate the effects of moonlight and other ambient light, measurements shall be made after dark with the light source in question on, then with the same sources off. The differences between the two readings shall be compared to the

maximum permitted illumination allowed under this subsection.

35-52. M-2 General Industrial District

A. The following uses are allowed, limited and/or prohibited in the M-2 General Industrial Zoning District, provided that the Village Plan Commission, in approving or disapproving proposed locations for uses under this subsection, shall give due consideration to the character and suitability for development of the neighborhood in which any such use is proposed to be located and shall also base its decision on such evidence as may be presented to the Plan Commission regarding the attributes of the proposed use, such as increased traffic on the public streets, heavy vehicular traffic, and the emission of noise, smoke, dust, or dirt, odorous or noxious gases and the like, that would be detrimental to such character and such suitability for development.

1. Permitted Principal Uses:

All Permitted Principal Uses in the M-1 Limited Industrial District (See s. 35-51)

Manufacturing, fabrication, packing, packaging, and assembly of products from fur, glass, leather, metals, paper, plaster, plastic, textiles and wood

Manufacturing, fabrication, packing , packaging, and assembly of candy and confections products; canvas products; cereals; cosmetics; creamery butter; curtains and draperies; dress and work gloves; distributors; fabrics; felt goods; flavor extracts and syrups; floor coverings (limited to rugs and carpeting); food processing, except cabbage; flavor extracts and flavor syrups; floor coverings; footwear; fresh and frozen fruits, fruit juices, and vegetables; greenhouses (wholesale); handbags and other personal leathers; hats, caps, and millinery; household furniture and furnishings; ice; ice cream and frozen desserts; knit goods; leather fabrication, not including tanning; instruments; electrical appliances; electronic devices; foods; men, woman and youth clothing; lace goods; lamp shades; luggage; laboratories; macaroni, spaghetti, vermicelli and noodles; office furniture; paper coating and glazing; partitions, shelving, lockers and office and store fixtures; instruments; jewelry; pharmaceuticals; sanitary paper products; silverware and plated ware; tire cord and fabric; toys; tobacco and toiletries; umbrellas; venetian blinds and shades; wallpaper products; warehousing; waterproof garments; and yarns and threads

Manufacturing and bottling of nonalcoholic beverages.

Painting

Printing, publishing binding of books, periodicals, and newspapers

Contractors offices and warehouses

Machine shops

Millwork

Light metal fabrication and die casting

All drive-in facilities require Conditional Use Permits

All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection

with any other road require Conditional Use Permits

2. Accessory Uses:

Garages for storage of vehicles used in conjunction with the operation of the industry

On site parking and loading areas

Office, storage, power supply and other uses normally auxiliary to the principal industrial operation

See also s. 35-21 of this Chapter

3. Conditional uses:

All Conditional Uses in the M-1 District (except as permitted herein)

Animal hospitals provided the lot area is not less than three acres, and all principal structures and uses are not less than 100 feet from any residential district

Metal stamping use not to exceed 5000 square feet in building area

Commercial service facilities, such as restaurants and fueling stations provided all such services are oriented toward industrial district users and employees and other users are only incidental customers

Recycling drop-off sites

Self-service storage facilities including incidental manager's office/quarters. The maximum lot coverage by structures for a self-service storage facility, shall not exceed 50 percent, and such facility shall not exceed 15 feet in height, and shall meet the required setbacks

Transmitting towers; receiving towers; relay and microwave towers without broadcast facilities or studios; and wireless communications towers, antennas and associated accessory structures and facilities

See also Section 35-100, Conditional Uses, and Section 35-230, Plan Commission Approval.

4. Prohibited Uses. Outside storage is prohibited in the M-2 Zoning District.

5. Site Plans. Every builder of any building hereafter erected or structurally altered for manufacturing uses shall, before a zoning permit is issued, present detailed site plans pertaining to the proposed structure to the Village Plan Commission, which will approve said plans only after determining that the proposed building will not impair an adequate supply of light or air to adjacent property or substantially increase the danger of fire or traffic congestion or otherwise endanger the public health or safety or substantially diminish or impair property values within the neighborhood. See also Section 13, Plan Commission Approval.

B. Area Requirements.

Lot	Width	Minimum 150 feet

	Area	Minimum 40,000 sq. ft.
Building	Height	Maximum 35 ft.
Yard (Setbacks)	Street	Minimum 50 feet
	Side	Minimum 20 feet
	Rear	Minimum 25 feet
	Shore	Minimum 75 feet.

C. Lighting Plans and Standards. Exterior lighting standards must be met and submission of a lighting plan is required. Exterior lighting plans are required for new development or redevelopment of existing exterior lighting in the M-2 General Industrial District. At the time any exterior light is installed or substantially modified in the M-2 District, and whenever a zoning permit application is required for new development or redevelopment, an exterior lighting plan shall be submitted to the Plan Commission in order to determine whether the requirements of this subsection have been met and that adjoining property will not be adversely impacted by the proposed lighting.

1. A lighting plan submitted pursuant to the requirements of this subsection shall have, at a minimum, the following elements:
 - a. A catalog page, cut sheet, or photograph of the luminaire, including the mounting method, a graphic depiction of the luminaire lamp (or bulb) concealment, and graphic depiction of light cutoff angles.
 - b. A photometric data test report of the proposed luminaire graphically showing the lighting distribution in all angles vertically and horizontally around the luminaire.
 - c. A plot plan, drawn to a recognized engineering or architectural scale, indicating the location of the luminaire(s) proposed, mounting and/or installation height in feet, the overall illumination levels (in footcandles) and lighting uniformities on the site, and the illumination levels (in foot candles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.
2. Exterior lighting in the M-2 District shall be limited to total-cutoff-type luminaires (with angle greater than 90°). The maximum permitted illumination shall be two foot candles and the maximum permitted luminaire height shall be 30 feet as measured from surrounding grade to the bottom of the luminaire. (Note: This standard does not address illumination levels or fixture height which may be required by the Village of Rochester for the adequate lighting of public street rights-of-way. It represents maximum illumination levels on private property.)
3. For the purposes of this subsection, light shall be measured as follows:
 - a. Metering equipment. Lighting levels shall be measured in foot candles with a direct-reading, portable light meter. The meter shall be read within an accuracy of plus or minus 5%. The meter shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within 30

days of its use.

- b. Method of measurement. The meter sensor shall be mounted not more than six inches above ground level in a horizontal position at the interior line of the buffer yard or at the property line, as required herein. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading. In order to eliminate the effects of moonlight and other ambient light, measurements shall be made after dark with the light source in question on, then with the same sources off. The differences between the two readings shall be compared to the maximum permitted illumination allowed under this subsection.

35-53. M-3 Heavy Industrial District

A. Uses. Uses in the M-3 Heavy Industrial District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses.

All permitted principal uses in the M-1 and M-2 Districts (see ss. 35-51 and 35-52)

Manufacturing and processing of abrasives, bedding, candles, carpeting, celluloid, cereals, coffee, cordage, dextrin, felt, glucose, hair products, ice, ink, lime, lime products, linoleum, cloth, peas, perfume, pickles, plaster of paris, rope, shoddy, starch, and textiles

Manufacturing, processing, and storage of building materials, dry ice, flues, and grains,

Manufacturing and bottling of alcoholic beverages; bag cleaning, cold storage warehouses; electric and steam generating plants; lithographing; and weaving provided such uses shall be at least 600 feet from residential and public and semi-public uses.

Outside storage and manufacturing areas

~~Wrecking, junk, demolition, and scrap yards. These uses shall be completely surrounded by a solid fence or evergreen planting screen, preventing a view from any other property or public right-of-way and shall be at least 600 feet from any residential, public, and semipublic districts~~

Inside storage warehouses

Farm machinery sales and repair

Vehicle upholstery, body and repair

All drive-in facilities require Conditional Use Permits

All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

2. Accessory uses:

Garages for storage of vehicles used in conjunction with the operation of the industry

On-site street parking and loading areas

Office, storage, power supply and other uses normally auxiliary to the principal industrial operation

Uses customarily incidental to a permitted use

3. Conditional uses:

Manufacturing and processing of acetylene, acid, alkalis, ammonia, asbestos, asphalt, batteries, bleach, bone, cabbage, cement, charcoal, chemicals, chlorine, coal tar, coke, creosote, disinfectant, dye, excelsior, farm machinery, felt, fish & fish products, fuel, gelatin, gypsum, insecticide, lampblack, matches, meat and meat products, oil, paint, plastics, poison, polish, potash, pulp, pyroxylin, radium, rubber, sausage, stove polish, and varnish

Manufacturing, processing, and storage of explosives, fat, fertilizer, flammables, gasoline, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast

Canneries, electroplating, enameling; forges, foundries, garbage incinerators, lacquering, processing of offal, rubbish or animal reduction, oil, coal, and bone distillation, refineries, road test facilities, slaughterhouses, smelting, stockyards and tanneries provided such uses shall be at least 600 feet from residential and public and semi-public uses.

Freight Yards

Freight Terminals and trans-shipment depots

Breweries

Crematories

Food lockers and plants

Rice mills

All drive-in facilities require Conditional Use Permits

All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

All conditional uses in the M-1 and M-2 Districts, unless made a permitted use herein

Animal hospitals provided the lot area is not less than three acres, and all principal structures and uses are not less than 100 feet from any residential district

~~Sanitary landfills and their related accessory uses when operated with the provisions of the applicable provisions of the Wisconsin Statutes and Wisconsin Administrative Code~~
~~Recycling centers and recycling plants~~
Solid waste facilities as defined in Wis. Stat. s. 289.01(35), including facilities for solid waste treatment, solid waste storage or solid waste disposal, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities, including the land where the facility is located, when operated pursuant to a license issued by the State and in accordance with applicable

statutes and administrative codes, and provided no chemicals or hazardous materials are collected, stored, or processed. When the provisions of this Chapter conflict with state or federal law, the state or federal law prevails.

Facilities for the processing of scrap iron, steel or nonferrous metal using large machines to produce a principal product of scrap metal for sale or use for remelting purposes, provided that these uses shall be completely surrounded by a solid fence or evergreen planting screen, preventing a view from any other property or public right-of-way and shall be at least 600 feet from any residential, business, agricultural, conservation, park, floodway, shoreland-wetland, or shoreland district.

Recycling facilities which use large machines to sort, grade, compact or bale clean wastepaper, fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes, provided no chemicals or hazardous materials are collected, stored, or processed and all storage and processing and operations are conducted in an enclosed building.

Auto junk yards and scrap metal salvage yards, provided that these uses shall be completely surrounded by a solid fence or evergreen planting screen, preventing a view from any other property or public right-of-way and shall be at least 600 feet from any residential, business, agricultural, conservation, park, floodway, shoreland-wetland, or shoreland district. Wis. Stat. s. 175.25 shall apply to these uses.

Off-season storage facilities for boats and other recreational vehicles, such as campers, travel trailers, snowmobiles, off-road vehicles and motor homes

Fueling stations and restaurants oriented toward industrial district users

Glass manufacturing

Recycling drop-off sites

Self-service storage facilities including incidental manager's office/quarters. The maximum lot coverage by structures for a self-service storage facility shall not exceed 50 percent, and such facility shall not exceed 15 feet in height, and shall meet the required setbacks

PODS, garages & temporary portable storage containers

See also Section 35-100, Conditional Uses and Section 35-230, Plan Commission Approval.

4. Site Plans. Every builder of any building hereafter erected or structurally altered for manufacturing uses shall, before a zoning permit is issued, present detailed site plans pertaining to the proposed structure to the Village Plan Commission, which will approve said plans only after determining that the proposed building will not impair an adequate supply of light or air to adjacent property or substantially increase the danger of fire or traffic congestion or otherwise endanger the public health or safety or substantially diminish or impair property values within the neighborhood. See also Section 35-230, Plan Commission Approval.

B. Area Requirements:

Lot	Width	Minimum 150 feet
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	Area	Minimum 40,000 sq. ft.
Building	Height	Maximum 35 feet
Yard (Setbacks)	Street	Minimum 50 feet
	Side	Minimum 20 feet
	Rear	Minimum 25 feet
	Shore	Minimum 75 feet

C. Lighting Plans and Standards. Exterior lighting standards must be met and submission of a lighting plan is required. Exterior lighting plans are required for new development or redevelopment of existing exterior lighting in the M-3 Heavy Industrial District. At the time any exterior light is installed or substantially modified in the M-3 District, and whenever a zoning permit application is required for new development or redevelopment, an exterior lighting plan shall be submitted to the Plan Commission in order to determine whether the requirements of this subsection have been met and that adjoining property will not be adversely impacted by the proposed lighting.

1. A lighting plan submitted pursuant to the requirements of this subsection shall have, at a minimum, the following elements:
 - a. A catalog page, cut sheet, or photograph of the luminaire, including the mounting method, a graphic depiction of the luminaire lamp (or bulb) concealment, and graphic depiction of light cutoff angles.
 - b. A photometric data test report of the proposed luminaire graphically showing the lighting distribution in all angles vertically and horizontally around the luminaire.
 - c. A plot plan, drawn to a recognized engineering or architectural scale, indicating the location of the luminaire(s) proposed, mounting and/or installation height in feet, the overall illumination levels (in foot candles) and lighting uniformities on the site, and the illumination levels (in foot candles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.
2. Exterior lighting in the M-3 District shall be limited to total-cutoff-type luminaires (with angle greater than 90°). The maximum permitted illumination shall be two foot candles and the maximum permitted luminaire height shall be 30 feet as measured from surrounding grade to the bottom of the luminaire. (Note: This standard does not address illumination levels or fixture height which may be required by the Village of Rochester for the adequate lighting of public street rights-of-way. It represents maximum illumination levels on private property.)
3. For the purposes of this subsection, light shall be measured as follows:
 - a. Metering equipment. Lighting levels shall be measured in foot candles with a direct-reading, portable light meter. The meter shall be read within an accuracy of plus or minus 5%. The meter shall have been tested, calibrated, and certified by

an independent commercial photometric laboratory or the manufacturer within 30 days of its use.

- b. Method of measurement. The meter sensor shall be mounted not more than six inches above ground level in a horizontal position at the interior line of the buffer yard or at the property line, as required herein. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading. In order to eliminate the effects of moonlight and other ambient light, measurements shall be made after dark with the light source in question on, then with the same sources off. The differences between the two readings shall be compared to the maximum permitted illumination allowed under this subsection.

35-54. M-4 Quarrying District

The M-4 Quarrying District is intended to provide for the orderly continuation or restoration of quarries or other extractive and related operations existing on November 9, 2009 (the original date of enactment of this ordinance), and to provide for the location in appropriate places of new extractive operations that provide maximum protection to the natural environment. This district further provides for the restoration of quarries in a manner that will not deteriorate the natural environment.

- A. Uses. Uses in the M-4 Quarrying District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

- 1. Permitted Principal Uses.

Quarrying, mineral extraction operations, and concrete and concrete products manufacturing that are in existence on the date of the enactment of this ordinance. The manufacture of concrete and concrete products, including concrete and asphalt batch plants, may occur on a parcel only during the duration of the on-site mineral extraction activity. Any change in or expansion of the use in existence on the date of the enactment of this ordinance shall require application for, and approval of, a conditional use permit. Upon expiration of a conditional use permit issued by Racine County prior to consolidation of the Village and Town of Rochester, the provisions of subsection B. shall apply.

All drive-in facilities require Conditional Use Permits

All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

- 2. Accessory Uses.

See section 35-21 of this Municipal Code.

- 3. Conditional Uses. See. s. 35-100.

Existing quarrying, mineral extraction operations, concrete and asphalt batch plants, and concrete and concrete products manufacturing upon expiration of a Racine County Conditional Use Permit for said operation

Extension of, expansion of, or changes to legally existing quarrying or mineral extraction operations, concrete and asphalt batch plants, and/or manufacture of concrete and concrete products

New quarrying or mineral extraction operations. New manufacturing of concrete and concrete products. The manufacture of concrete and concrete products, including concrete and asphalt batch plants, may occur on a parcel only during the duration of the on-site quarrying or mineral extraction activity.

B. Area Requirements.

Lot	Width	Lots shall be not less than 80 feet in width for the first 100 feet from the public right of way
	Area	Lots shall provide sufficient area for the principal structure and its accessory structures, the extractive industrial operation, off-street parking and loading, and yards as required herein
Building	Height	No structure, building, or parts of a building shall exceed 45 feet in height above the original land elevation of the parcel
Yard	<p>The extractive operation shall be set back at least 200 feet from any public or private right-of-way and all exterior property lines.</p> <p>The uses accessory to the extractive operation such as offices, scales, parking areas, and stockpiles shall be located at least 100 feet from any public or private right-of-way and all exterior property lines.</p> <p>When a quarrying or mineral extraction operation abuts another such operation, the 200 foot setback for each operation from their common lot line may be reduced to a zero lot line setback through Village Plan Commission and Village Board approval of the reclamation plan(s) for both operations in order to establish a reasonable restoration of such operations.</p> <p>Any operation, accessory use, facility or equipment already in place on November 9, 2009 that has been approved by Racine County but that is in violation of this setback may remain in place, but may not be extended. If an accessory use, facility or equipment is moved, it must conform to the setback provided herein. If the operation, accessory use, facility or equipment is discontinued for a period of 12 months, any future use of the operation, accessory use, facility or equipment shall conform to this section.</p>	

35-55 to 35-60 [Reserved for Future Use]

35-61 A-1 General Farming District

A. Uses. Uses in the A-1 General Farming District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses.

Apiculture
Dairying
Forestry
Grazing, pasturage and paddocks
Greenhouses, plant nurseries, floriculture
Raising of hay, cash crop grain, mint, grass, seed crops, silage, tree fruits, nuts and berries, and vegetables
Livestock raising, including poultry, provided that new or expanded livestock facilities with 500 or more animal units require a license and must meet the requirements as set forth in Chapter 39
Orchards
Paddocks and pasturage
Stables
Truck farming permitted in s. 35-64, A-4 Truck Farming District, subject to the size and height requirements provided therein.
Viticulture

2. Accessory Uses.

Farm dwellings for those farm owners and laborers actually engaged in a principal use and residential dwellings for the parents and children of the farm owners are accessory uses to the farm operation but shall comply with all the dwelling requirements of the A-2 General Farming and Residential District. Such residential dwellings for parents and children are permitted as such a use is in compliance with the adopted farmland preservation plan. A separate, recorded lot shall be recorded for such dwellings.

Existing dwellings not accessory to any farm operation and farm dwellings remaining after consolidation of neighboring farms are permitted but shall comply with all the provisions of the A-2 General Farming and Residential District.

Not more than one roadside stand on any one farm shall be permitted as an accessory use.

See also s. 35-21 of this Chapter.

3. Conditional Uses. See s. 35-100.

Animal hospitals, provided the lot area is not less than three acres, and all principal structures and uses are not less than 100 feet from any residential district

Commercial raising, propagation, boarding or butchering of animals not defined as livestock, including but not limited to dogs, mink, rabbits, foxes, emus, ostriches, camels, alpacas and llamas

Condenseries, creameries, pea vineries

Grain elevators, commercial grain storage and seed operations, which operate exclusive

of any farm operation

Migratory laborer's housing

Worm farms and sod farms.

Airstrips and landing fields for the use of the property owner for personal and farm related activities

B. Area Requirements

Lot (Farm)	Width	Minimum 150 feet
	Area	Minimum 35 Acres.
Building/Structure:		
Dwelling	Height	Maximum 50 feet
	Area	Minimum 1,200 sq. ft. single story; 1700 sq. ft. multiple story
Agricultural Structures such as barns, silos, sheds and storage bins	Height	Maximum: Two times the distance from the nearest lot line
Yard (Setbacks)	Street	Minimum 100 feet
	Side	Minimum 100 feet
	Rear	Minimum 100 feet
	Shore	Minimum 75 feet

35-62. A-2 General Farming and Residential District

A. Uses. Uses in the A-2 General Farming and Residential District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses.

All permitted principal uses in the A-1 General Farming District.

One and two family dwellings, whether or not such dwelling is associated with farm operations.

The principal structure shall be the residential structure, intended to service the parcel on which such residence is located.

2. Accessory Uses.

See s. 35-21 of this Chapter.

3. Conditional Uses. See s. 35-100.

All conditional uses in the A-1 General Farming District, unless the use is a permitted principal use under subsection 1. or is revised below

The parking of school buses, semi-tractors and trailers or other vehicles of a commercial nature provided all such uses are at least 600 feet from any residential district and 100 feet from any other residence and landscape screening to be determined on a site specific basis is in place. If the vehicles are parked inside a structure, the above distance may be reduced. Only one vehicle unit (school bus, semi-tractor or trailer, etc.) may be allowed on a parcel of land.

Airstrips and landing fields for the use of the property owner for personal and farm related activities

Bed and Breakfast Establishments

Cluster Residential Developments

Manufactured Home Communities as set forth in s. 35-100

Storage and maintenance of construction equipment and vehicles. The storage area for all such equipment and vehicles shall be at least 600 feet from Residential, Institutional Park, and Recreational Park districts

Off season storage facilities for boats and other recreational vehicles, such as campers, travel trailers, snowmobiles, off-road vehicles and motor homes. Such storage may not occur in a barn or other accessory building that was constructed prior to January 1, 2000

Non-municipal, non-commercial off-road trails for off-road vehicles subject to the following:

- a. The off-road trails shall be at least 600 feet from residential, institutional park and recreational park districts.
- b. A detailed plan shall be presented showing the location of off-road trails and indicating speed limits and the posting thereof along with warning and cautionary signs.
- c. Noise, land disturbance, dust and safety issues must be addressed. In addition, a restoration plan must be in place if the landscaping is altered.
- d. The Village Plan Commission shall consider the effect of the proposed operation upon existing streets, neighboring development. proposed land use, drainage, erosion, and natural beauty.
- e. The conditional use permit shall be valid for one year. Renewal requests shall be filed with the Zoning Administrator at least 60 days prior to the expiration date
- f. Seasonal snowmobile trails mapped by the Racine County Alliance of Snowmobile clubs and/or with oversight by the Racine County Public Works

Department are exempt from the provisions of this subsection.

B. Area Requirements

Lot	Width	Minimum 150 feet
	Area	Minimum: Single Family, 40,000 sq. ft. Two Family, 80,000 sq. ft.
Building/Structure:		
Dwelling	Height	Maximum 35 feet
	Area	Minimum 1200 sq. ft. single story; 1700 sq. ft. multiple story
Accessory Structures residential and farm (such as barns, silos, sheds and storage bins)	Height	Maximum: Two times the distance from the nearest lot line
Yard (Setbacks)	Street	Minimum 75 feet
	Side	Minimum 25 feet
	Rear	Minimum 25 feet
	Shore	Minimum 75 feet

35-63. A-3 General Farming District – Holding District

The Village of Rochester Board of Trustees adopting this chapter find that urbanization is taking place in certain areas of the Village at a rapid pace, that scattered urbanization can greatly increase the public cost of installing public facilities, such as sewers and schools required to service such growth, and therefore that the public interest will be best served by channeling such development to suitable Village area only at such time as it is economically feasible to plan, budget, and commit to construction of the necessary supporting public services and facilities. Consequently, some areas of potential growth within the Village will be placed in the A-3 General Farming District – Holding District, where non-agricultural development be deferred until the Village Board determines that it is economically feasible to provide public services and facilities for uses other than those permitted in the Holding District. It is intended that the status of the Holding District will be reviewed by the Village Plan Commission no less frequently than every five years in order to determine whether in light of the foregoing general standards, there should be a transfer of all or part of a Holding District to some other use district. Any such review will consider the need for permitting other uses on such land, the nature of the use or uses to be permitted and the cost and availability of the public services and facilities which will be necessitated by such new use or uses.

A. Uses. Uses in the A-3 General Farming District – Holding District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses.

All Permitted Principal Uses in the A-1 General Farming District. See s. 35-61.

2. Accessory Uses.

See s. 35-21 of this Chapter.

3. Conditional Uses.

All Conditional Uses in the A-1 General Farming District

B. Area and Yard requirements.

The lot, building and yard requirements in the A-3 General Farming District – Holding District are the same as in A-1 General Farming District.

35-64. A-4 Truck Farming District.

A. Uses. Uses allowed in the A-4 Truck Farming District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses.

Apiculture, floriculture, greenhouses, horticulture, nurseries, orchards, viticulture

Paddocks, raising of horses not to exceed three horses per five acres

Raising of cash crops

Truck farming

Farm dwellings for those resident owners actually engaged in a principal agricultural use

Existing dwellings not accessory to any farm operation or dwellings remaining after consolidation of neighboring farms are permitted but shall comply with all provisions of the R-8 Suburban Residential District

2. Accessory Uses.

Residential dwellings for laborers actually engaged in a principal agricultural use are accessory uses in the farm operation but shall comply with all provisions of the R-8 Suburban Residential District. See s. 35-21 of this Chapter.

Not more than one roadside stand per farm shall be permitted as an accessory use.

3. Conditional Uses. See s. 35-100 of this Chapter

Airstrips and landing fields for the use of the property owner for personal and farm related activities

Animal hospitals, provided the lot area is not less than three acres, and all principal structures and uses are not less than 100 feet from any residential district

Creameries, condenseries, pea vineries

B. Area requirements

Lot (Farm)	Width	Minimum 300 feet
	Area	Minimum 10 acres
Building/Structure:		
Dwelling	Height	Maximum 35 feet
	Area	Minimum 1200 sq. ft. single story; 1700 sq. ft. multiple story
Agricultural Structures such as barns, silos, sheds and storage bins	Height	Maximum: Two times the distance from the nearest lot line
Yard (Setbacks)	Street	Minimum 100 feet
	Side	Minimum 100 feet
	Rear	Minimum 100 feet
	Shore	Minimum 75 feet

35-65 to 35-69 [Reserved for future use]

35-70 UR Urban Reserve District

The purpose of the UR Urban Reserve District is to preserve the availability of vacant and agricultural land for future urban expansion, and to prevent the premature development of lands where urban public utilities are not presently available. These lands are to be retained in a natural state or in agricultural or specifically permitted residential uses pending the proper timing for the economical provision of sewer, water, streets, parks, storm drainage and other public utilities and services so that orderly development can occur. When such services are available, the property should be rezoned to the appropriate designation.

A. Uses. Uses in the UR Urban Reserve District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses.

Apiculture; floriculture; forestry; grazing; greenhouses; hay; orchards; paddocks; pasturage; plant nurseries; raising of cash grain crops, mint, grass, seed crops, silage, tree fruits, nuts and berries, and vegetables; stables; truck farming; and viticulture.

Livestock Facilities as defined in s. 39-3 of this Municipal Code in existence on the date of the adoption of this Ordinance, but no new or expanded Livestock Facilities are allowed.

Farm dwellings for those farm owners and laborers actually engaged in a principal use

and residential dwellings for the parents or children of the farm owners are accessory uses to the farm operation but shall comply with all the dwelling lot requirements set forth herein. A separate, recorded lot shall be created for such dwellings. Existing dwellings not accessory to any farm operation and farm dwellings remaining after consolidation of neighboring farms are permitted but shall comply with all the provisions set forth herein.

2. Permitted Accessory Uses.

Agricultural structures such as barns, silos, sheds and storage bins

Not more than one roadside stand on any one farm shall be permitted as an accessory use.

See also s. 35-21.

3. Conditional Uses. The following conditional uses shall be allowed in the UR District, based upon procedures set forth in and regulated by this Chapter of the Municipal Code.

Commercial raising, propagation, boarding or butchering of foxes, mink, and rabbits; commercial raising, propagation, or boarding of dogs and cats; pea vineries; condenseries; creameries; grain elevators, commercial grain storage and seed operations, which operate exclusive of any farm operation; airstrips and landing fields for farm or personal use only; migratory laborers' housing; worm farms and sod farming.

Animal hospitals, provided the lot area is not less than three acres and all principal structures and uses are not less than 100 feet from any residential district.

Utilities, provided that all principal structures and uses are not less than 50 feet from any residential lot line.

B. Lot, Area and Yard Requirements. The following minimum requirements shall be observed in a UR District subject to the additional requirements, exceptions and modifications set forth in this Chapter:

Lot (Farm)	Width	Minimum 150 feet
	Area	Minimum 35 acres
Lot (Residential)	Width	Minimum 150 feet
	Area	Minimum 40,000 sq. ft.
Building/Structure:		
Dwelling	Height	Maximum 35 feet
	Area	Minimum 1200 sq. ft. single story; 1700 sq. ft. multiple story
Agricultural Structures such as barns, silos, sheds and storage bins	Height	Maximum: Two times the distance from the nearest lot line
Residential accessory	Height	Maximum 17 feet

structures		
Yard (Setbacks), Farm	Street	Minimum 100 feet
	Side	Minimum 100 feet
	Rear	Minimum 100 feet
	Shore	Minimum 75 feet
Yard (Setbacks), Residential	Street	Minimum 75 feet
	Side	Minimum 25 feet
	Rear	Minimum 25 feet
	Shore	Minimum 75 feet

35-71. C-1 Resource Conservation District.

A. Uses. Uses in the C-1 Resource Conservation District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses.

- Fishing
- Flood overflow and floodwater storage
- Hunting
- Navigation
- Pedestrian and equestrian trails
- Preservation of scenic, historic and scientific areas
- Public fish hatcheries
- Soil and water conservation practices
- Sustained yield forestry
- Stream bank and lakeshore protection
- Water retention ponds
- Wildlife areas.

2. Accessory Uses.

Structures Restricted. Structures are not permitted in the C-1 Resource Conservation District, except accessory to the principal or conditional use. No structure shall be placed closer than 50 feet to a lot line.

3. Conditional Uses.

- Boating drainageways
- Game farms
- Grazing
- Orchards
- Shooting preserves
- Swimming

Truck farming
 Utilities
 Water measurement and water control facilities
 Wildcrop harvesting.
 The above uses shall not involve drainage; dumping; filling; tilling; mineral, soil, or peat removal; or any other use that would substantially disturb or impair the natural fauna, flora, watercourses, water regimen or topography.

35-72. C-2 Upland Resource Conservation District

The primary purpose of this district is to preserve, protect, enhance, and restore all significant woodlands, areas of rough topography, and related scenic areas within the Village; and to provide for limited residential development at the densities set forth below. Regulation of these areas will serve to control erosion and sedimentation and will promote and maintain the natural beauty of the Village, while seeking to assure the preservation and protection of areas of significant topography, natural watersheds, ground and surface water, potential recreation sites, wildlife habitat, and other natural resource characteristics that contribute to the environmental quality of the Village.

A. Uses. Uses in the C-2 Upland Resource Conservation District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses.

Single family dwellings at a density not to exceed one dwelling unit per three acres
 Farming and related agricultural uses when conducted in accordance with soil and water conservation service standards, except livestock facilities exceeding 500 animal units
 Hunting and fishing
 Forest preservation; forest and game management
 Preservation of scenic, historic, and scientific areas
 Recreation areas
 Arboreta and botanical gardens

2. Accessory Uses.

See section 35-21 of this Chapter, except as limited by this section.
 Gardening, tool, and storage sheds incidental to the residential use

3. Conditional Uses. See s. 35-100.

Hunting and fishing clubs
 Recreation camps, public or private campgrounds
 General farming buildings, including barns, silos, sheds, and storage bins
 Private garages and carports
 Cluster residential development
 Utilities.

B. Area Requirements.

Lot	Width	Minimum 300 feet
	Area	Minimum 3 acres
Building/Structure:		

Dwelling	Height	Maximum 35 feet
	Area	Minimum 1200 sq. ft. single story; 1700 sq. ft. multiple story
Agricultural and other structures	Height	Maximum: Two times the distance from the nearest lot line
Residential accessory structures	Height	Maximum 15 feet
Yard (Setbacks)	Street	Minimum 100 feet
	Side	Minimum 25 feet
	Rear	Minimum 100 feet
	Shore	Minimum 75 feet

C. Limitations.

a. Tree Cutting and Shrubbery Clearing Limited

Land lying within the C-2 Upland Resource Conversation District shall not be clear cut of trees, shrubbery, or underbrush. No more than 20 percent of the natural vegetation shall be removed from the parcel.

Normal pruning, trimming and shearing of vegetation; removal of dead, diseased, insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a forester, shall be exempted from this restriction.

35-73 P-1 Institutional Park District

The Public Facilities Districts are intended to accommodate a wide range of public and quasi-public uses distributed throughout the community, such as locations that support government, civic, cultural, recreational, health and infrastructure, including but not limited to public and private educational institutions, child care centers, transportation facilities, public buildings and facilities, community and group meeting centers, fire stations, museums, hospitals, cemeteries, libraries and similar compatible uses. These districts also accommodate large scale public facilities such as sewerage treatment plants.

The Institutional Park district is intended to eliminate the ambiguity of maintaining unrelated use districts, areas that are under public or public-related ownership and where the use for the public or quasi-public purpose is anticipated to be permanent.

A. Uses. Uses in the P-1 Institutional Park District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.

1. Permitted Principal Uses:

Public or private schools, colleges, and universities, provided that the lot area is not less than two acres

Religious and charitable institutions
 Public recreational and community center buildings and grounds
 Public emergency shelters
 Churches, including residential quarters for clergy
 Nursing homes, assisted living facilities
 Libraries, museums, and art galleries
 Lodges (e.g. Moose Lodge, Knights of Columbus, Lions Club)
 Government buildings, post offices
 Public utility buildings and facilities

2. Permitted Accessory Uses:

Garages for the storage of vehicles used in conjunction with the operation of a permitted use
 Gift store operated in conjunction with a permitted use
 Service buildings and facilities normally accessory to the permitted uses, including but not limited to residential quarters for caretakers
 Off street parking and loading areas associated with a permitted use
 Open space and recreational uses listed under s. 39-74.A.1 associated with a permitted use

3. Conditional Uses. The following are conditional uses in the P-1 District. See s. 35-100.

Hospitals and Sanitariums
 Music halls
 Penal Institutions
 Cemeteries
 Crematories
 Police, Fire and Rescue Stations
 Recycling drop-off sites (municipally owned)
 Sewerage Treatment Plants
 Child Care Centers, providing that traffic is managed in a manner to minimize danger to children
 Gift store operated in conjunction with a conditional use
 Clubs, fraternities, lodges, sororities, religious, and charitable institutions where the principal use of the facility is to provide lodging and meals to the members of the organization, provided that setbacks are met. This provision is not intended to limit "community living arrangements" as defined by statute.
 Service buildings and facilities normally accessory to the conditional uses, including but not limited to residential quarters for caretakers
 Off street parking and loading areas associated with a conditional use
 Open space and recreational uses listed under 35-74.A.1. associated with a conditional use
 Buildings and uses in existence on the date of the adoption of this section that are conditional uses under the P-1 zoning shall be deemed to have conditional use approval for the existing uses, which shall be documented by the Zoning Administrator. The addition of a use or construction of an additional building on the property shall require that the owner obtain conditional use approval for the new use or building.

B. Area requirements

Lot	Width: Sewered	No Minimum, provided all setbacks are met
	Width: Unsewered	150 feet

	Area: Sewered	No Minimum, provided all setbacks are met
	Area: Unsewered	40,000 sq. feet
Building	Height (to peak of roof)	Maximum 35 feet
Yard (Setbacks)	Street	Minimum 50 feet
	Side	Minimum 50 feet
	Rear	Minimum 50 feet
	Shore	Minimum 75 feet

- C. Multiple Buildings on a Lot. Notwithstanding s. 35-15, more than one main building may be present on a lot in the P-1 District, provided, however, that the presence of more than one main building shall transform a permitted use to a conditional use. The number of buildings and their uses, the lot width and area, the minimum setbacks of all proposed structures and uses from the property lines, the distances between the buildings and the lighting and landscaping plans shall be established by the Village Plan Commission. See s. 35-100.
- D. Nonconforming Structures. See s. 35-200.
- E. Exterior lighting standards and lighting plan required. Exterior lighting plans shall be required for new development or redevelopment of existing exterior lighting in the P-1 District. At the time any exterior light is installed or substantially modified in a P-1 District, and whenever a zoning permit application is made for new development or redevelopment, an exterior lighting plan shall be submitted to the Plan Commission in order to determine whether the requirements of this subsection have been met and that adjoining property will not be adversely impacted by the proposed lighting.
1. Exterior lighting in the P-1 District shall be limited to total-cutoff-type luminaires (with angle greater than 90°). The maximum permitted illumination shall be two footcandles and the maximum permitted luminaire height shall be 30 feet as measured from surrounding grade to the bottom of the luminaire. (Note: This standard does not address illumination levels or fixture height which may be required by the Village of Rochester for the adequate lighting of public street rights-of-way. It represents maximum illumination levels on private property.)
 2. Ball diamonds, playing fields, golf driving ranges, tennis courts, and similar outdoor recreational facilities have unique requirements for nighttime visibility and generally have limited hours of operation. These uses (excluding their associated off-street parking lots) may be exempted by the Plan Commission from the exterior lighting standards of this subsection if the applicant can satisfy the Plan Commission, upon site plan and lighting plan review, that the following requirements are met:
 - a. Any exterior light sources shall not exceed the maximum permitted post height of 70 feet.
 - b. If the luminaire is shielded in either its orientation or by a landscaped bufferyard

to prevent light and glare spillover to adjacent residential property(s) or residential zoning districts, then the luminaire may exceed a total cut-off angle of 90°. The maximum permitted illumination at the interior bufferyard line of all required bufferyards shall not exceed two footcandles.

3. A lighting plan submitted pursuant to the requirements of this subsection shall have, at a minimum, the following elements:
 - a. A catalog page, cut sheet, or photograph of the luminaire, including the mounting method, a graphic depiction of the luminaire lamp (or bulb) concealment, and graphic depiction of light cutoff angles.
 - b. A photometric data test report of the proposed luminaire graphically showing the lighting distribution in all angles vertically and horizontally around the luminaire.
 - c. A plot plan, drawn to a recognized engineering or architectural scale, indicating the location of the luminaire(s) proposed, mounting and/or installation height in feet, the overall illumination levels (in footcandles) and lighting uniformities on the site, and the illumination levels (in footcandles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.

4. For the purposes of this subsection, light shall be measured as follows:
 - a. Metering equipment. Lighting levels shall be measured in footcandles with a direct-reading, portable light meter. The meter shall be read within an accuracy of plus or minus 5%. The meter shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within 30 days of its use.
 - b. Method of measurement. The meter sensor shall be mounted not more than six inches above ground level in a horizontal position at the interior line of the bufferyard or at the property line, as required herein. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading. In order to eliminate the effects of moonlight and other ambient light, measurements shall be made after dark with the light source in question on, then with the same sources off. The differences between the two readings shall be compared to the maximum permitted illumination allowed under this subsection.

35-74 P-2 Recreational Park District

The P-2 Recreational District is intended to accommodate a wide range of public and quasi-public recreational uses distributed throughout the community.

- A. Uses. Uses in the P-2 Recreational Park District are allowed and/or limited as set forth below and in the referenced sections of this Municipal Code.
 1. Permitted Principal Uses:

Public and private recreational uses, such as beaches, parks, arboretums, bathing, boating, cycling, fishing, horseback riding, marinas, swimming, skating, sledding, nature trails and hiking
Golf courses and driving ranges (private & public), provided that the facility is designed to prevent golf balls from leaving the site

Conservatories
 Campgrounds
 Play grounds
 Driving ranges
 Polo and soccer fields
 Tennis courts
 Public swimming pools and bathhouses
 Botanical gardens
 Athletic fields
 Picnic areas
 Community centers
 Gymnasiums
 Sports clubs
 Public emergency shelters
 Picnic Areas (shelters, pavilions, gazebos)
 Community gardens

2. Permitted Accessory Uses.

Parking areas, service buildings and rest rooms associated with a permitted use

3. Conditional Uses. The following uses shall be conditional uses in the P-2 District. See s. 35-100.

Zoological gardens.
 Archery and fire arm ranges
 Stadiums
 Parking areas, service buildings and rest rooms associated with a conditional use
 Buildings and uses in existence on the date of the adoption of this section that are conditional uses under the P-2 zoning shall be deemed to have conditional use approval for the existing uses, which shall be documented by the Zoning Administrator. The addition of a use or construction of an additional building on the property shall require that the owner obtain conditional use approval for the new use or building.

B. Area requirements

Lot	Width: Sewered	No Minimum, provided all setbacks are met
	Width: Unsewered	150 feet
	Area: Sewered	No Minimum, provided all setbacks are met
	Area: Unsewered	40,000 sq. feet
Building	Height (to peak of roof)	Maximum 35 feet
Yard (Setbacks)	Street	Minimum 40 feet
	Side	Minimum 40 feet
	Rear	Minimum 40 feet
	Shore	Minimum 75 feet

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- C. Multiple Buildings on a Lot. Notwithstanding s. 35-15, more than one main building may be present on a lot in the P-2 District, provided, however, that the presence of more than one main building shall transform a permitted use to a conditional use. The number of buildings and their uses, the lot width and area, the minimum setbacks of all proposed structures and uses from the property lines, the distances between the buildings and the lighting and landscaping plans shall be established by the Village Plan Commission. See s. 35-100.
 - D. Nonconforming Structures. See s. 35-200.
 - E. Exterior lighting standards and lighting plan required.

Exterior lighting plans shall be required for new development or redevelopment of existing exterior lighting in the P-2 District. At the time any exterior light is installed or substantially modified in a P-2 District, and whenever a zoning permit application is made for new development or redevelopment, an exterior lighting plan shall be submitted to the Plan Commission in order to determine whether the requirements of this subsection have been met and that adjoining property will not be adversely impacted by the proposed lighting.

1. Exterior lighting in the P-2 District shall be limited to total-cutoff-type luminaires (with angle greater than 90°). The maximum permitted illumination shall be two footcandles and the maximum permitted luminaire height shall be 30 feet as measured from surrounding grade to the bottom of the luminaire. (Note: This standard does not address illumination levels or fixture height which may be required by the Village of Rochester for the adequate lighting of public street rights-of-way. It represents maximum illumination levels on private property.)
2. Ball diamonds, playing fields, golf driving ranges, tennis courts, and similar outdoor recreational facilities have unique requirements for nighttime visibility and generally have limited hours of operation. These uses (excluding their associated off-street parking lots) may be exempted by the Plan Commission from the exterior lighting standards of this subsection if the applicant can satisfy the Plan Commission, upon site plan and lighting plan review, that the following requirements are met:
 - a. Any exterior light sources shall not exceed the maximum permitted post height of 70 feet.
 - b. If the luminaire is shielded in either its orientation or by a landscaped bufferyard to prevent light and glare spillover to adjacent residential property(s) or residential zoning districts, then the luminaire may exceed a total cut-off angle of 90°. The maximum permitted illumination at the interior bufferyard line of all required bufferyards shall not exceed two footcandles.
3. A lighting plan submitted pursuant to the requirements of this subsection shall have, at a minimum, the following elements:
 - a. A catalog page, cut sheet, or photograph of the luminaire, including the mounting method, a graphic depiction of the luminaire lamp (or bulb) concealment, and graphic depiction of light cutoff angles.

- b. A photometric data test report of the proposed luminaire graphically showing the lighting distribution in all angles vertically and horizontally around the luminaire.
 - c. A plot plan, drawn to a recognized engineering or architectural scale, indicating the location of the luminaire(s) proposed, mounting and/or installation height in feet, the overall illumination levels (in footcandles) and lighting uniformities on the site, and the illumination levels (in footcandles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.
4. For the purposes of this subsection, light shall be measured as follows:
- a. Metering equipment. Lighting levels shall be measured in footcandles with a direct-reading, portable light meter. The meter shall be read within an accuracy of plus or minus 5%. The meter shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within 30 days of its use.
 - b. Method of measurement. The meter sensor shall be mounted not more than six inches above ground level in a horizontal position at the interior line of the bufferyard or at the property line, as required herein. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading. In order to eliminate the effects of moonlight and other ambient light, measurements shall be made after dark with the light source in question on, then with the same sources off. The differences between the two readings shall be compared to the maximum permitted illumination allowed under this subsection.

35-75. F-1 Floodway District.

The provisions of this Chapter apply along with the specific provisions set forth in Chapter 37.

35-76. GFP General Floodplain District.

The provisions of this Chapter apply along with the specific provisions set forth in Chapter 37.

35-77. FFO Flood Fringe Overlay District.

The provisions of this Chapter apply along with the specific provisions set forth in Chapter 37.

35-78 SW Shoreland-Wetland District.

The provisions of this Chapter apply along with the specific provisions set forth in Chapter 36.

35-79 SD Shoreland District.

The provisions of this Chapter apply along with the specific provisions set forth in Chapter 36.

35-80 [Reserved for Future Use.]

35-81 PUD Planned Unit Development Overlay District

A. Intent.

The Planned Unit Development overlay district (hereinafter referred to as PUD) is established to provide a voluntary regulatory framework designed to encourage and promote improved environmental and aesthetic design in the Village by allowing for greater freedom, imagination and flexibility in the development of land while ensuring substantial compliance with the Village Planning and Zoning Chapter and the general plan for community development. A PUD provides for the superimposing of an approved plan for development on property already designated as a basic zoning district identified in the Planning and Zoning Chapter. PUD districts are approved specifically for the development being proposed. If the development is not implemented within twenty-four months of approval of the Specific Implementation Plan, the property shall revert to its original zoning. The amount of implementation progress required to prevent reversion to the original zoning shall be included as part of the Specific Implementation Plan approval. Some specific purposes of developments in the PUD are:

1. Residential Planned Developments. To offer recreational opportunities close to home, to enhance the appearance of neighborhoods by conservation of streams and local spots of natural beauty, to add to the sense of spaciousness through the preservation of natural spaces, to counteract the effects of urban monotony and congestion in the streets, to encourage cooperative relationships between neighbors and participation by all age groups in the use and care of local open space tracts in new residential subdivisions, to promote harmonious architecture between adjacent dwellings or institutional buildings, and to encourage the placement of structures in proper relationship to the natural characteristics of the site.
2. Business or Commercial Planned Development. To promote the cooperative development of business or commercial centers, each with adequate off-street parking, to control access points on thoroughfares, to separate pedestrians and automobile traffic, to aid in stabilizing property values, to develop centers of size and location compatible with

marked potential green spaces and to encourage harmonious architecture between adjacent commercial structures and between home and commercial structures.

3. Industrial/Manufacturing Planned Development. To promote the establishment of industrial parks, to permit groups of industrial buildings with integrated design and coordinated physical plan, to encourage recreational facilities with industrial areas with landscaped green spaces.

B. Principal Uses.

Principal uses are as follows: Other than the existing use, no use shall be permitted in the Planned Unit Development Overlay District except in conformity with an approved recorded Specific Implementation Plan adopted pursuant to the provisions hereinafter set forth.

C. Minimum Area for PUD District.

Each Planned Unit Development Overlay District shall have an area of at least one and one half acres.

D. Lot size, floor area ratio, open space, signs and off-street parking.

In the Planned Unit Development Overlay District there shall be no predetermined specific lot area, lot width, height, floor area ratio, yard, usable open space, sign and off-street parking requirements. Such requirements are made a part of an approved recorded Specific Implementation Plan agreed upon by the owner and the Village, and shall be construed with the recorded plan itself, as a part of this Section.

E. Criteria for approval.

As a basis for determining the acceptability of a Planned Unit Development Overlay District application, the following criteria shall be applied with specific consideration as to whether or not it is consistent with the spirit and intent of this Section and has the potential for producing significant community benefits in terms of environmental and aesthetic design.

1. Character and intensity of Land Use. In a Planned Unit Development Overlay District the uses and their intensity, appearance and arrangement shall be of a visual and operation character which:
 - a. Are compatible with the physical nature of the site of area;
 - b. Would produce an attractive environment of sustained aesthetic desirability, economic stability and functional practicality compatible with the General Development Plan;
 - c. Would not adversely affect the anticipated provision for school or other municipal service unless jointly resolved; and
 - d. Would not create a traffic or parking demand incompatible with existing or proposed facilities.
2. Economic Impact. A Planned Unit Development shall not adversely affect the economic prosperity of the Village or of surrounding properties.
3. Preservation and Maintenance of Open Space. In a Planned Unit Development Overlay

District, adequate provisions for the improvement and continuing preservation and maintenance of attractive open space shall be made.

4. Implementation Schedule. A PUD shall include suitable assurances that each phase could be completed in a manner which would not result in an adverse effect upon the community as a result of termination at any point in the development. The implementation schedule shall designate to what extent the development shall be implemented within a twenty-four month period of time of approval of the implementation plan for the property so as not to revert back to its original zoning.

F. Procedure for rezoning as a Planned Unit Development Overlay District.

The procedure for rezoning to a Planned Unit Development Overlay District shall be as required for any other zoning district change in this Chapter, except that in addition thereto the rezoning may only be considered in conjunction with a development plan, and shall be subject to the following additional requirements:

1. General Development Plan. The proponent of the zoning change shall file the following with the Plan Commission:
 - a. A statement describing the general character of the intended development;
 - b. An accurate map of the project area including its relationship to surrounding properties and existing topography and key features;
 - c. A plan of the proposed project showing sufficient detail to make the possible evaluation of the criteria for approval as set forth in subsection E. of this Section; and
 - d. When requested, a general outline of intended organizational structure related to property owners' association, deed restrictions, and private provision of common services, together with such other additional relevant information as may be required by the Plan Commission.
2. Referral and Hearing.
 - a. Within sixty days after completion of the filing of the petition for approval for a General Development Plan, the Plan Commission shall forward the petition to the Village Board with recommendations that the plan is to be approved as submitted, approved with modifications or conditions or disapproved. This time limit may be extended by mutual agreement.
 - b. Upon receipt of the recommendations, the Village Board shall determine whether or not to initiate a proposed zoning change to establish the proposed Planned Unit Development Overlay District and to schedule the public hearing required by s. 35-220. If the Board fails to initiate such a change within sixty days, the petitioner may file a petition directly with the Village Clerk.
 - c. Approval of the rezoning and related General Development Plan shall establish the basic right of use for the area when in conformity with the plan as approved, but such plan shall be conditioned upon approval of a Specific Implementation Plan, and shall not make permissible any of the uses as proposed until a Specific Implementation Plan is submitted and approved for all or a portion of the General Development Plan. If the approved General Development Plan is not recorded as

approved within twelve months of the date of approval by the Village Board the approval shall be null and void and a new petition and approval process shall be required to obtain General Development Plan approval.

- G. Procedure for approval of Specific Implementation Plan. The Specific Implementation Plan shall be submitted to the Plan Commission.
1. Required information. The Specific Implementation Plan submitted shall include the following detailed construction and engineering plans and related detailed documents and schedules and all other information deemed relevant by the Plan Commission, except when specific documents are waived by such Commission:
 - a. An accurate map of the area covered by the plan including the relationship to the total General Development Plan;
 - b. The pattern of public and private roads driveways, walkways, and parking facilities;
 - c. Detailed lot layout and subdivision plat where required;
 - d. The arrangement of building groups, other than single-family residences, and their architectural character;
 - e. Sanitary sewer and water mains;
 - f. Grading plan and storm drainage system;
 - g. The location and treatment of open space areas and recreational or other specific amenities;
 - h. The location and description of any areas to be dedicated to the public;
 - i. Landscape plan and plant list;
 - j. Proof of financing capability;
 - k. Analysis of economic impact upon the community;
 - l. A construction schedule indicating the approximate dates when construction of the project can be expected to begin and be completed. The construction schedule shall include a statement as to what extent the project plan will be implemented within twenty four months of the time of the approval of the Specific Implementation Plan;
 - m. Agreements, bylaws, provisions or covenants which govern the organizational structure, use, maintenance and continued protection of the development and any of its common services, common open areas or other facilities.
 2. Procedure for Approving Specific Implementation Plan.
 - a. Following a review of the Specific Implementation Plan, the Plan Commission shall recommend to the Village Board that it be approved as submitted, approved with modifications or conditions, or disapproved. The Plan Commission or Village Board may require any reasonable condition or design which will promote proper

development or benefit to the community.

- b. Upon receipt of the Plan Commission recommendation, the Board may approve the Plan and authorize the development to proceed accordingly, or disapprove the Plan and send it back with specific objections to the Plan Commission for further negotiation with the developer.
- c. In the event of approval of the Specific Implementation Plan, the building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the Village shall be recorded by the developer within twelve months of the date of approval by the Village Board in the Racine County register of deeds office. This recording shall be accomplished prior to the issuance of any building permit. If the Specific Implementation Plan is not recorded as approved within twelve months of the date of approval by the Village Board the approval shall be null and void, and a new petition and approval process shall be required to obtain Specific Implementation Plan approval.
- d. Any subsequent change or addition to the Plan or use shall first be submitted for approval to the Plan Commission and if, in the opinion of the Plan Commission, the change or addition constitutes a substantial alteration of the original Plan, the procedure provided for in subsection F. of this Section shall be required.

35-82 HPO Historic Preservation Overlay District.

- A. Intent. The HPO Historic Preservation Overlay District is intended to provide for the protection and preservation of those structures and areas whose architectural, archeological or historic interests are valuable contributions to the character and charm of the Village or areas of the Village and to the Village's cultural, social, economic, political and architectural history or heritage. Such structures and areas are hereby deemed to represent a community asset justifying the public regulation of such structures and areas to ensure their preservation. The intent of this district is to safeguard the Village's historic and cultural heritage, as embodied and reflected in such structures or areas, stabilize and improve property values, foster civic pride, enhance the visual and aesthetic character of the Village, and protect and enhance the Village's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.
- B. District Standards and Uses. District standards shall conform to those required in the underlying basic zoning district. See also subsection D. of this section. Permitted, accessory, and conditional uses shall be as allowed in the underlying basic zoning district.
- C. Designation / Creation of Historic Preservation Overlay District.
 - 1. The Historic Preservation Committee shall select geographically defined areas within the Village of Rochester to be designated Historic Preservation Overlay Districts pursuant to Chapter 38, Historic Preservation, of this Municipal Code. If a petition for rezoning to an HPO District is received from a source other than the Historic Preservation Committee, it shall be referred to the Committee for its review and recommendation.
 - 2. The Village Board may designate an area an HPO District upon recommendation by the Plan Commission and the Historic Preservation Committee. The public hearing to be held pursuant to Chapter 38 shall be held jointly by the Plan Commission and the Historic Preservation Committee, and notice of the hearing shall conform to the requirements of both Chapter 38 and the notice required in this Chapter.

3. The criteria for rezoning to an HPO District shall be based upon the requirements found in Chapter 38.

D. Limitation on Structural or Appearance Changes.

1. Certificate of Appropriateness Required. There shall be no alterations in the architectural appearance of any structure within an HPO District without the approval of plans for such alterations by the Historic Preservation Committee and the Committee's grant of a Certificate of Appropriateness pursuant to Chapter 38 of this Municipal Code. For purposes of this section, alterations shall include any exterior color change, addition to, or demolition of any part or all of the exterior of a structure.
2. Repairs, Destruction and Reconstruction. Notwithstanding the provisions of s. 35-200 of this Chapter as to non-conforming structures, total lifetime structural repairs, restoration, or alterations of a preservation structure may exceed 50 percent of the Village's equalized value of the structure if the Historic Preservation Committee determines that the structure will be repaired, restored, or altered in a way that maintains the character of the structure and the character of the HPO District without significant alteration or change in such character. No person in charge of an historic structure or improvement in an HPO District shall demolish such a structure or improvement without a Certificate of Appropriateness for the demolition. See, however, Chapter 37 for historic structures located in floodplain districts.
3. Notwithstanding the provisions of Section 35-200 of this Chapter as to non-conforming structures, the Historic Preservation Committee may grant a Certificate of Appropriateness for, and may recommend to the Plan Commission, that all or part of a structure which has been destroyed or altered over the course of time may be rebuilt or reconstructed to the structure's original footprint, inclusive of uncovered porches, if such reconstruction or restoration is in keeping with the historic significance of the structure and area, regardless of current setback, side yard and rear yard requirements, so long as no safety issues (such as vision clearance triangles) are implicated. An example of such a recommendation would be the restoration of a porch to its original length and width, as proven by photographic or other documented evidence, if such porch was removed in a remodeling of the structure. The Plan Commission may approve such restoration or reconstruction, and such approval shall not be considered a variance or waiver but shall rather be considered to meet the appropriate standards of the HPO District. See, however, Chapter 37 for historic structures located in floodplain districts.
4. In the case of the destruction of a structure in the HPO District, the Plan Commission may determine upon recommendation from the Historic Preservation Committee that a replacement structure may be constructed in a manner that, while not identical to the original structure, maintains the historic character of the destroyed structure. See, however, Chapter 37 for historic structures located in floodplain districts.

35-83 to 35-99 [Reserved for Future Use]

35-100 CONDITIONAL USES

A. Conditional Use Permits.

The Village Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Chapter and are not found to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community. Conditional uses in the floodplain districts shall be required to meet the requirements in Chapter 37.

B. Applications.

Applications for conditional use permits shall be made to the Zoning Administrator and shall include the following:

1. A site plan of the property accurately dimensioned showing the location of all existing and proposed structures and use area.
2. Name of project
3. Owner's and/or developer's name and address.
4. Architect and/or engineer's name and address.
5. Date of plan submittal.
6. Existing topography shown at a contour interval not less than two feet, or where not readily available elevations at appropriate locations.
7. Proposed changes in topography.
8. The characteristics of soils related to contemplated uses.
9. The type, size, location and dimensions of all structures including fences and walls.
10. Location and number of parking stalls and loading and storage areas.
11. Primary building materials used in construction of all structures.
12. Height of building(s).
13. Location and size of existing and proposed sanitary sewers, septic tanks and disposal fields, holding tanks, storm sewers and water mains.
14. Location of proposed solid waste (refuse) and recycling storage areas.
15. Location of pedestrian sidewalks and walkways.
16. Existing and proposed public right-of-way widths.
17. Location, type, height and intensity of proposed lighting.
18. Location of existing trees and extent, and type of proposed plantings including type and

extent of erosion control.

19. A graphic delineation of any planned development staging.
20. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.
21. Any other site or use information, such as 100 year internal flood lines, which will assist the Plan Commission in making a determination and recommendation on the proposal. Conditional uses in the floodplain districts are required to submit the plans required as set forth in Chapter 37.
22. Operations plan data to be submitted with all plan review applications shall include at least the following:
 - a. Specific use of site and building(s).
 - b. Hours of operations.
 - c. Number of full and part time employees.
 - d. Estimate of daily truck and auto trips to the site.
 - e. Type of materials and equipment to be stored on site.
 - f. Method of handling solid and liquid waste disposal.
 - g. Method of exterior maintenance (site and buildings).
 - h. Method of site and building security other than local police.
 - i. Copies of all special use permits issued by state or county agencies.
 - j. Any other information which will assist the Plan Commission in making a determination and recommendation of the proposal.

C. Review and Approval.

1. The Village Plan Commission shall review the site, 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 use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.
2. 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 system, higher performance standards, street dedication, certified survey maps, floodproofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional parking may be required by the Village Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter and the Wisconsin Statutes. Compliance with all other provisions of this

Chapter, such as lot width and area, yards, building height, parking, loading, traffic, highway access, aesthetic evaluation and performance standards shall be required of all conditional uses.

3. The Plan Commission shall hold a public hearing, giving notice therefor as set forth in s. 35-240, and shall make its recommendation to approve or deny the Conditional Use Permit to the Village Board. The Village Board ~~shall hold a public hearing, giving notice therefor as set forth in s. 35-240, and~~ shall approve the conditional use permit and the conditions to be applied thereto, or shall deny the permit.
4. Variances shall only be granted as provided in Section 35-210 and other applicable chapters of this Municipal Code.

D. Residential Conditional Uses. The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

1. Cluster residential developments in the residential, A-2 and C-2 districts shall be permitted as conditional uses. The district regulations may be varied provided that the adequate open space shall be provided so that the average intensity and density be no greater than one dwelling unit per three acres. The original and all subsequent owners shall assure, by deed restrictions enforceable by the Village, proper preservation, care and maintenance of exteriors; designs; all common structures; facilities; utilities; accesses; and open spaces.

Development	Area	Minimum 20 acres
Lot	Width	Minimum 150 feet
	Area	Minimum 40,000 sq. ft.
Dwelling	Height	Maximum 35 feet
	Area	Minimum 1200 sq. ft. single story 1700 sq. ft. multiple story
Residential Accessory Structures	Height	Maximum 15 feet
Agricultural Accessory Structures (barns, silos, sheds, storage bins)	Height	Maximum two times the distance from the nearest lot line
Yard (Setbacks)	Street	Minimum 50 feet
	Side	Minimum 15 feet
	Rear	Minimum 50 feet
	Shore	Minimum 75 feet

2. Manufactured Homes.

a. Definitions. The following words, terms and phrases shall have the meanings set forth in section 21-1 of this Municipal Code, except where the context clearly indicates a different meaning: "Licensee," "Community," "Manufactured Home," "Mobile Home," "Unit," "Manufactured Home Community," and "Site."

b. When, Where Allowed.

(1) Manufactured Home Communities may be allowed as a conditional use in the A-2 Agricultural District subject to the requirements of this subsection and all provisions of this Chapter pertaining to conditional uses.

(2) No manufactured home shall be used as a residence within the Village unless:

(a) It is located within a manufactured home community for which a conditional use permit has been issued; or

(b) It is located on a farm and the occupants of the manufactured home are the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured home works on the farm and a conditional use permit has been issued. The individual site, area and yard requirements of this section shall apply to manufactured homes located on a farm; or

(c) It meets the requirements set forth in s. 35-15.1.5.b., or

(d) In the event a dwelling on real estate outside of a manufactured home community was destroyed by fire or other casualty, the dwelling is voluntarily removed by the owner of the dwelling, and the owner desires to rebuild a home on the location of the home so destroyed or removed, the owner may apply to the Plan Commission for a permit to temporarily keep a manufactured home on the real estate for occupancy as a dwelling by persons who had occupied the destroyed or removed dwelling. The permit may be granted by the Plan Commission for a period not to exceed one year. The manufactured home shall conform to all applicable requirements of this Municipal Code. In the event a new dwelling cannot be completed within the initial permit period, the owner may apply for and the Plan Commission may grant an extension of up to 90 days.

c. Application for Zoning Permit.

(1) An application for a conditional use permit for a manufactured home community shall be accompanied by a license or application for a license from the Village pursuant to Chapter 21 and application for plan approval and a permit from the Wisconsin Department of Safety and Professional Services pursuant to Wis. Admin. Code ch. SPS 326. In the absence of a Village license or State Permit, the application for a conditional use permit shall be denied. The application shall be filed with the Zoning

Administrator along with plans and specifications in compliance with the all Village ordinances and state laws and a performance bond in the amount necessary to insure completion of the manufactured home community within nine months from the date of the issuance of the conditional use permit and insuring further that such completion is in compliance with the requirements of this Chapter. No manufactured home shall be occupied until all conditions of this Chapter have been met.

- (2) The construction or expansion of a manufactured home community shall be completed within nine months, but the time may be extended for not more than an additional 90 days in the aggregate by the Zoning Administrator with the approval of the Plan Commission for good cause shown.
- (3) The provisions of Wis. Admin. Code ch. SPS 326 are minimum requirements enforced by the State. The local of this Chapter and Chapter 21 are in addition to the requirements set forth in Wis. Admin. Code ch. SPS 326 and where the provisions of this Municipal Code are more restrictive than the state requirements, the provisions of this Municipal Code shall prevail.
- (4) The application shall contain the following information:
 - (a) Name, address and telephone number of applicant;
 - (b) Legal description of the land upon which applicant seeks to have a zoning permit for a manufactured home community;
 - (c) The names and addresses of all persons owning land abutting upon such land; and
 - (d) The names and addresses of all persons owning lands located across the street from such land.
 - (e) Copies of the plans submitted to the Wisconsin Department of Safety and Professional Services required under Wis. Admin. Code ch. SPS.

d. Location. No manufactured home shall be located less than 50 feet from any highway right-of-way line. The location of each manufactured home community shall be approved or denied in writing. In approving such location, the Zoning Administrator shall view the proposed site or sites and shall consider such evidence as may be presented, bearing upon the general purposes and intent of this Chapter to promote the public health, safety and general welfare and the specific purpose of this section to prevent the overcrowding of land and the development of housing blight in rural areas.

e. Specific requirements.

- (1) Drainage. Every manufactured home community and every manufactured home within the community shall be located on a well-drained area and shall be so graded and adequately drained to prevent the accumulation of stormwater or other waters in the manufactured

home community or on any site, and drainage easements shall be obtained when necessary.

- (2) Sewage. Adequate provisions shall be made for the disposal of all sewage from a manufactured home community into a municipal sanitary sewer where available, or by a properly constructed and maintained sewage system approved by Racine County and the DNR.
- (3) Water. Where a public water supply is not available within the manufactured home community an adequate supply of pure water for drinking and domestic purposes shall be provided in an amount sufficient to care for the needs of the maximum number of persons which can be accommodated in such manufactured home community, approved by the DNR.
- (4) Refuse. Every manufactured home shall conform to the refuse and recycling requirements of this Municipal Code. Refuse shall be disposed of as often as necessary to prevent decomposition or overflow.
- (5) Lighting. All entrances, exits, lanes, and driveways between rows of manufactured homes used or occupied in any manufactured home community shall be lighted by electric lighting of at least one watt per lineal foot.

f. Manufactured Home Sites and Automotive Vehicle Parking.

- (1) Each manufactured home shall be located on a site of not less than 6,000 square feet with a minimum width of 50 feet. Each double manufactured home shall be located on a site of not less than 9,000 square feet with a minimum width of 75 feet. If parking is not provided on the individual site, but within a reasonable distance of the site, the square footage of the site may be reduced by 400 square feet for a single manufactured home or 600 square feet for a double manufactured home.
- (2) Each manufactured home site shall contain a pad upon which the manufactured home shall be situated, which shall be paved with concrete or bituminous material. Each pad shall not be less than ten feet wide nor of less length than the length of the manufactured home to be parked thereon, plus five feet.
- (3) Off street parking spaces in a ratio of one and one-half for each site shall be provided for and maintained in good condition. There shall be off-street parking places for automotive vehicles within the community, either on each site or located within a reasonable distance from each unit, paved with concrete or bituminous material, equal to not less than 400 square feet for each manufactured home site. Each automobile parking place shall not be less than nine feet wide and 160 square feet in area, exclusive of maneuvering and access space.

g. Streets and Sidewalks.

- (1) Streets.

- (a) In a manufactured home community there shall be a system of private streets with a minimum of 66-foot dedicated widths.
 - (b) The private streets shall be paved with concrete or bituminous material, providing access from each and every manufactured home site and automotive parking space within the manufactured home community to the public street or highway; provided that there shall not be more than two entrances from or exits to the public street or highway from any one community. The private street shall be paved to the following widths:
 - [1] Parking one side or no street parking: 28 feet
 - [2] Parking two sides: 32 feet.
 - (2) Sidewalks. If recreation buildings, laundry facilities, or any other service areas are provided for the convenience of the manufactured home community residents, there shall be sidewalks, with a minimum of 30-inch widths, paved with concrete or bituminous material, from every manufactured home site within the manufactured home community to the building, facility or area.
- h. Setbacks and Yards.
- (1) Each manufactured home pad shall be separated from all other manufactured home pads, automobile parking spaces or service buildings or structures within the community by open spaces, permanently planted to grass, flowers, shrubs or trees, which shall not be less than 15 feet wide, except a garage, or accessory structure belonging to the site or unit owner may be closer to the pad if it meets the accessory structure requirements of this Chapter.
 - (2) The setback from the private street right-of-way shall be not less than ten feet.
 - (3) Each manufactured home community shall be completely surrounded, except for permitted entrances and exits, by a yard, in addition to all other required yards and open spaces, which shall not be less than 15 feet wide.
 - (4) Each manufactured home community shall contain an open area for recreation and park purposes which shall be appropriately landscaped and planted to grass and trees. Said open area shall not be less than two acres for every 25 manufactured home spaces in the manufactured home community.
- i. Rules and Regulations. The manufactured home community licensee shall provide the rules and regulations it will prescribe and enforce so as to insure:
- (1) That the community will be kept and maintained in a neat, sightly and orderly manner.
 - (2) That no public or private nuisance may be kept or maintained in the community.

- (3) That no manufactured home shall be used for illegal purposes.
- (4) That no manufactured home shall be used for other than residential purposes or by more than one person, whether child or adult, for each 125 square feet of floor area thereof.

- j. Manufactured Home Use Restrictions: Businesses Prohibited. No business shall be conducted in any manufactured home in a manufactured home community.
- k. Appeal from Denial. In the event an application for a conditional use permit is denied, the applicant has the right to appeal the decision as set forth in this chapter and as set forth in Wis. Admin. Code s. SPS 326.05(2).

E. Commercial Conditional Uses.

The following commercial uses shall be conditional uses and may be permitted as specified:

All drive-in facilities require Conditional Use Permits

All developments within 50 feet of any existing or mapped state trunk highway or county trunk highway and/or within 150 feet of an existing or mapped centerline of intersection with any other road require Conditional Use Permits

Any development involving multiple, principal use buildings or multiple tenants in a single commercial building or any single commercial building 2,500 gross square feet or larger

Drive-in banks in all business districts.

Motor vehicle sales and service repair, upholstery repair, body shops, trailer sales, rentals, and service, and tractor and other farm implement sales and service, including vehicle washing facilities, and public parking lots in all Business Districts, but not including the storage of junked or wrecked automobiles and/or parts, provided all parking of vehicles (including vehicles with more than six wheels) is specifically addressed in the permitting process. Gas pumps shall not be located closer than 30 feet from a side lot line or a rear lot line, and not closer than 25 feet from an existing or proposed street line

Residential quarters for the owner, proprietor, commercial tenant or rental apartments on a non-ground floor level shall be deemed a conditional use and shall be subject to Village Plan Commission approval of building, site and operational plans.

Commercial recreational facilities, such as bowling alleys, gymnasiums, lodges, miniature golf, pool and billiard halls, indoor skating rinks, and indoor theaters are conditional uses and may be permitted in all Business Districts.

F. Industrial / Manufacturing Uses.

1. All Unless a conditional use must be conducted outdoors, all structures and improvements for conditional principal uses, including their related accessory uses, are subject to the following general provisions:

- a. No merchandise shall be handled for sale or service rendered on the premises except such as are incidental or accessory to the principal permissible use of the premises, except for sales or service to industrial customers

- b. All operations and activities of all uses within this district shall be conducted wholly inside a building or buildings
 - c. No continuous or intermittent noise from operations greater than the volume and range of noise emanating from vehicular traffic or its equivalent in noise shall be detectable at the boundary line of any residence district
 - d. No toxic matter, noxious matter, smoke, or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted
 - e. No vibrations shall be detectable beyond the lot lines
 - f. No glare or heat shall be detectable beyond the lot lines
 - g. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence district or into public streets or parks
2. The storage or use of chemicals, whether solid, liquid or gas, shall be subject to the following conditions:
- a. The storage, utilization, or manufacturing of materials or products ranging from incombustible to moderate burning is permitted
 - b. The storage, utilization or manufacturing of materials, or products ranging from free to active burning is permitted provided the following condition is met: said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system
 - c. The manufacture of flammable materials which produce explosive vapors or gases is prohibited
3. Special Conditional Use Provisions for Quarrying Operations.

Quarrying operations, including mineral extraction, washing, crushing or other processing, are conditional uses permitted in the M-4 Quarrying District. No person or other entity shall operate a quarry, gravel pit, sand pit, asphalt or tar paving mix plant or a concrete ready mix plant within the Village without first obtaining conditional use permit approval from the Plan Commission and Village Board as hereinafter provided.

- a. Reclamation Plan.
 - (1) The application for the conditional use permit shall include a restoration plan. Under Wis. Admin. Code ch. NR 135, Nonmetallic Mining Reclamation, and Racine County Code chapter 12.5, the applicant is required to submit a copy of the reclamation plan to the Racine County Planning Division for its review and approval, unless exempted thereunder.
 - (2) The reclamation plan provided by the applicant shall meet the requirements of Racine County. The applicant shall pay all fees required by Racine County directly to Racine County, and shall provide financial security to Racine County which names Racine County as the

beneficiary thereunder, which will enable Racine County to perform the planned restoration on the site in the event of default by the applicant.

- (3) No conditional use permit issued by the Village of Rochester shall be effective until the applicant's reclamation plan has been approved by Racine County.

b. Conditional Use Permit.

Application. Applications for permits shall be submitted in writing, in duplicate to the Village Plan Commission and shall set forth the following information:

- (1) Completed zoning and conditional use applications forms.
- (2) A written report and site plan outlining the following issues:
 - (a) Name and address of the applicant.
 - (b) Name and address of the owner of the site on which use is taking place.
 - (c) Description of site for use by lot, block, and recorded subdivision or by metes or bounds.
 - (d) Address of site.
 - (e) Statement of the nature of the proposed operation, and appropriate exhibits, including:
 - [1] List of equipment and machinery to be used to conduct operations.
 - [2] Type and amount of explosives to be used or stored, if any.
 - [3] Size, location, and use of the buildings to be constructed on the site.
 - [4] Smoke and dust control devices to be utilized, if any.
 - [5] Highways to be used for the truck traffic to and from the subject site.
 - [6] Deodorants or odor control devices.
 - [7] Proposed devices for muffling of noise.
 - [8] The employment of safety devices to protect the public from dangers inherent to the proposed use.
 - [9] Method of concealing unsightly deposits, if any.
 - [10] Employee and machinery/equipment parking areas.

[11] Any other pertinent data which the applicant deems material, or as requested by the Village.

- (f) Zoning of the site to be used. Existing land use and zoning abutting subject property.
- (g) Depth of existing and proposed excavations.
- (h) Commencement and completion dates of each type of operation proposed.
- (i) Hours and days of operation.
- (j) Number of employees.
- (k) Method and manner of draining surface water and accumulated water from the premises.
- (l) Method and manner of restoring the areas of the operation after the cessation of operation to a condition of practical usefulness and reasonable physical attractiveness.
- (m) Topographic mapping of the site showing existing and proposed contours, with a contour interval no greater than two feet. (12 copies)
- (n) Existing trees four inches or more in diameter, measured four feet from the existing elevation and proposed tree plantings; provided, however that, for heavily wooded areas, the perimeter of the heavily wooded area may be delineated and the types of trees and range of diameters may be provided.
- (o) Landscaping berms, fencing and gates.
- (p) Sign locations and sizes
- (q) Existing and proposed access roads.
- (r) Water supply facilities, including the source quantity and disposition of the water to be used.
- (s) Proposed sanitary facilities (obtain Racine County sanitary approval for on-site sanitary facilities).
- (t) Test results of area water wells, and proposed testing plans, where the proposed use includes excavation below the water table, along with sureties to insure performance of continued testing and resolution of issues identified, in a form determined by the Village Plan Commission upon the Village Plan Commission finding that such condition or conditions are proper for protection of health, safety and or welfare of the public.
- (u) Highway access restrictions, deed restrictions, and traffic control, along with repair plans for Village roads affected by the

operation. Where determined necessary by the Village Plan Commission, the applicant shall submit a financial surety for the projected road repair.

- (v) Letter of Agreement from the applicant agreeing to restore the subject site in accordance with the approved reclamation plan (see subsection **(5.07.c.(1))**).
- (w) The Village Plan Commission may also as a condition precedent to the issuance of the zoning permit and conditional use permit, require an agreement with the applicant and owner whereby they agree to restore the site to a condition of practical usefulness and reasonable physical attractiveness.

c. Fees.

- (1) An application for an original permit or a renewal of an existing permit shall be accompanied by a fee, in an amount set by the Village Board and set forth in the Village of Rochester Fee Schedule, to defray the cost of publication of notice of hearing, investigation of the site, public hearing, and permitting.
- (2) An application for a permit, where the operation plan of the property is not changed, shall be accompanied by a fee in an amount set by the Village Board and set forth in the Village of Rochester Fee Schedule.

d. Review and Hearing.

- (1) Upon receipt of an application submitted the Village Plan Commission shall inspect the site for which a permit is requested and shall review the proposed structures, neighboring land and water uses, driveway locations, highway access, traffic generation and circulation drainage, waste disposal, water supply system, effect of the proposed use and operation upon use of surrounding lands, natural beauty, soil erosion, water quality, wildlife habitat, and shoreland cover and method, manner and practicality of restoration of the area after cessation of use.
- (2) A public hearing shall be held by the Village Plan Commission at its regular meeting place and a notice of said meeting shall be sent by regular mail to the applicant and all persons owning property lying within 500 feet of the site designated in the application. In addition, the Village Clerk shall post a notice of such meeting and a Class 2 notice shall be published, the last insertion to be at least 10 days before the date of said public hearing. At such hearing, the Village Plan Commission shall hear all persons interested in granting or denying said permit and may, if it deems fit, take testimony relative to the applications.

Where the permit applied for relates to the continuation of an existing business that previously held a conditional use permit, the Village Board shall have the option to require a public hearing, but in the absence of such requirement, no public hearing shall be held and no public hearing notice or mailing shall be required. An application for the expansion of, or changes to, an existing business shall require a public hearing.

- (3) After the public hearing, the Village Plan Commission shall meet to consider the application and make a recommendation on said application to the Village Board. The Village Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site in making its recommendation to the Village Board.

e. Determination by Village Board.

Within 90 days after the public hearing the Village Board shall either grant or deny the conditional use permit. In making such determination the Village Board shall consider whether the proposed use will be detrimental to the health, safety and /or welfare of the public; such determination shall be made on the basis of the information contained in the application, the inspection and review of the Village Plan Commission, the recommendation of the Village Plan Commission and information presented at the public hearing. The Village Board may also inspect the site.

The Village Board shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.

f. Terms of Permit.

- (1) A conditional use permit issued pursuant to this Section shall be for a term of not to exceed two years and may be renewed upon application for successive periods of not more than two years. Modifications or additional conditions may be imposed upon application for renewal and the procedure for renewal shall be the same as that in application for the original permit. In any event, such permit shall terminate:
 - (a) Upon change of ownership of the site for which the permit is issued; or upon change of ownership of the firm, company, corporation or municipality operating the business holding the conditional use permit.
 - (b) In the event the use for which the permit was issued is discontinued for any period of more than one year during the term of the permit.
 - (c) In the event of the occurrence of (a) or (b), above, another permit shall be applied for and obtained by the proposed operator as a condition precedent to the continued operation of the business, the operation of a new business, or the resumption of the discontinued business.
 - (d) In the event of application for a permit to which ~~1)(a)~~ or ~~2)(b)~~ above applies, the Village Board may consider the same without the necessity of holding a public hearing.
- (2) Any permit issued pursuant to this subsection shall be deemed an

original permit and the permitted operator shall be bound by the terms thereof.

g. Suspension and Revocation.

- (1) The following acts shall constitute grounds for suspension or revocation of an M-4 conditional use permit:
 - (a) Failure to discharge or drain surface water or accumulated water from the permitted premises in such method and manner as will not hamper, hinder, infringe on, disturb or damage the lands, drains, and/or ditches of other persons, firms or corporations, or municipalities, whether owned or otherwise.
 - (b) The use specified in the permit is not carried on in accordance with the representations contained in the application or conditions required by the Village Board, or any change in the manner of operation specified in the conditional use permit approved by the Village Board.
 - (c) Failure during and/or after excavation to provide adequate lateral support to roadways or to the lands of abutting property owners.
 - (d) Failure to comply with conditions required in the conditional use permit issued by the Village Board.
- (2) A proceeding to suspend or revoke a permit shall be instituted pursuant to s. 35-100.1.3.

4. Special Conditional Use Provisions for Solid Waste Facilities, Scrap Iron, Steel or Nonferrous Metal Processing Facilities, Recycling Facilities, Auto Junkyards and Auto Scrap Metal Salvage Yards.

a. Solid waste facilities, scrap iron, steel or nonferrous metal processing facilities, recycling facilities, auto junkyards and auto scrap metal salvage yards, including their accessory uses, are conditional uses permitted in the M-3 District. No person or other entity shall operate one of these facilities within the Village without first obtaining conditional use permit approval from the Plan Commission and Village Board as hereinafter provided.

b. Application. Applications for permits shall be submitted in writing, in duplicate to the Village Plan Commission and shall set forth the following information:

(1) Completed Village zoning and conditional use application forms and copies of all plans of operation, license applications and other submissions to the State of Wisconsin.

(2) A written report and site plan outlining the following issues:

(a) Name and address of the applicant.

(b) Name and address of the owner of the site on which the use is taking place.

- (c) Description of site for use by lot, block, and recorded subdivision or by metes or bounds.
- (d) Address of site.
- (e) Statement of the nature of the proposed operation, and appropriate exhibits, including:
 - [1] List of equipment and machinery to be used to conduct operations.
 - [2] Type and amount of explosive materials to be used or stored, if any.
 - [3] Size, location, and use of the buildings to be constructed on the site.
 - [4] Smoke and dust control devices to be utilized, if any.
 - [5] Highways to be used for the truck traffic to and from the subject site.
 - [6] Deodorants or odor control devices.
 - [7] Proposed devices for muffling of noise.
 - [8] The employment of safety devices to protect the public from dangers inherent to the proposed use.
 - [9] Method of concealing unsightly deposits, if any.
 - [10] Employee and machinery/equipment parking areas.
 - [11] Method of using and/or removing and disposing methane and other gases generated by the site.
 - [12] Method of controlling vermin, flies and other vectors.
 - [13] Any other pertinent data which the applicant deems material, or as requested by the Village.
- (f) Zoning of the site to be used. Existing land use and zoning abutting subject property.
- (g) Depth of existing and proposed excavations.
- (h) Commencement and completion dates of each type of operation proposed.
- (i) Hours and days of operation.
- (j) Number of employees.

- (k) Method and manner of draining surface water and accumulated water from the premises.
- (l) Method and manner of restoring the areas of the operation after the cessation of operation to a condition of practical usefulness and reasonable physical attractiveness.
- (m) Topographic mapping of the site showing existing and proposed contours, with a contour interval no greater than two feet (12 copies).
- (n) Existing trees four inches or more in diameter, measured four feet from the existing elevation and proposed tree plantings; provided, however that, for heavily wooded areas, the perimeter of the heavily wooded area may be delineated and the types of trees and range of diameters may be provided.
- (o) Landscaping berms, fencing and gates.
- (p) Sign locations and sizes.
- (q) Existing and proposed access roads.
- (r) Water supply facilities, including the source quantity and disposition of the water to be used.
- (s) Proposed sanitary facilities (obtain Racine County sanitary approval for on-site sanitary facilities).
- (t) Test results of area water wells, and proposed testing plans, where the proposed use includes excavation below the water table, along with sureties to insure performance of continued testing and resolution of issues identified, in a form determined by the Village Plan Commission upon the Village Plan Commission finding that such condition or conditions are proper for protection of health, safety and or welfare of the public.
- (u) Highway access restrictions, deed restrictions, and traffic control, along with repair plans for Village roads affected by the operation. Where determined necessary by the Village Plan Commission, the applicant shall submit a financial surety for the projected road repair.
- (v) Letter of Agreement from the applicant agreeing to restore the subject site in accordance with the approved restoration or reclamation plan.
- (w) The Village Plan Commission may also, as a condition precedent to the issuance of the zoning permit and conditional use permit, require an agreement with the applicant and owner whereby they agree to restore the site to a condition of practical usefulness and reasonable physical attractiveness. A financial surety may be required by the Village if the use of the property does not require proof of financial responsibility under state law.

c. Fees.

- (1) An application for an original permit or a renewal of an existing permit shall be accompanied by a fee, in an amount set by the Village Board and set forth in the Fee Schedule, to defray the cost of publication of notice of hearing, investigation of the site, public hearing, and permitting.
- (2) An application for a permit, where the operation plan of the property is not changed, shall be accompanied by a fee in an amount set by the Village Board and set forth in the Fee Schedule.

d. Review and Hearing.

- (1) Upon receipt of an application submitted the Village Plan Commission shall inspect the site for which a permit is requested and shall review the proposed structures, neighboring land and water uses, driveway locations, highway access, traffic generation and circulation drainage, waste disposal, water supply system, effect of the proposed use and operation upon use of surrounding lands, natural beauty, soil erosion, water quality, wildlife habitat, and shoreland cover and method, manner and practicality of restoration of the area after cessation of use.
- (2) A public hearing shall be held by the Village Plan Commission at its regular meeting place and a notice of said meeting shall be sent by regular mail to the applicant and all persons owning property lying within 500 feet of the site designated in the application. In addition, the Village Clerk shall post a notice of such meeting and a Class 2 notice shall be published, the last insertion to be at least 10 days before the date of said public hearing. At such hearing, the Village Plan Commission shall hear all persons interested in granting or denying said permit and may, if it deems fit, take testimony relative to the applications.

Where the permit applied for relates to the continuation of an existing business that previously held a conditional use permit, the Village Board shall have the option to require a public hearing, but in the absence of such requirement, no public hearing shall be held and no public hearing notice or mailing shall be required. An application for the expansion of, or changes to, an existing business shall require a public hearing.

- (3) After the public hearing, the Village Plan Commission shall meet to consider the application and make a recommendation on said application to the Village Board. The Village Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site in making its recommendation to the Village Board.

e. Determination by Village Board.

- (1) Within 90 days after the public hearing the Village Board shall either grant or deny the conditional use permit. In making such determination the Village Board shall consider whether the proposed use will be

detrimental to the health, safety and /or welfare of the public; such determination shall be made on the basis of the information contained in the application, the inspection and review of the Village Plan Commission, the recommendation of the Village Plan Commission and information presented at the public hearing. The Village Board may also inspect the site.

(2) The Village Board shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.

(3) The Village Board may, as a condition to the issuance of the permit, demand an agreement with the applicant to ensure performance of any or all of the following restrictions:

(a) There shall be no burning or fire of any kind allowed on the premises for which the permit is issued. In the event a fire is started on the premises, whether or not through the fault of the permittee and the services of a fire department are used to extinguish said fire, the permittee shall pay any and all costs thereof to the fire departments or fire companies involved, upon demand.

(b) No raw garbage, dead animals, manure, animal or vegetable waste from any source whatsoever, oil, paint, solvents or other liquid chemicals, or any similar material shall be dumped on the premises for which the permit is issued.

(c) The proposed operation shall not be detrimental to the sources of water supply at the residences in the area.

(d) All wastes disposed of at the site shall be covered with at least six inches of compact earth after each day of operation.

(e) The working force of the operation shall be confined to as small an area as possible and surrounded with a snow fence or other appropriate facilities to confine possible windblown materials to the area. All wind-blown material resulting from the operation shall be properly picked up and the site and surrounding properties maintained.

(f) The entrance to the premises for which the permit is issued shall be fenced and shall contain a gate which shall be capable of being securely locked. The premises shall be kept locked at all times except when immediate supervision is provided to insure compliance with the provisions of the ordinance and agreement.

(g) The operation and access roads to the site shall be maintained in a manner to eliminate the possibility of causing a dust problem in the area.

- (h) The premises shall be restored to the satisfaction of the Village Board; said restoration to progress as the area is filled, and the Board may demand that a performance bond, written by a licensed surety company in an amount sufficient to secure the performance of the restoration agreement, be furnished to the Village.
- (i) The disposal shall be conducted in a sanitary manner by use of the sanitary landfill method in accordance with the requirements established by the State of Wisconsin, which are incorporated herein by reference.

f. Terms of Permit.

- (1) A conditional use permit issued pursuant to this Section shall be for a term of not to exceed two years and may be renewed upon application for successive periods of not more than two years. Modifications or additional conditions may be imposed upon application for renewal and the procedure for renewal shall be the same as that in application for the original permit. In any event, such permit shall terminate:
 - (a) Upon change of ownership of the site for which the permit is issued; or upon change of ownership of the firm, company, corporation or municipality operating the business holding the conditional use permit.
 - (b) In the event the use for which the permit was issued is discontinued for any period of more than one year during the term of the permit, or any permit or license issued by the state is suspended or revoked
 - (c) In the event of the occurrence of (a) or (b), above, another permit shall be applied for and obtained by the proposed operator as a condition precedent to the continued operation of the business, the operation of a new business, or the resumption of the discontinued business.
 - (d) In the event of application for a permit to which (a) or (b) above applies, the Village Board may consider the same without the necessity of holding a public hearing.
- (2) Any permit issued pursuant to this subsection shall be deemed an original permit and the permitted operator shall be bound by the terms thereof.

g. Suspension and Revocation.

- (1) The following acts shall constitute grounds for suspension or revocation of a conditional use permit under this subsection:
 - (a) Failure to discharge or drain surface water or accumulated water from the permitted premises in such method and manner as will not hamper, hinder, infringe on, disturb or damage the lands, drains, and/or ditches

of other persons, firms or corporations, or municipalities, whether owned or otherwise.

(b) The use specified in the permit is not carried on in accordance with the representations contained in the application or conditions required by the Village Board, or any change in the manner of operation specified in the conditional use permit approved by the Village Board.

(c) Failure during and/or after excavation to provide adequate lateral support to roadways or to the lands of abutting property owners.

(d) Failure to comply with conditions required in the conditional use permit issued by the Village Board.

(2) A proceeding to suspend or revoke a permit shall be instituted pursuant to s. 35-100.1.3.

G. Adult Oriented Entertainment Businesses.

1. Findings of Fact:

- a. The Village Board finds that adult establishments as defined in this chapter require special zoning in order to protect and preserve the health, safety, and welfare of the Village.
- b. Based on its review of the "Report to the American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses;" and based on its review of National Law Center Summaries of "SOB Land Use" Studies; and based on studies conducted in St. Croix County, Wisconsin; New Hanover County, North Carolina; Town and Village of Ellicottville, Cattaraugus County, New York; City of Garden Grove, California; and Newport News, Virginia; and based on the findings incorporated in Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986) and Young v. American Mini Theatres, 427 U.S. 50 (1976), the Board finds that there is convincing evidence that the secondary effects of adult establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing business and surrounding residential areas, and decreased property values.

2. Intent.

- a. The Board intends to control the impact of the secondary effects of sex oriented businesses in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; and preserve the property values and character of surrounding neighborhoods and areas.
- b. It is not the Board's intent to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the

secondary effects of adult establishments while providing an outlet for First Amendment protected activities.

- c. In order to minimize and control the secondary effects of adult establishments upon the Village, it is the Board's intent to prevent the concentration of adult establishments within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of adult establishments.
 - d. To accommodate the needs of residents and businesses while protecting health, safety and welfare, to minimize adverse visual effects of adult oriented entertainment businesses through careful design and siting standards and to minimize the detrimental effect sexually-oriented businesses have on adjacent land uses, the Village Board recognizes that it has a great interest in the present and future character of the Village's residential and commercial neighborhoods and adopts the land use regulations set forth herein.
3. Purpose. The purpose of this Section is to control through zoning regulations certain adult oriented entertainment uses that have a direct and detrimental effect on the character of the Village's residential neighborhoods and commercial areas. These regulations are enacted because there is convincing documented evidence, set forth in subsection 1, that:
- a. The location, siting, design, construction and use of adult oriented entertainment businesses can have adverse impacts on the surrounding area, whether residential or commercial; and
 - b. Adult oriented entertainment businesses can exert a dehumanizing influence on persons attending places of worship, children attending licensed daycare homes, persons using public parks, and children and other persons attending public schools; and
 - c. Adult oriented entertainment businesses can contribute to an increase in criminal activity in the area where such businesses are located, taxing local law enforcement services; and
 - d. Adult oriented entertainment businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the value of the residential housing in the area in which such businesses are located; and
 - e. The concentration of adult oriented entertainment businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating as other businesses and residences move out of the vicinity. Declining real estate values, which can result from the concentration of such business, erode the Village's tax base; and
 - f. The Village is authorized to enact zoning regulations to promote the public health, safety and general welfare of the citizens of the Village of Rochester as provided under Wis. Stat. s. 62.23.
4. Section Not a Limitation on Constitutionally Protected Speech. This section shall not

impose a limitation on the content of any communication materials, including sexually oriented materials as protected by the First Amendment. This section is enacted to address the secondary effects of adult oriented entertainment businesses. It shall not be applicable to theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music, and dramatic performances of serious artistic merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances.

5. Definitions.

“Adult Oriented Entertainment Business” means an adult use only bookstore, adult indoor or outdoor theater, adult massage parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sport club, adult steam room/bathhouse facility, adult video store, adult motel, adult novelty shop, adult modeling studio, adult body painting studio or any other business whose primary business activity is characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse as defined herein.

“Nudity” means the showing of the human male or female genitals or pubic area with less than a fully opaque covering or the depiction of covered male genitals in a discernibly turgid state and/or the appearance of bare buttocks, anus, or female breast.

“Sexual Conduct” means acts of masturbation, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks, or, if such person be a female, her breast.

“Sexual Excitement” means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

6. Applicability. The provisions of this Section of the Planning and Zoning Chapter shall apply to all existing and future adult-entertainment oriented businesses. However, any such existing business that does not meet the zoning district restrictions or the distance limitations, may continue its existence as a non-conforming use; provided, however, that no such business may be enlarged or increased in size. If such business is discontinued for a period of 180 days or more it shall lose its status as a legal non-conforming use.

7. General Requirements.

a. Zoning District. An adult oriented entertainment business as defined in this Section may be operated or maintained only within the M-1 Limited Industrial District provided that it is located on a minor or major arterial road and subject to the distance limitations noted below. It shall be a prohibited use in any other zoning district.

b. Distance Limitations. No adult oriented entertainment business as defined in this Section shall:

(1) be operated or maintained within 1,000 feet of the boundary of any Residentially Zoned (R) District; or

(2) be operated or maintained within 1,000 feet of a church, park, recreational site, licensed daycare facility, public library, public or private

educational facility which serves persons age seventeen or younger, elementary school, high school, place of worship, or elderly housing facility; or

- (3) be operated or maintained so that there are more than two such businesses within 2,500 feet as measured by the radius from each business; or
- (4) be operated or maintained within 1,000 feet of the State Trunk Highway 36 corridor.

c. Distance limitations set forth herein shall be measured in a straight line from the main public entrances of said premises or from the lot lines of properties in Residentially Zoned (R) Districts.

8. Same Use Restrictions. No adult oriented business shall be located in the same building or upon the same property as another such use.

9. Sign Limitations. Notwithstanding any other provision of this code, an adult oriented entertainment business shall not be permitted more than one sign advertising its business within the Village, which shall be an on-premises or building sign only. The size of the sign shall be not larger than four feet by four feet. Temporary signs shall not be permitted in connection with any adult establishment. All such signs shall meet the following criteria:

- a. A sign shall have no merchandise or pictures of the products or entertainment on the premises displayed in window areas or any area where it can be viewed from the sidewalk in front of the building.
- b. No sign shall be placed in any window. A one square foot sign may be placed on the door to state hours of operation and admittance to adults only.
- c. No sign shall contain any flashing lights, moving elements, or mechanically changing messages.
- d. No sign shall contain any depiction of the human form or any part thereof nor shall it contain sexually explicit language such as "nude dancing" or "Girls, Girls, Girls," etc.
- e. No sexually-oriented business may have any off-premise sign within the Village.
- f. In order to allow currently operating adult oriented entertainment businesses to recover their financial investment in current signage, any currently operating adult oriented entertainment business shall bring its signage into conformity with the provisions of this paragraph within one year from the date of passage of this Chapter.

10. Operating Standards. All such adult oriented entertainment businesses shall operate in accordance with the following:

- a. Hours of operation: No adult establishment shall be open for business at any time between the hours of 2:00 a.m. and 12:00 noon.
- b. Animals: No animals, except only for service animals required to assist the disabled, shall be permitted at any time at or in any adult establishment or

permitted premises.

- c. Restricted access. No adult establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of adult establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the permitted premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.
- d. Exterior display. No adult establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," from any sidewalk, public or private right-of-way, or any property other than the lot on which the permitted premises is located. No portion of the exterior of an adult establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed by this chapter with regard to signs. This subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.
- e. Noise. No loudspeakers or sound equipment audible beyond the adult establishment shall be used at any time.
- f. Manager's stations. Each adult establishment shall have one or more manager's stations. The interior of each adult establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of each area, except restrooms, of the establishment to which any adult establishment patron is permitted access for any purpose. The cashier's or manager's station shall be located so that someone working there can quickly move to physically halt any attempted or accidental entry by a minor. An employee shall occupy the station at all times when patrons are in and on the premises.
- g. Adult booths prohibited. Adult booths shall be prohibited in all adult establishments.
- h. No loitering policy. The adult establishment shall clearly post and enforce a no loitering policy.
- i. Age limit restrictions. The adult establishment shall clearly post and enforce age-limit restrictions. A one-square-foot sign shall be placed on each public entrance which shall state "Admittance to adults only" and may include other pertinent business information. No person under the age 18 shall be employed or upon premises for any reason.
- j. Measuring disbursement distances: The distances in this section shall be measured by following a straight line, without regard to intervening structures, from the public entrance (existing or proposed) of an adult establishment to the nearest point of the protected use as described below.

- k. Adequate parking. One parking space per 150 square feet of total gross floor area shall be provided in a lighted area on the permitted premises of an adult establishment.
 - l. Spacing requirement. No more than one adult establishment may be located on any one parcel and the location of any one adult establishment shall be at least 2,500 feet from the establishment of any other adult establishment. This distance shall be measured from the public entrance of one adult establishment to the public entrance of the other adult establishment.
 - m. Display windows prohibited: All points of access into structures containing adult establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior.
 - n. Location requirement: In the case of an area zoned residential, the distance shall be measured from the nearest point on the residential district zoning boundary line. From an area not zoned residential but used for residential purposes, the measurement shall be taken from the public entrance of the adult establishment to the nearest entrance of the building in residential use. From schools, houses of worship, day care centers, libraries, and museums, the distance shall be measured from the public entrance of the adult establishment to the main public entrance of the protected use. From playgrounds, public parks, recreation areas, and schools, houses of worship and day care centers with playgrounds or recreation areas, the distance shall be measured from the public entrance of the adult establishment to the nearest property line of the playground, public park, or recreation area. Along State Trunk Highway 36, this distance is measured from the outside highway right-of-way line, including frontage road(s).
 - o. Residential quarters not allowed. No residential quarters shall be allowed on a premises with an adult establishment.
 - p. No employee shall solicit business outside the building in which the business is located.
 - q. No male or female person, while on the premises, shall expose to public view his or her genitals, pubic area, anus, or anal cleft. Full nudity is prohibited.
 - r. No person on the premises shall engage in sexual conduct, sadomasochistic abuse or in any way fondle their genitals.
 - s. Nudity is prohibited for any employee of an adult oriented business where such person is in direct, personal contact with another person.
11. Building's Exterior Appearance. The building's exterior shall meet the following criteria:
- a. colors are to be earth or neutral tones with primary accent colors to be within the same color family.
 - b. stripes and geometric patterns are prohibited.
 - c. a color scheme which is directly inherent to a unique recognized architectural style but not otherwise compliant with this section may be reviewed and approved by the Village Board.

- d. the exterior shall be adequately maintained in good condition.
12. Permit. A conditional use permit for an adult establishment shall require the following:
- a. The details of the ownership of the entity applying, as follows:
 - (1) Individuals.
 - (a) Applicant's legal name, all of the applicant's aliases, and the applicant's age
 - (b) Applicant's business address
 - (2) Corporations.
 - (a) Applicant corporation's complete name and official business address
 - (b) Legal names, all aliases, the ages, and business addresses of all directors, officers, and managers of the corporation and of every person owning or controlling more than 25 percent of the voting shares of the corporation
 - (c) Applicant corporation's date and place of incorporation and the objective for which it was formed
 - (d) Proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Wisconsin
 - (e) Name of the registered corporate agent and the address of the registered office for service of process
 - (3) Partnerships (general or limited), joint ventures, or any other type of organization where two or more persons share in the profits and liabilities of the organization
 - (a) Applicant organization's complete name and official business address
 - (b) Legal name, all aliases, the ages, and business addresses of each partner (other than limited partners) or any other person entitled to share in profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization
 - (4) Land trusts.
 - (a) Applicant land trust's complete name
 - (b) Legal, name, all aliases, and the business address of the trustee of the land trust
 - (c) Legal name, all aliases, the ages, and business addresses of each beneficiary of the land trust and the specific interest of each

beneficiary in the land trust

- (d) The interest, if any, that the land trust holds in the premises
- (5) If a corporation or partnership is an interest holder in an entity, that interest shall be disclosed and such entity shall disclose the information required in this section with respect to its interest holders.
- b. The general character and nature of the applicant's business, and the length of time that the applicant has been in the business of that character.
- c. The location (including street address and legal description) and telephone number of the premises for which the conditional use permit is sought.
- d. The specific name of the business that is to be operated under the adult establishment conditional use permit.
- e. The identity of each owner of the permitted premises, and the type of ownership (fee simple, land contract holder, etc.)
- f. A diagram showing the internal and external configuration of the premises, including all doors, windows, entrances, exits, the fixed structural internal features of the premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, provided, however, that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six inches and sufficient to show clearly the various interior dimensions of all areas of the premises and to demonstrate compliance with the provisions of this chapter. The approval or use of the diagram required pursuant to this subsection shall not be deemed to be, and may not be interpreted or construed to constitute, any other Village approval otherwise required pursuant to applicable Village ordinances and regulations.
- g. The specific types(s) of adult establishment(s) that the applicant proposes to operate on the permitted premises.
- h. A copy of each adult establishment's permit, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to subsection a. above.
- i. The name of the individual(s) who shall be the day-to-day, on-site manager(s) of the proposed adult establishment.
- j. The fees set forth in the Village fee schedule.
- k. Any other information the Zoning Administrator may reasonably require to apply the requirements of this chapter.
- l. The Zoning Administrator may require a survey from a surveyor licensed by the State of Wisconsin to determine the spacing requirements adopted in this Section.
- m. A site plan, landscaping plan, zoning permit application, and letter of agent status, if necessary, as required by site plan review application requirements

adopted by the Village.

- n. Incomplete applications returned. Any application for a conditional use permit for an adult establishment that does not include all of the information and documents required pursuant to this Chapter, as well as the required fees, shall be deemed to be incomplete and shall not be acted on by the Zoning Administrator, who shall give the applicant a written notification and explanation of such action pursuant to this section.

13. Applicant cooperation required. An applicant for a Conditional Use Permit for an adult establishment shall cooperate fully in the inspections and investigations conducted by the Village. The applicant's failure or refusal to:

- a. Give any information reasonably relevant to the investigation of the application;
- b. Allow the permitted premises to be inspected;
- c. Appear at any reasonable time and place, or
- d. Otherwise cooperate with the investigation and inspection required by this chapter

shall constitute an admission by the applicant that the applicant is ineligible for a conditional use permit for an adult establishment and shall be grounds for denial of the permit by the Zoning Administrator.

14. Time for issuance or denial of permit. The Zoning Administrator shall, within 90 days after submittal of a completed application, or within such other period of time as the Village and the applicant shall otherwise agree, either issue or deny an adult establishment conditional use permit pursuant to the provisions of this chapter.

15. Standards for issuance or denial of permit.

- a. Issuance. The Zoning Administrator shall issue an adult establishment permit to an applicant if the Zoning Administrator finds and determines all of the following:
 - (1) All information and documents required by this Chapter for issuance of an adult establishment permit have been properly provided.
 - (2) No person identified in the application may:
 - (a) Have been denied an adult establishment permit within 12 months immediately preceding the date of the application;
 - (b) Be a person whose adult establishment permit has been revoked within 12 months immediately preceding the date of the application; or
 - (c) Be a person whose adult establishment permit is under suspension at the time of application.
 - (3) The adult establishment and the permitted premises comply with all requirements under this Chapter and the applicant has obtained a license required for the adult establishment by the village, if any.

- (4) The applicant has signed the permit he or she has received indicating his or her acceptance of the conditions of the permit.
 - b. Denial: If the Zoning Administrator determines that the applicant has not met any one or more of the conditions set forth in this section, then the Zoning Administrator shall deny issuance of the adult establishment permit and shall give the applicant a written notification and explanation of such denial.
 - c. License deemed to be issued: If the Zoning Administrator does not issue or deny the adult establishment permit within 90 days after the properly completed application is submitted, then the adult establishment permit applied for shall be deemed to have been issued.
 - 16. Enforcement.
 - a. A violation of any conditions or an adult establishment permit is a violation of this Chapter.
 - b. Notwithstanding any other remedy, a violation of any conditions or an adult establishment permit shall be grounds for revocation of the adult establishment permit.
 - 17. Continued conforming status. An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant of the adult establishment permit, if a protected use is located within 1,000 feet of the adult establishment.
 - 18. If any section, subsection, sentence, clause, or phrase of this section is for any reason held to be invalid or unconditional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof.
- H. Amendment of Conditional Use Permits.
- 1. When permissible: application. At such time as the holder of a conditional use permit wishes to change the terms of its permit in a manner which does not change the nature of the use but that could increase or expand the operation of the use by 25% or less, the holder of the permit shall apply to the Plan Commission for an amendment to its permit, and shall state in its application the precise changes it wishes to make and the expected effect of the changes upon the site, neighboring uses, parking, traffic generation and circulation, and the drainage, sewerage and water systems. The applicant shall also list the names of the property owner and all abutting property owners. Changes to a permit which are expected to change the nature of a use, change the location of the use to a site which is not in the same structure as the existing use, or create greater than a twenty-five-percent increase in the operation of a use may not be made; in that event, application must be made for a new conditional use permit. When a holder of a conditional use permit sells or transfers the underlying business or other use, this section shall apply. When a use is vacant for 12 months or longer, a new conditional use permit shall be required.
 - 2. Procedure. No fee shall be required to apply for an amendment to a conditional use permit. Upon application for an amendment to a conditional use permit, the Clerk shall schedule such application for review by the Plan Commission at an open meeting, and

shall mail notice thereof to the property owner and all abutting property owners along with a copy of the application not less than 14 days prior to the date of the scheduled review. No public hearing shall be required, but the Plan Commission shall accept comments from any person attending the open meeting.

3. Review and approval. The Village Plan Commission shall conduct a review of the application as set forth in s. 35-100C. In the event that the Plan Commission approves the amendment, no action by the Village Board shall be required. If the Plan Commission denies the amendment, the applicant may appeal its decision to the Village Board.

I. Penalties.

1. In every instance where work commences upon a project subject to this Section prior to the conditional use permit being applied for and granted, there shall be a double fee imposed for the permit, and the applicant shall remain required to meet full compliance with this chapter.
2. It shall be unlawful to use or improve any structure or land in violation of any of the provisions of the section. In addition to penalties imposed under Chapter 50 of this Code, the Village may institute appropriate action to enjoin a violation of this section, or to cause any structure so constructed or altered to be vacated or removed.
3. It shall be unlawful to use or improve any structure or land in violation of any of the terms of a conditional use permit. In addition to or as an alternative to the penalties imposed under s. 35-500 and Chapter 50, the Village may:
 - a. Send notice to the permit holder of the violation, and require that the violation be corrected within five days, or more if allowed by the Zoning Administrator or Village Attorney, after written notice is given.
 - b. If the violation is not corrected, or a second violation is incurred within a twelve-month period of the first violation, the Village may act to suspend or revoke the conditional use permit, as follows:
 - (1) Complaint. The Zoning Administrator or any resident may file a sworn written complaint with the Village Clerk alleging one or more violations.
 - (2) Summons. Upon the filing of the complaint, the Plan Commission shall issue a summons, signed by the Clerk and directed to any peace officer in the municipality. The summons shall command the permit holder complained of to appear before the Plan Commission on a day and place named in the summons, not less than three days and not more than 30 days from the date of issuance, and show cause why his or her conditional use permit should not be revoked or suspended. The summons and a copy of the complaint shall be served on the permit holder at least three days before the time at which the licensee is commanded to appear. Service shall be in the manner provided under Wis. Stat. ch. 801 for service in civil actions in Circuit Court.
 - (3) Procedure on hearing.
 - (a) If the permit holder does not appear as required by the summons, the allegations of the complaint shall be taken as true, and if the Plan Commission finds the allegations sufficient, the

conditional use permit shall report its findings to the Village Board. If the Village Board concurs, the Conditional Use Permit shall be revoked. The Village Clerk shall give notice of the revocation to the person whose permit is revoked.

- (b) If the permit holder appears as required by the summons and denies the complaint, both the complainant and the permit holder may produce witnesses, cross-examine witnesses and be represented by counsel. The permit holder shall be provided a written transcript of the hearing at his or her expense.
 - (c) If the Plan Commission finds the complaint to be true, the Plan Commission shall determine whether the conditional use permit shall either be suspended for not less than 10 days nor more than 90 days or revoked and shall report the same to the Village Board.
 - (d) If the Plan Commission finds the complaint untrue, it shall recommend that the proceeding be dismissed without cost to the accused. If the Plan Commission finds the complaint to be malicious and without probable cause, it shall recommend that the costs be paid by the complainant. The Plan Commission may require the complainant to provide security for such costs before issuing the summons.
- (4) The Plan Commission shall submit a report to the Village Board, including findings of fact, conclusions of law and a recommendation as to what action, if any, the Village Board should take with respect to the conditional use permit. The Commission shall provide the complainant and the permit holder with a copy of the report. Either the complainant or the permit holder may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the Village Board. The Village Board shall determine whether the arguments shall be presented orally or in writing or both.
- (5) If the Village Board, after considering the Plan Commission's report and any arguments presented by the complainant or the permit holder, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the conditional use permit shall be suspended or revoked as recommended by the Plan Commission.
- (6) If the Village Board finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the Village Board finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant.
- (7) The Village Clerk shall give notice of each suspension or revocation to the person whose permit is suspended or revoked.
- (8) Effect of revocation. When a conditional use permit is revoked under this subsection, the revocation shall be recorded by the Village Clerk and no other conditional use permit issued under this chapter may be granted within 12 months of the date of revocation to the person whose permit was revoked. In the event, however that a new application reveals a

material difference in any of the items specified hereof, the Village Board may, upon a finding that the new application does include such material difference, proceed to hear and determine such application within said year.

- (9) Judicial review. The action of the Village Board in suspending or revoking any permit, or the failure to revoke or suspend any permit for good cause, may be reviewed by the circuit court for Racine County, upon application by any permit holder or resident of the Village. The procedure on review shall be the same as in civil actions instituted in the Circuit Court. The person desiring review shall file pleadings, which shall be served on the Village Board in the manner provided in Wis. Stat. ch. 801 for service in civil actions, and a copy of the pleadings shall be served on the permit holder. The Village Board or permit holder shall have the time allowed by statute to file an answer to the complaint. Following filing of the answer, the matter shall be deemed at issue and hearing may be had upon due notice served upon the opposing party. The hearing shall be before the court without a jury. Subpoenas for witnesses may be issued and their attendance compelled. The decision of the court shall be filed pursuant to Racine County Circuit Court Rules and a copy of the decision shall be transmitted to each of the parties. The decision shall be binding unless it is appealed to the Court of Appeals.

35-101 to 35-129

[Reserved for Future Use]

35-130 SOLAR ENERGY SYSTEMS

- A. Intent. It is intended that conditional use permits shall be issued under this Section to promote the effective and efficient use of solar energy and to review proposed solar energy systems and regulate solar energy systems so that the public health and safety will not be jeopardized.
- B. Authority; Adoption of State Law. This Section is enacted pursuant to the authority granted in Wis. Stat. s. 66.0401, as amended from time to time, which is adopted herein. This section is not intended to be more restrictive than said authority, and in the event of a conflict, the statutory provisions supersede the provisions of this Section. In the event of a conflict between this Section and other provisions of this Chapter, the provisions of the statutes and this Section supersede the balance of the Chapter.
- C. Regulation and Applicability.
 - 1. Regulation. Except as provided in subsection 2., an owner must apply for and receive a conditional use permit prior to the construction of a solar energy system or the expansion of an existing or previously approved solar energy system.
 - 2. Applicability. This Section applies to solar energy systems for which a permit is applied for on or after the date of the enactment of this Section, except:
 - a. Subject to subsection c., free standing passive solar energy systems that meet all of the site regulations, inclusive of setback and height requirements, for primary or accessory structures (as applicable) in the zoning districts in which they are located.
 - b. Subject to subsection c., roof or wall mount solar energy systems located on buildings that meet all of the site regulations, inclusive of setback and height requirements, for the zoning districts in which they are located.
 - c. Subsections a. and b. do not apply to free standing passive solar energy systems located in the front or side yards of Historic Structures or structures located in the Historic Preservation Overlay District, or solar energy systems installed on the front elevation of Historic Structures or structures located in the Historic Preservation Overlay District. Such systems shall be submitted to the Historic Preservation Committee for review, comment and recommendation to the Plan Commission, and shall require conditional use permits. Notwithstanding the provisions of Chapter 38, Historic Preservation, a Certificate of Appropriateness is not required for solar energy systems.

D. Definitions. In this Section:

“Active solar energy system” means a solar energy system which operates with mechanical means, including but not limited to motors, pumps and valves.

“Passive solar energy system” means a solar energy system which operates without mechanical means.

“Photovoltaic solar energy system” means a solar energy system which converts solar energy directly into electricity.

“Solar energy” means radiant energy received from the sun.

“Solar energy system” means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.

“Solar farm” means a collection of photovoltaic solar energy panels that together have a total capacity to generate more than 300 kilowatts of electricity.

E. Siting Criteria.

1. Type of Use. A solar energy system may be a primary use or an accessory use. The siting provisions set forth in this Section apply to the system regardless of the type of use and supersede the setback distances and height provisions of the underlying zoning district.
2. Location. A solar energy system may be located in any zoning district where it is not otherwise barred by federal or state law or an ordinance adopted in conformance with that law.
3. Setback Distance and Height Requirements. Solar energy systems regulated under this Section shall meet the setback and height provisions determined by the Plan Commission on a case by case basis.

F. Application and Notice Procedures.

1. It is recommended, but not required, that the applicant meet with the Zoning Administrator and Building Inspector prior to submitting an application for a solar energy system to discuss filing requirements, application formats, timelines, permits from outside agencies, the handling of confidential information, and fees.
2. Application Required. An owner shall file an application to construct a solar energy system regulated under this Section in conformance with this section. The owner shall ensure that the information contained in the application is accurate, and shall file the number of paper and electronic copies required by the Village for review and for availability to the public. The application shall include all of the following:
 - a. Solar energy system description and maps showing the locations of all proposed solar energy facilities.
 - b. Manufacturer’s brochures and all plans and specifications of the solar energy system.
 - c. Timeline and process for constructing the solar energy system.
 - d. Information regarding anticipated impact of the solar energy system on local infrastructure.
 - e. Information regarding noise anticipated to be attributable to the solar energy system.
 - f. Information regarding the extent to which shadows would be created on adjacent and neighboring properties or sunlight would be blocked by the proposed solar energy system.
 - g. Information regarding the extent of glare on adjacent and neighboring properties.

- h. Information regarding the anticipated effects of the solar energy system on airports and airspace.
 - i. A list of all state and federal permits required to construct and operate the solar energy system.
 - j. For solar farms, information regarding the planned use and modification of roads within the Village during the construction, operation, and decommissioning of the solar energy system, including a process for assessing road damage caused by solar energy system activities and for conducting road repairs at the owner's expense.
 - k. For solar farms, a decommissioning and site restoration plan providing reasonable assurances that the owner will be financially able to remove the solar energy system and restore the site.
 - l. Potential shared revenue and community benefits set forth in Wis. Stat. ch. 79.
 - m. Any other information necessary to understand the construction, operation or decommissioning of the proposed solar energy system.
3. Notice and Hearing. The provisions for notice and hearing set forth under s. 35-100, Conditional Use, shall apply.

G. Application Completeness and Time Limits.

- 1. An application is complete if it meets the filing requirements under this Section.
- 2. The Village shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed. An application is considered filed the day the owner notifies the Village in writing that all the application materials have been filed. If the Village determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
- 3. An owner may file a supplement to an application that the Village has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under subsection 2.
- 4. An additional 45-day completeness review period shall begin the day after the Village receives responses to all items identified in the notice under subsection 2.
- 5. If the Village does not make a completeness determination within the applicable review period, the application is considered to be complete.
- 6. Requests for additional information. The Village may request additional information necessary to understand the solar energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.

H. Village Review and Approval of a Solar Energy System.

1. Standard for Approval. The Village shall review each proposed system on a case by case basis, and may not unreasonably deny an application for a solar energy system or impose unreasonable conditions, provided, however, that the Village may impose the following conditions and restrictions on approval of solar energy systems, inclusive of systems located on Historic Structures and in the Historic Preservation Overlay District:
 - a. The Village may impose a restriction that serves to preserve or protect the public health and safety.
 - b. The Village may impose a restriction that does not significantly increase the cost of a system or significantly decrease its efficiency.
 - c. The Village may impose a restriction that allows for an alternative system of comparable cost and efficiency.
2. Written Decision.
 - a. The Village shall issue a written decision to grant or deny an application for a solar energy system. The written decision shall include findings of fact supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. Approval is subject to the conditions set forth in this Section.
 - b. The Village shall provide its written decision to the owner. If the Village approves an application for a solar energy system, the Village shall provide the owner with a duplicate original of the decision. The owner shall record the duplicate original of a decision approving an application with the register of deeds for Racine County
3. Effect of ownership change on approval. Approval by the Village of a solar energy system remains in effect if there is a change in the owner of the solar energy system. An owner shall provide timely notice of any change in the owner of the solar energy system to the Village.
4. Fees.
 - a. The owner shall pay the fee adopted by the Village Board and set forth in the Fee Schedule. The fee shall consist of a reasonable application fee and a requirement that the owner reimburse the Village for reasonable expenses relating to the review and processing of the application for a solar energy system. The fee and reimbursement requirement shall be based on the actual and necessary cost of the review of the solar energy system application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts. The Village may by ordinance set standardized application fees based on the size and complexity of a proposed solar energy system.
 - b. The Village may require the owner of a solar energy system to submit up to 50 percent of the total estimated amount of the estimated reimbursement for the solar energy system application review under subsection a. before issuing a written decision under subsection 2 if the Village gives written notice to the owner of its intent to do so within ten days of the date the application is deemed

complete and the notice contains an estimate of the amount of the fee and the relevant reimbursement requirements.

- c. The Village may not charge an owner an annual fee or other recurring fees to operate or maintain a solar energy system.

I. Record of Decision.

1. Recordkeeping.

- a. The Village shall keep a complete written record of its decision-making relating to an application for a solar energy system.
- b. If the Village denies an application, the Village shall keep the record for at least 7 years following the year in which it issues the decision.
- c. If the Village approves an application, the Village shall keep the record for at least 7 years after the year in which the solar energy system is decommissioned.

2. Record Contents. The record of a decision shall include:

- a. The approved application and all additions or amendments to the application.
- b. A copy of any notice or correspondence that the Village issues related to the application.
- c. A record of any public meeting and any hearing related to the application. The record may be an electronic recording, a transcript prepared from an electronic recording, or a transcript prepared by a court reporter or stenographer. The record shall include any documents or evidence submitted by meeting or hearing participants.
- d. Copies of any correspondence or evidentiary material that the Village considered in relation to the application, including copies of all written public comments filed with the Village.
- e. Minutes of any Village Board, Plan Commission or other committee meetings held to consider or act on the application.
- f. A copy of the written decision.
- g. Other materials that the Village prepared to document its decision-making process.
- h. A copy of any Village ordinance cited in or applicable to the decision.

3. Post-construction Filing Requirement. Within 90 days of the date a solar farm commences operation, the owner shall file with the Village an as-built description of the solar farm, an accurate map of the solar farm showing the location of all solar energy system facilities, geographic information system information showing the location of all solar energy system facilities and current information identifying the owner of the solar farm.

J. Modifications to an Approved Solar Energy System.

1. Material Change.
 - a. An owner may not make a material change in the approved design, location or construction of a solar energy system without the prior written approval of the Village.
 - b. An owner shall submit an application for a material change to an approved solar energy system to the Village.
2. Review Limited.
 - a. When the Village receives an application for a material change to a solar energy system under subsection 1.b., it may not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.
 - b. An application for a material change shall contain information necessary to understand the material change.
 - c. The Village may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved solar energy system.

K. Monitoring Compliance of Solar Farms.

1. Monitoring Procedure. The Village may establish a procedure to monitor compliance by the owner with any condition on an approved solar farm or to assess when solar farm facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public.
2. Third-party Inspector during Construction. The Village may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Village regarding the owner's compliance with permit requirements during construction of a solar farm. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

L. Complaint Process.

1. Making a Complaint.
 - a. An aggrieved person may make a complaint regarding failure by an owner to comply with an obligation under this Section.
 - b. A complaint under subsection a. shall be made first to the owner of the solar energy system pursuant to a complaint resolution process developed by the owner.
 - c. A complainant may petition the Village for review of a complaint that is not resolved within 45 days of the day the owner receives the original complaint.
2. Complaint Resolution.

- a. An owner shall use reasonable efforts to resolve complaints regarding a solar energy system and shall investigate complaints regarding a solar energy system at the owner's expense.
 - b. For Solar Farms:
 - (1) Within 30 days of receiving a complaint, an owner shall provide an initial response to the complainant.
 - (2) An owner shall make a good faith effort to resolve complaints within 45 days of receiving a complaint. An owner shall notify the Village of complaints that have not been resolved within 45 days of the date the owner received the original complaint.
 - (3) An owner shall maintain a log of all complaints received regarding the solar farm. The owner shall include in the log the name and address of each complainant, the nature of each complaint, and the steps taken to resolve each complaint. An owner shall make any complaint log available to the Village upon request.
 - (4) An owner shall develop a complaint resolution process that is consistent with this subsection.
3. Monitoring Committee for Solar Farms.
- a. Committee. Except as provided in subsection c., the Village may establish a monitoring committee to oversee resolution of complaints regarding a solar farm.
 - b. Duties. A monitoring committee established under subsection a. may do any of the following:
 - (1) Maintain a record of all complaints brought to it.
 - (2) Require the owner to provide the committee with information regarding the owner's response to any complaint forwarded to the owner by the committee.
 - (3) Recommend to the Village a reasonable resolution to a complaint based upon the information gathered by the committee.

35-140 WIND ENERGY SYSTEMS

- A. Intent. It is intended that conditional use permits shall be issued under this Section to promote the effective and efficient use of wind energy and to review proposed wind energy systems and regulate wind energy systems so that the public health and safety will not be jeopardized.
- B. Authority; Adoption of State Laws. This Section is enacted pursuant to the authority granted in Wis. Stat. s. 66.0401 and Wis. Admin. Code ch. PSC 128, as amended from time to time, which are adopted herein. Pursuant to Wis. Admin. Code s. 128.03, this section is not intended to be more restrictive than said authority, and in the event of a conflict, the statutory and administrative code provisions supersede the provisions of this Section. In the event of a conflict between this Section and other provisions of this Chapter, the provisions of the statutes, the administrative code, and this Section supersede the balance of the Chapter.
- C. Regulation and Applicability.
1. Regulation. Except as provided in subsection 2., an owner must apply for and receive a conditional use permit prior to the construction of a wind energy system or the expansion of an existing or previously approved wind energy system.
 2. Applicability.
 - a. This Section applies to wind energy systems for which construction began on or after March 1, 2011; systems placed in operation on or after March 1, 2011; systems approved by the Village on or after March 1, 2011, or systems for which an application was filed with the Village on or after March 1, 2011.
 - b. Pursuant to Wis. Stat. s. 196.491(3)(d), the Wisconsin Public Service Commission reviews and has final authority over all applications for wind energy systems classified as large electric generating facilities designed for nominal operation at a capacity of 100 megawatts or more. Such applications are not, by statute, subject to direct Village review and approval. The Village may determine to submit public comments, intervene in the proceeding, or take any other action allowed by law upon notification by the PSC that such an application has been received.
 - c. Pursuant to Wis. Admin. Code s. 128.02(4), the PSC may apply individual consideration to exceptional or unusual situations for individual wind energy systems and may alter the requirements herein.
- D. Definitions. In this Section:

"Commercial Communications" includes communications used by government and military entities for emergency purposes, licensed amateur radio service, and non-emergency communications used by agricultural, business, government, and military entities including aviation radar, commercial mobile radio service, fixed wireless service, global positioning, line-of-sight, microwave, personal communications service, weather radar, and wireless internet service.

"Commission" or "PSC" means the Public Service Commission.

"Decommissioning" means removal of all of the above ground portion of a wind energy system, including wind turbines and related facilities, except for access roads if removal has been waived by the property owner; and all below ground facilities, except underground collector circuit facilities and those portions of concrete structures 4 feet or more below grade.

"DNR" means the Wisconsin Department of Natural Resources.

"Maximum Blade Tip Height" means the nominal hub height plus the nominal blade length of a wind turbine, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specifications, "maximum blade tip height" means the actual hub height plus the blade length.

"Nameplate Capacity" means the nominal generating capacity of a wind energy system, as listed in the wind turbine specifications provided by the wind turbine manufacturer.

"Nonparticipating Property" means real property that is not a participating property.

"Nonparticipating Residence" means a residence located on nonparticipating property.

"Occupied Community Building" means a school, church or similar place of worship, daycare facility or public library.

"Owner" means a person with a direct ownership interest in a wind energy system, regardless of whether the person was involved in acquiring the necessary rights, permits and approvals or otherwise planning for the construction and operation of a wind energy system; and/or, at the time a wind energy system is being developed, a person who is acting as a wind energy system developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a wind energy system, regardless of whether the person will own or operate the wind energy system.

"Participating Property" means a turbine host property; and/or real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from an owner regardless of whether any part of a wind energy system is constructed on the property or specifies in writing any waiver of a requirement or right under this section and that the landowner's acceptance of payment establishes the landowner's property as a participating property.

"Participating Residence" means a residence located on participating property.

"Personal Communications" includes wireless telecommunications, personal communications service, radio, television, wireless internet service, and other systems used for personal use purposes.

"Residence" means an occupied primary or secondary personal residence including a manufactured home as defined in Wis. Stat. s. 101.91(2), a hospital, community-based residential facility, residential care apartment complex or similar facility, or a nursing home. "Residence" includes a temporarily unoccupied primary or secondary personal residence. "Residence" does not include a recreational vehicle as defined in Wis. Stat. s. 340.01(48r), notwithstanding the length of the vehicle; a camping trailer as defined in Wis. Stat. s. 340.01(6m); or a permanently abandoned personal residence.

"Shadow Flicker" means a pattern of moving shadows cast on a residence or an occupied community building caused by sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity.

"Small Wind Energy System" means a wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts. \

"Turbine Host Property" means real property on which at least one wind turbine is located.

"Wind Access Easement" means a written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property.

"Wind Energy System" has the meaning given in Wis. Stat. s. 66.0403(1)(m), and is used to convert wind energy to electrical energy.

"Wind Energy System Easement" means a written document that creates a legal interest in real property that permits an owner to place, construct or operate a wind turbine or other wind energy system facility on the property.

"Wind Energy System Emergency" means a condition or situation at a wind energy system that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to wind energy system facilities.

"Wind Energy System Facility" means any component of a wind energy system, such as a wind turbine, collector circuit, access road, electric system interconnection facility or operation and maintenance facility.

"Wind Energy System Lease" means a written agreement between a landowner and an owner that establishes the terms and conditions associated with the placement, construction or operation of a wind turbine or other wind energy system facility on a landowner's property.

E. Development of a Wind Energy System; Owner Notice Requirements.

1. Pre-application notice. At least 90 days (60 days for small wind energy systems) before an owner files an application to construct a wind energy system, the owner shall use commercially reasonable methods to provide written notice of the planned wind energy system to all of the following:
 - a. Landowners within one mile of a planned wind turbine host property. **[Note:** For small wind energy systems, notice shall be provided only to adjacent land owners.
 - b. Political subdivisions within which the wind energy system may be located.
 - c. Emergency first responders and air ambulance service providers serving a political subdivision within which the wind energy system may be located. **[Note:** Not required for small wind energy systems.]
 - d. The Wisconsin department of transportation, the PSC, the Wisconsin department of agriculture, trade and consumer protection, and the office of the deputy undersecretary of the U.S. department of defense. **[Note:** Not required for small wind energy systems.]
2. Additional Pre-application Notice to Commission. At least 180 days before filing an application to construct a wind turbine with a maximum blade tip height exceeding 600 feet, the owner shall provide written notice of the planned wind energy system to the PSC.
3. Pre-application notice requirements. The owner shall include all of the following in a notice under subsection 1. or 2:
 - a. A complete description of the wind energy system, including the number and size of the planned wind turbines.

- b. A map showing the planned location of all wind energy system facilities.
- c. Contact information for the owner.
- d. A list of all potential permits or approvals the owner anticipates may be necessary for construction of the wind energy system.
- e. Whether the owner is requesting a joint application review process under Wis. Admin. Code s. PSC 128.30(7) and the name of each political subdivision that may participate in the joint review process.

F. Real Property Provisions.

- 1. Easement recording required. A wind energy system easement or wind access easement shall be recorded under Wis. Stat. ch. 706. A wind energy system easement or wind access easement shall include the term of the easement and a full legal description of the property subject to the easement.
- 2. Wind lease and waiver provisions. A wind energy system lease and any waiver under subsections H or J shall hold harmless and indemnify the real property owner for all of the following:
 - a. Any violation of federal, state or local law by the owner of the wind energy system.
 - b. Any damages or bodily injury caused by the construction, operation or decommissioning of the wind energy system.

G. Existing Property Uses.

- 1. Land use and commercial enterprises. An owner shall make reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on a nonparticipating property within 0.5 mile of a proposed wind turbine site if the land use or commercial enterprise exists when the owner gives notice under subsection E.1., or if complete publicly-available plans for construction are on file with the Village within 30 days of the date the owner gives notice under subsection E.1. **[Note: For small wind energy systems, this section applies only to existing land uses and enterprises that are located on adjacent non-participating properties.]**
- 2. Agricultural use. An owner shall design a wind energy system to reasonably minimize the conversion of land from agricultural use.

H. Siting Criteria.

- 1. Type of Use. A wind energy system may be a primary use or an accessory use. The siting provisions set forth in this Section apply to the system regardless of the type of use and supersede the setback distances and height provisions of the underlying zoning district.
- 2. Location. A wind energy system may be located in any zoning district where it is not otherwise barred by federal or state law or an ordinance adopted in conformance with that law, provided that the Village may deny an application for approval of a wind energy system that has a nominal capacity of at least one megawatt if the proposed site of the wind energy system is in an area primarily designated for future residential or commercial

development, as shown in a map that is adopted as part of a comprehensive plan under Wis. Stat. s. 66.1001(2)(b) and (f) before June 2, 2009, or as shown in such maps after December 31, 2015 as part of a comprehensive plan that is updated as required under Wis. Stat. s. 66.1001(2)(i).

3. Setback Distance and Height Requirements.

- a. For wind energy systems that are not classified as small wind energy systems, an owner shall design and construct the system using the following wind turbine setback distances, provided, however, that the owner of a nonparticipating residence or occupied community building may waive the applicable wind turbine setback distances for those structures to a minimum setback distance of 1.1 times the maximum blade tip height. The owner of a nonparticipating property may waive the applicable wind turbine setback distance from a nonparticipating property line:

Setback Description	Setback Distance
Occupied Community Buildings	The lesser of 1,250 feet or 3.1 times the maximum blade tip height
Participating Residences	1.1 times the maximum blade tip height
Nonparticipating Residences	The lesser of 1,250 feet or 3.1 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.1 times the maximum blade tip height
Public Road Right-of-way	1.1 times the maximum blade tip height
Overhead Communication and Electric Transmission or Distribution Lines – Not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height
Overhead Utility Service Lines – Lines to individual houses or outbuildings	None

- b. For small wind energy systems, an owner shall design and construct the system using the following wind turbine setback distances, provided, however, that the owner of an adjacent nonparticipating residence or adjacent occupied community building may waive the applicable turbine setback distances:

Setback Description	Setback Distance
Occupied Community Buildings	1.0 times the maximum blade tip height
Participating Residences	None
Nonparticipating Residences	1.0 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.0 times the maximum blade tip height
Public Road Right-of-way	None
Overhead Communication and Electric Transmission or Distribution Lines – Not	1.0 times the maximum blade tip height

including utility service lines to individual houses or outbuildings	
Overhead Utility Service Lines – Lines to individual houses or outbuildings	None

- c. An owner shall measure wind turbine setback distances as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable.
- d. An owner shall work with the Village and owners of participating and nonparticipating properties to site wind turbines to minimize individual hardships.
- e. The height and setback distance limitations for a wind turbine near a public use airport or heliport shall conform to the airport and airport approach protection provisions under Wis. Stat. ss. 114.135 and 114.136 or the wind turbine height and setback distance provisions set by the federal aviation administration obstruction standards in 14 CFR Part 77, whichever applies. The height and setback distance limitations for wind turbines near a private heliport at a medical facility used for air ambulance service, or a private use airport or heliport, shall conform to the federal aviation administration obstruction standards that apply to public use heliports.

I. Noise Criteria.

- 1. Definitions. In this section, nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning at 6:00 a.m. and ending at 10:00 p.m. daily.
- 2. Planning.
 - a. The noise limits in this section apply at the outside wall of a nonparticipating residence or occupied community building that exists when the owner gives notice under subsection E, or for which complete publicly-available plans for construction are on file with the Village within 30 days of the date on which the owner gives notice under subsection E.
 - b. An owner shall design the proposed wind energy system to minimize noise at a residence or occupied community building to the extent reasonably practicable.
 - c. An owner shall design a wind energy system to comply with the noise standards in this section under planned operating conditions.
- 3. Noise limits.
 - a. Except as provided in subsection b. and in subsections 4.c. and 5, an owner shall operate the wind energy system so that the noise attributable to the wind energy system does not exceed 50 dBA during daytime hours and 45 dBA during nighttime hours.
 - b. In the event audible noise due to wind energy system operations contains a steady pure tone, such as a whine, whistle, screech, or hum, the owner shall promptly take corrective action to permanently eliminate the noise. This

paragraph does not apply to sound the wind energy system produces under normal operating conditions.

4. Compliance.
 - a. If an owner uses sound level measurements to evaluate compliance with this section at a nonparticipating residence or occupied community building, those measurements shall be made as near as possible to the outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the owner of the nonparticipating residence or occupied community building. The owner may take additional measurements to evaluate compliance in addition to those specified by this section.
 - b. Upon receipt of a complaint regarding a violation of the noise standards in subsection 3.a., an owner shall test for compliance with the noise limits in subsection 3.a. The Village or the Plan Commission may not require additional testing to show compliance with subsection 3.a. if the owner has provided the results of an accurate test conducted within two years of the date of the complaint showing that the wind energy system is in compliance with subsection 3.a. at the location relating to the complaint.
 - c. Methods available for the owner to comply with subsection 3 shall include operational curtailment of one or more wind turbines. Upon receipt of a complaint about a noise under subsection 3.b., the owner shall use operational curtailment to eliminate the noise until the owner permanently corrects the problem.
 - d. An owner shall evaluate compliance with subsection 3.a. as part of pre- and post-construction noise studies. An owner shall conduct pre- and post-construction noise studies under the most current version of the noise measurement protocol as described in Wis. Admin. Code s. PSC 128.50(2). **[Note:** This subsection does not apply to small wind energy systems.]
5. Waiver. Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the owner of the wind energy system of the requirement to meet any of the noise limits in this section at the affected residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property, runs with the land until the wind energy system is decommissioned, and shall be recorded under Wis. Stat. ch. 706.
6. Notification.
 - a. Before entering into a contract under subsection 5., an owner of a wind energy system shall provide written notice of the requirements of this section to the owner of an affected nonparticipating residence or occupied community building.
 - b. Before the initial operation of the wind energy system, an owner of a wind energy system shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied community building within 0.5 mile of a constructed wind turbine that has not entered into a contract under subsection 5. **[Note:** For small wind energy systems, the requirement for notice applies only to

each adjacent nonparticipating residence or occupied community building before the initial operation of the small wind energy system.]

J. Shadow Flicker.

1. Planning.

- a. The shadow flicker requirements in this subsection apply to a nonparticipating residence or occupied community building that exists when the owner gives notice under subsection E or for which complete publicly-available plans for construction are on file with the Village within 30 days of the date on which the owner gives notice under subsection E.
- b. An owner shall design the proposed wind energy system to minimize shadow flicker at a residence or occupied community building to the extent reasonably practicable.
- c. An owner shall use shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by a wind energy system and shall design the wind energy system so that computer modeling indicates that no nonparticipating residence or occupied community building will experience more than 30 hours per year of shadow flicker under planned operating conditions. **[Note: Not applicable to small wind energy systems.]**

2. Shadow Flicker Limits. An owner shall operate the wind energy system in a manner that does not cause more than 30 hours per year of shadow flicker at a nonparticipating residence or occupied community building. If a nonparticipating residence or occupied community building experiences more than 30 hours per year of shadow flicker under the wind energy system's normal operating conditions, the owner shall use operational curtailment to comply with this subsection.

3. Shadow flicker mitigation.

- a. An owner of a wind energy system shall work with an owner of a nonparticipating residence or occupied community building to mitigate the effects of shadow flicker to the extent reasonably practicable.
- b. An owner shall provide reasonable shadow flicker mitigation at the owner's expense for a nonparticipating residence or occupied community building experiencing 20 hours or more per year of shadow flicker. **[Note: Not applicable to small wind energy systems.]**
- c. An owner shall model shadow flicker and a nonparticipating residence or occupied community building is eligible for mitigation if computer modeling shows that shadow flicker at the nonparticipating residence or occupied community building will be 20 hours or more per year. An owner of a nonparticipating residence or occupied community building is not required to document the actual hours per year of shadow flicker if modeling indicates the nonparticipating residence or occupied community building is eligible for mitigation. A nonparticipating residence or occupied community building that experiences 20 hours or more per year of shadow flicker based on records kept by the resident of a nonparticipating residence or the occupant of an occupied community building shall also be eligible for mitigation. **[Note: Not applicable to small wind energy systems.]**

- d. An owner may provide shadow flicker mitigation for any residence or occupied community building in addition to the mitigation required under subsection b. **[Note: Not applicable to small wind energy systems.]**
 - e. The requirement under subsection b. to mitigate shadow flicker applies when the owner receives a complaint or request for mitigation regarding shadow flicker for an eligible nonparticipating residence or occupied community building. If shadow flicker mitigation is required, the owner of the wind energy system shall allow the owner of the nonparticipating residence or occupied community building to choose a preferred reasonable mitigation technique, including installation of blinds or plantings at the wind energy system owner's expense. **[Note: Not applicable to small wind energy systems.]**
4. Waiver. Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the wind energy system owner of a requirement under subsection 2. or 3.b. at the affected nonparticipating residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property and runs with the land until the wind energy system is decommissioned, and shall be recorded under Wis. Stat. ch. 706.
5. Notification.
- a. Before entering into a contract under sub.4., a wind energy system owner shall provide notice of the requirements of this section to individual owners of an affected nonparticipating residence or occupied community building. **[Note: Not applicable to small wind energy systems.]**
 - b. Before the initial operation of the wind energy system, a wind energy system owner shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied community building within 0.5 mile of a constructed wind turbine that has not entered into a contract under sub.4. **[Note: Not applicable to small wind energy systems.]**
- K. Signal Interference.
1. Planning.
- a. Except as provided in subsection 4, the signal interference requirements in this section apply to commercial communications and personal communications in use when the wind energy system begins operation.
 - b. An owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable.
 - c. An owner may not construct wind energy system facilities within existing line-of-sight communication paths that are used by government or military entities to provide services essential to protect public safety. The Village shall require an owner to provide information showing that wind turbines and other wind energy system facilities will be in compliance with this subsection.

2. Commercial Communications Interference Mitigation. An owner shall use reasonable and commercially available technology to mitigate interference caused by a wind energy system with commercial communications in use when a wind energy system begins operation. Before implementing mitigation measures, the owner shall consult with affected parties regarding the preferred mitigation solution for commercial communications interference problems. Except as provided in subsection 4., an owner shall mitigate commercial communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier. **[Note: Not applicable to small wind energy systems.]**
3. Personal Communications Interference Mitigation.
 - a. An owner shall use reasonable and commercially available technology to mitigate interference with personal communications in use when a wind energy system begins operation caused by a wind energy system. A political subdivision may require an owner to use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the wind energy system began commercial operation, if a wind energy system is causing the interference and the interference occurs at a location at least 0.5 mile from a wind turbine. **[Note: Not applicable to small wind energy systems.]**
 - b. Before implementing mitigation measures, the owner shall consult with affected parties regarding the preferred mitigation solution for personal communications interference problems. Except as provided in subsection 4., an owner shall mitigate personal communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier. **[Note: Not applicable to small wind energy systems.]**
4. Mitigation protocol. The Village may, under a protocol established by the PSC under Wis. Admin Code s. PSC 128.50(2), require an owner to implement a new mitigation solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under subsection 2 or 3 and for which the original mitigation solution implemented is only partially effective. **[Note: Not applicable to small wind energy systems.]**

L. Stray Voltage.

1. Testing Required.
 - a. An owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within 0.5 mile of a wind energy system facility pursuant to the stray voltage protocol established by the PSC before any wind energy system construction activity that may interfere with testing commences and again after construction of the wind energy system is completed, except as otherwise specified by commission staff under subsection b.
 - b. Before any testing under subsection a. begins, an owner shall work with PSC staff to determine the manner in which stray voltage testing will be conducted

and on which properties. The electric distribution company serving a dairy or confined animal operation where testing is required under subsection a. shall conduct or arrange to conduct all required testing at the expense of the owner.

2. Results of Testing. An owner and the electric distribution company shall provide to commission staff the results of all stray voltage testing in writing.
3. Requirement to Rectify Problems. An owner shall work with the electric distribution company and farm owner to rectify any stray voltage problems attributable to the construction and operation of the wind energy system, in compliance with the commission's stray voltage protocol.

M. Construction and Operation.

1. Physical Characteristics.

- a. An owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. An owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. An owner may attach a safety feature or wind monitoring device to a wind turbine.
- b. An owner shall ensure that a wind turbine has a conventional or unobtrusive finish.
- c. An owner shall install lighting at a wind energy system that complies with standards established by the federal aviation administration. The Village may not establish lighting requirements for a wind energy system that conflict with standards established by the federal aviation administration. The Village requires the use of shielding or control systems approved by the federal aviation administration to reduce visibility of lighting to individuals on the ground.
- d. An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.
- e. An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
- f. An owner shall place appropriate warning signage on or at the base of each wind turbine.
- g. An owner shall post and maintain up-to-date signs containing a 24-hour emergency contact telephone number, information identifying the owner, and sufficient information to identify the location of the sign within the wind energy system. An owner shall post these signs at every intersection of a wind energy system access road with a public road and at each wind turbine location. **[Note:** Not applicable to small wind energy systems.]
- h. An owner shall clearly mark guy wires and supports for a wind energy system, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.

2. Electrical Standards.

- a. An owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the national electrical safety code and Wis. Admin. Code ch. PSC 114 and shall construct, maintain, and operate all wind energy system facilities in a manner that complies with the national electrical code.
 - b. An owner shall construct collector circuit facilities for a wind energy system underground to the extent practicable. **[Note:** Not applicable to small wind energy systems.]
 - c. An owner shall establish an inspection schedule for all overhead collector circuits to ensure that third-party facilities, including cable television and telecommunications cables, are not attached or bonded to overhead collector circuit grounding. If third-party facilities are found attached to the overhead collector facilities, the owner shall ensure that the third-party facilities are promptly removed. **[Note:** Not applicable to small wind energy systems.]
3. Construction, Operation, and Maintenance Standards.
- a. An owner shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition and in a manner that protects individuals from injury.
 - b. An owner shall minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land during the construction or decommissioning of the wind energy system. The Village may establish reasonable requirements designed to minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land applicable to the site as part of the conditional use permit. **[Note:** Not applicable to small wind energy systems.]
 - c. Except for the area physically occupied by the wind energy system facilities, an owner shall restore the topography, soils and vegetation of the project area to original condition after construction is complete, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements. **[Note:** Not applicable to small wind energy systems.]
 - d. An owner shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction, operation or decommissioning of the wind energy system and shall include turbine host property owners as additional insured persons on the policy. **[Note:** Not applicable to small wind energy systems.]
4. Emergency Procedures.
- a. An owner shall notify the Village of the occurrence and nature of a wind energy system emergency within 24 hours of the wind energy system emergency.
 - b. **[Note:** the entirety of this subsection b. is not applicable to small wind energy systems.] An owner shall establish and maintain liaison with the Village and with fire, police, and other appropriate first responders serving the wind energy system to create effective emergency plans that include all of the following:
 - (1) A list of the types of wind energy system emergencies that require notification under subsection a.

- (2) Current emergency contact information for first responders and for the wind energy system owner, including names and phone numbers.
 - (3) Procedures for handling different types of wind energy system emergencies, including written procedures that provide for shutting down the wind energy system or a portion of the system as appropriate.
 - (4) Duties and responsibilities of the owner and of first responders in the event of a wind energy system emergency.
 - (5) An emergency evacuation plan for the area within 0.5 mile of any wind energy system facility, including the location of alternate landing zones for emergency services aircraft.
- c. The owner shall review the emergency plan at least annually in collaboration with fire, police and other appropriate first responders to update and improve the emergency plan as needed.
 - d. The owner shall distribute current copies of the emergency plan to the Village and fire, police and other appropriate first responders as identified by the Village.
 - e. The Village may require the owner to provide annual training for fire, police and other appropriate first responders regarding responding to a wind energy system emergency until the wind energy system has been decommissioned.
 - f. An owner of a wind energy system shall do all of the following:
 - (1) Furnish its operator, supervisors and employees who are responsible for emergency action a copy of the current edition of the emergency procedures established under this subsection to ensure compliance with those procedures.
 - (2) Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective.
 - (3) As soon as possible after the end of a wind energy system emergency, review employee activities to determine whether the procedures were effectively followed.

N. Decommissioning.

1. Requirement to Decommission.

- a. An owner of a wind energy system shall decommission and remove the wind energy system when the system is at the end of its useful life.
- b. A wind energy system is presumed to be at the end of its useful life if the wind energy system generates no electricity for a continuous 360-day period (540 day period for a small wind energy system). This presumption may be rebutted under subsection c (except for small wind energy systems).

- c. **[Note:** The entirety of this subsection c. is not applicable to small wind energy systems.] Upon application by the owner, and except as provided in subsection d., the Village shall grant an extension of the time period for returning the wind energy system to service by one or more additional 180 day periods if the owner demonstrates it is likely the wind energy system will operate again in the future and any of the following occur:
 - (1) The owner submits a plan to the Village that demonstrates an ongoing good faith effort to return the wind energy system to service and outlines the steps and schedule for returning the wind energy system to service in a reasonable period of time, including by repairing, replacing or repowering the wind energy system facilities as necessary to generate electricity.
 - (2) The owner demonstrates that the wind energy system is part of a prototype or other demonstration project being used for ongoing research or development purposes.
 - (3) The owner demonstrates that the wind energy system is being used for educational purposes.
 - d. The Village may deny a request for an extension under subsection c. if the wind energy system has not generated any electricity for a continuous period of 540 days or more and the Village finds that the owner is not capable of returning the wind energy system to service within a reasonable period of time. **[Note:** This subsection is not applicable to small wind energy systems.].
 - e. **[Note:** the entirety of this subsection e. is not applicable to small wind energy systems.] A wind energy system is irrebuttably presumed to be at the end of its useful life if the wind energy system generates no electricity for a period of 540 days and any of the following occur:
 - (1) The owner does not request an extension of the time period for returning the wind energy system to service under subsection c.
 - (2) The Village denies a request for an extension under subsection d. and any appeal rights have expired.
 - f. When decommissioning is required, the owner shall begin decommissioning within 360 days after the wind energy system has reached the end of its useful life. The owner shall complete decommissioning and removal of the wind energy system within 540 days after the wind energy system has reached the end of its useful life.
2. Decommissioning Review. The Village may establish a decommissioning review process to determine when a wind energy system has reached the end of its useful life.
 3. Financial Responsibility. **[Note:** the entirety of this subsection 3. is not applicable to small wind energy systems.]
 - a. The owner of a wind energy system with a nameplate capacity of one megawatt or larger shall maintain proof of the owner's ability to fund the actual and necessary cost to decommission the wind energy system and shall ensure the availability of funds necessary for decommissioning throughout the expected life

of the wind energy system and through to completion of the decommissioning activities.

- b. The owner of a wind energy system with a nameplate capacity of one megawatt or larger shall provide financial assurance of the owner's ability to pay for the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities such as blasting or foundation construction at the wind energy system site. An owner may comply with this paragraph by choosing to provide a bond, deposit, escrow account, irrevocable letter of credit, or some combination of these financial assurances, that will ensure the availability of funds necessary for decommissioning throughout the expected life of the wind energy system and through to completion of the decommissioning activities.
- c. The owner shall provide the financial assurance under subsection b. in the amount of the estimated actual and necessary cost to decommission the wind energy system. The owner shall:
 - (1) Provide the Village three cost estimates of the actual and necessary cost to decommission the wind energy system prepared by third parties agreeable to the owner and the Village.
 - (2) Establish financial assurance that places the Village in a secured position, and provide that any secured funds may only be used for decommissioning the wind energy system until either the Village determines that the wind energy system has been decommissioned under subsection 5.b. or until the Village has otherwise approved the release of the secured funds, whichever is earlier.
 - (3) Establish financial assurance that allows the Village to access funds for the purpose of decommissioning the wind energy system if the owner does not decommission the wind energy system when decommissioning is required.
- d. The Village may not require the amount of the financial assurance to exceed the average of the cost estimates provided.
- e. The Village's approval of a wind energy system is conditioned on the owner's compliance with subsections b. and c.
- f. During the useful life of a wind energy system, the Village may periodically request information from the owner regarding the industry costs for decommissioning the wind energy system. If the Village finds that the future anticipated cost to decommission the wind energy system is at least ten percent more or less than the amount of financial assurance previously provided under subsection b., the Village may correspondingly increase or decrease the amount of financial assurance required for the wind energy system. The Village may not adjust the financial assurance under this subsection more often than once in a five-year period.
- g. The Village may require an owner to submit to the Village a substitute financial assurance of the owner's choosing under subsection b. if an event occurs that raises material concerns regarding the viability of the existing financial assurance.

4. Site Restoration. [**Note:** the entirety of this subsection 4. is not applicable to small wind energy systems.]
 - a. Except as provided in subsection b., if a wind energy system was constructed on land owned by a person other than the owner of the wind energy system, the owner of the wind energy system shall ensure that the property is restored to preconstruction condition, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements.
 - b. If a wind energy system was constructed on a brownfield, as defined in Wis. Stat. s. 238.13(1)(a), the owner shall restore the property to eliminate effects caused by the wind energy system, except for the effects of environmental remediation activities, as defined in Wis. Stat. s. 238.13(1)(d).
5. Decommissioning Completion.
 - a. An owner shall file a notice of decommissioning completion with the Village and the commission when a wind energy system approved by the Village has been decommissioned and removed.
 - b. Within 360 days of receiving a notice of decommissioning, the Village shall determine whether the owner has satisfied the requirements of subsections 1.a. and 4.

O. Application and Notice Procedures.

1. It is recommended, but not required, that the applicant meet with the Zoning Administrator, Building Inspector and Public Works Director prior to submitting an application for a wind energy system, to discuss filing requirements, application formats, timelines, permits from outside agencies, the handling of confidential information, and fees.
2. Application Required. An owner shall file an application to construct a wind energy system with the Village in conformance with the Application Filing Requirements developed by the PSC as provided in Wis. Admin. Code s. PSC 128.50 and published on the PSC website. The owner shall ensure that the information contained in the application is accurate, and shall file the number of paper and electronic copies required by the Village for review and for availability to the public. The application shall include all of the following:
 - a. Wind energy system description and maps showing the locations of all proposed wind energy facilities.
 - b. Technical description of wind turbines and wind turbine sites.
 - c. Timeline and process for constructing the wind energy system.
 - d. Information regarding anticipated impact of the wind energy system on local infrastructure.
 - e. Information regarding noise anticipated to be attributable to the wind energy system.

- f. Information regarding shadow flicker anticipated to be attributable to the wind energy system.
- g. Information regarding the anticipated effects of the wind energy system on existing land uses within 0.5 mile of the wind energy system. **[Note: For small wind energy systems, the required information is limited to the effect on parcels adjacent to the wind energy system.]**
- h. Information regarding the anticipated effects of the wind energy system on airports and airspace.
- i. Information regarding the anticipated effects of the wind energy system on line-of-sight communications.
- j. A list of all state and federal permits required to construct and operate the wind energy system.
- k. Information regarding the planned use and modification of roads within the Village during the construction, operation, and decommissioning of the wind energy system, including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.
- l. A copy of all emergency plans developed in collaboration with appropriate first responders under Wis. Admin. Code s. PSC 128.18(4)(b). An owner may file plans using confidential filing procedures as necessary. **[Note: Not required for small wind energy systems.]**
- m. A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with Wis. Admin. Code s. PSC 128.19. **[Note: Not required for small wind energy systems.]**
- n. A representative copy of all notices issued under subsection 3. and Wis. Admin. Code ss. PSC 128.105(1)(a) and 128.42(1).
- o. A copy of all non-binding recommendations about whether the owner has consulted with and received any non-binding recommendations for constructing, operating or decommissioning the wind energy system from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the wind energy system. **[Note: Not required for small wind energy systems.]**
- p. Specification of whether nonparticipating landowners will receive annual monetary compensation pursuant to section Q, including the criteria for determination of which nonparticipating landowners will receive the compensation, how the payments will be modified annually, and a representative copy of the agreements. **[Note: Not required for small wind energy systems.]**
- q. Description of the use of aerial spraying for pest control or seeding at project farm area operations, the impacts of the proposed wind energy system on the spraying, and the potential mitigation of the impacts, including monetary compensation, as set forth in section Q. **[Note: Not required for small wind energy systems.]**

- r. The proposed form of the annual report required under section Q.
 - s. Potential shared revenue and community benefits set forth in Wis. Stat. ch. 79.
 - t. Any other information necessary to understand the construction, operation or decommissioning of the proposed wind energy system.
3. Notice to Property Owners and Residents.
- a. On the same day an owner files an application for a wind energy system, the owner shall, under Wis. Stat. s. 66.0401(4)(a)3, use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. . **[Note:** For small wind energy systems, the required notice shall be provided only to the property owners and residents of the parcels adjacent to the wind energy system.] The notification shall include all of the following:
 - (1) A complete description of the wind energy system, including the number and size of the wind turbines.
 - (2) A map showing the locations of all proposed wind energy system facilities.
 - (3) The proposed timeline for construction and operation of the wind energy system.
 - (4) Locations where the application is available for public review.
 - (5) Owner contact information.
 - b. After the Village receives an application for a wind energy system, the Village shall publish a Class 1 Notice as set forth in Wis. Stat. s. 66.0401(4)(a)1 and Wis. Admin. Code. s. PSC 128.30(4)(b) stating that an application for approval has been filed with the Village that includes a brief description of the proposed wind energy system and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Village, and the approximate schedule for review of the application by the Village.
4. Public Participation.
- a. The Village shall make an application for a wind energy system available for public review at the Rochester Public Library and the Village Hall, and may publish it on the Village website.
 - b. The Village shall accept written comments by letter and by electronic mail, and shall provide them to the Plan Commission for consideration at the public hearing required in subsection c. hereunder and Section 35-100.
 - c. The Village shall hold the public hearing required in Section 35-100 to obtain comments on and to inform the public about a proposed wind energy system, at which the Plan Commission shall also consider the written comments received.

[**Note:** A public hearing for small wind energy systems is optional under Wis. Admin. Code s. PSC 128.61(8), but is required by Section 35-100 of this Code.]

5. Joint application review process. If the wind energy system is proposed to be located in more than one political subdivision with jurisdiction over the wind energy system, the provisions of Wis. Admin. Code s. 128.30(7) will apply and the procedures set forth herein may be modified pursuant to that section.

P. Application Completeness and Time Limits.

1. An application is complete if it meets the filing requirements under this Section.
2. The Village shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed. An application is considered filed the day the owner notifies the political subdivision in writing that all the application materials have been filed. If a political subdivision determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
3. An owner may file a supplement to an application that the Village has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under subsection 2.
4. An additional 45-day completeness review period shall begin the day after the Village receives responses to all items identified in the notice under subsection 2.
5. If the Village does not make a completeness determination within the applicable review period, the application is considered to be complete.
6. Requests for additional information. The Village may request additional information necessary to understand the wind energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.

Q. Village Review and Approval of a Wind Energy System.

1. Standard for Approval. The Village may not unreasonably deny an application for a wind energy system or impose unreasonable conditions, provided, however, that the Village shall impose the following conditions on approval of wind energy systems:
 - a. Permits. For all wind energy systems, the owner shall submit to the Village copies of all necessary state and federal permits and approvals.
 - b. For all wind energy systems that are not classified as small wind energy systems:
 - (1) Studies. The owner shall cooperate with any study of the effects of wind energy systems coordinated by a state agency.
 - (2) Monetary compensation. The owner of a wind energy system shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation

may not exceed \$600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation may not exceed \$800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation may not exceed \$1,000. The initial annual monetary compensation under this subsection shall apply to agreements entered into in 2011. For agreements entered into in 2012 and thereafter, the initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in Wis. Stat. s. 196.374(5)(bm)2.b., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under this Section and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under this chapter.

- (3) Aerial spraying. The owner of a wind energy system shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - (a) Substantial evidence of a history, before the wind energy system owner gives notice under section E, of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans or sweet corn on all or part of a farm field located within 0.5 mile of a constructed wind turbine.
 - (b) A material reduction in potato, pea, snap bean or sweet corn production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.
- (4) Annual reports. The owner shall be required to file an annual report with the Village documenting the operation and maintenance of the wind energy system during the previous calendar year.

2. Written Decision.

- a. The Village shall issue a written decision to grant or deny an application for a wind energy system. The written decision shall include findings of fact supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. Approval is subject to the conditions set forth in this Section.
- b. The Village shall provide its written decision to the owner and to the commission. If the Village approves an application for a wind energy system, the Village shall provide the owner with a duplicate original of the decision. The owner shall record the duplicate original of a decision approving an application with the register of deeds for Racine County

3. Effect of ownership change on approval. Approval by the Village of a wind energy system remains in effect if there is a change in the owner of the wind energy system. An owner

shall provide timely notice of any change in the owner of the wind energy system to the Village.

4. Fees.

- a. The owner shall pay the fee adopted by the Village Board and set forth in the Fee Schedule. The fee shall consist of a reasonable application fee and a requirement that the owner reimburse the Village for reasonable expenses relating to the review and processing of the application for a wind energy system. The fee and reimbursement requirement shall be based on the actual and necessary cost of the review of the wind energy system application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts. The Village may by ordinance set standardized application fees based on the size and complexity of a proposed wind energy system.
- b. The Village may require the owner of a wind energy system to submit up to 50 percent of the total estimated amount of the estimated reimbursement of for the wind energy system application review under subsection a before issuing a written decision under subsection 2 if the Village gives written notice to the owner of its intent to do so within ten days of the date the application is deemed complete and the notice contains an estimate of the amount of the fee and the relevant reimbursement requirements.
- c. The Village may not charge an owner an annual fee or other recurring fees to operate or maintain a wind energy system.

R. Record of Decision.

1. Recordkeeping.

- a. The Village shall keep a complete written record of its decision-making relating to an application for a wind energy system.
- b. if the Village denies an application, the Village shall keep the record for at least 7 years following the year in which it issues the decision.
- c. If the Village approves an application, the Village shall keep the record for at least 7 years after the year in which the wind energy system is decommissioned.

2. Record Contents. The record of a decision shall include all of the following:

- a. The approved application and all additions or amendments to the application.
- b. A representative copy of all notices issued under this Section.
- c. A copy of any notice or correspondence that the Village issues related to the application.
- d. A record of any public meeting and any hearing related to the application. The record may be an electronic recording, a transcript prepared from an electronic recording, or a transcript prepared by a court reporter or stenographer. The

record shall include any documents or evidence submitted by meeting or hearing participants.

- e. Copies of any correspondence or evidentiary material that the Village considered in relation to the application, including copies of all written public comments filed with the Village.
 - f. Minutes of any Village Board, Plan Commission or other committee meetings held to consider or act on the application.
 - g. A copy of the written decision.
 - h. Other materials that the Village prepared to document its decision-making process.
 - i. A copy of any Village ordinance cited in or applicable to the decision.
3. Post-construction filing requirement. Within 90 days of the date a wind energy system commences operation, the owner shall file with the Village and the commission an as-built description of the wind energy system, an accurate map of the wind energy system showing the location of all wind energy system facilities, geographic information system information showing the location of all wind energy system facilities and current information identifying the owner of the wind energy system. An owner shall in the filings under this subsection label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under Wis. Admin. Code s. PSC 128.18(1)(g). **[Note:** Not required for small wind energy systems.]

S. Modifications to an Approved Wind Energy System.

- 1. Material Change.
 - a. An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Village.
 - b. An owner shall submit an application for a material change to an approved wind energy system to the Village.
- 2. Review Limited.
 - a. When the Village receives an application for a material change to a wind energy system under subsection 1.b., it may not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.
 - b. An application for a material change is subject to sections O.2. (intro) and O.2.o., O.3., O.4.a. and b., O.5, P., Q. and R.
 - c. An application for a material change shall contain information necessary to understand the material change.
 - d. The Village may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energy system.

- T. Monitoring Compliance. **[Note: Not applicable to small wind energy systems.]**
1. Monitoring Procedure. The Village may establish a procedure to monitor compliance by the owner with any condition on an approved wind energy system or to assess when wind energy system facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public.
 2. Third-party Inspector During Construction. The Village may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Village regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.
- U. Complaint Process.
1. Making a Complaint.
 - a. An aggrieved person may make a complaint regarding failure by an owner to comply with an obligation under this Section.
 - b. A complaint under subsection a. shall be made first to the owner of the wind energy system pursuant to a complaint resolution process developed by the owner.
 - c. A complainant may petition the Village for review of a complaint that is not resolved within 45 days of the day the owner receives the original complaint.
 - d. The Village's decision under subsection c. is subject to PSC review under Wis. Stat. s. 66.0401(5).
 2. Complaint Resolution.
 - a. An owner shall use reasonable efforts to resolve complaints regarding a wind energy system and shall investigate complaints regarding a wind energy system at the owner's expense.
 - b. For wind energy systems not classified as small wind energy systems:
 - (1) Upon receipt of a complaint, an owner shall provide the complainant with a copy of the notice described in subsection 4. Within 30 days of receiving a complaint, an owner shall provide an initial response to the complainant.
 - (2) An owner shall make a good faith effort to resolve complaints within 45 days of receiving a complaint. An owner shall notify the Village of complaints that have not been resolved within 45 days of the date the owner received the original complaint.
 - (3) An owner shall maintain a log of all complaints received regarding the wind energy system. The owner shall include in the log the name and address of each complainant, the nature of each complaint, and the steps taken to resolve each complaint. An owner shall provide a copy of a complaint log monthly, at no cost, either to a monitoring committee

established under subsection U.3. or, if a monitoring committee has not been established, to the Village. An owner shall make any complaint log available to the commission upon request.

- (4) An owner shall develop a complaint resolution process that is consistent with this subsection.

3. Monitoring Committee. [**Note:** Not applicable to small wind energy systems.]

- a. Committee. Except as provided in subsection c., the Village may establish a monitoring committee to oversee resolution of complaints regarding a wind energy system. A monitoring committee shall include on the committee a member who is a local employee of an owner of a wind energy system and, if in existence, at least one nonparticipating landowner residing in the Village within 0.5 mile of a wind turbine that is located in the Village.
- b. Duties. A monitoring committee established under subsection a. may do any of the following:
 - (1) Maintain a record of all complaints brought to it.
 - (2) Require the owner to provide the committee with information regarding the owner's response to any complaint forwarded to the owner by the committee.
 - (3) Recommend to the Village a reasonable resolution to a complaint based upon the information gathered by the committee.
- c. Multiple Jurisdictions. If a wind energy system is located in more than one political subdivision with jurisdiction over the wind energy system and multiple political subdivisions decide to establish a monitoring committee, the political subdivisions shall jointly establish a single monitoring committee to oversee resolution of complaints regarding the wind energy system.

4. Notice to Property Owners and Residents. [**Note:** Not applicable to small wind energy systems.]

- a. Notice of Process for Making Complaints. Before construction of a wind energy system begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any wind energy system facility. An owner shall include in the notice the requirements under subsection 1 for submitting a complaint to the owner, a petition for review to the Village, and an appeal to the commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance and decommissioning.
- b. Notice to Village. An owner shall provide a copy of the notice under subsection a. to the Village and any political subdivision with jurisdiction over the wind energy system, and the owner shall keep the contact person and telephone number current and on file with the Village and the political subdivision.

- V. Commission Review. Appeals to the PSC shall follow the procedures set forth in Wis. Stat. s. 66.0401(5) and Wis. Admin. Code ch. PSC subch. V. In the event of remand to the Village, the Village shall abide by the time frames for review set forth in the commission's order.

35-150 TOWER REGULATIONS.

A. Intent. It is intended that mobile service facilities and radio broadcast service facilities be regulated hereunder by conditional use permit for the public health and safety. Reports from multiple studies gathered by the National Institute of Health have found links between radiofrequency electromagnetic fields and negative health effects, but also reflect that the scientific community is split as to whether prolonged radiofrequency exposure is dangerous to human health. Until such time as exposure to electromagnetic radiation is proven safe, the Village Board presumes that human health is affected by the placement of towers and antennas from which exposure may occur. In addition, towers that contain the mobile and broadcast facilities may collapse and cause catastrophic damage to Village citizens and property. The regulations herein reflect the minimum practical regulation that is necessary to accomplish the protection of the public.

B. Definitions.

“Antenna” means communications equipment that transmits and receives radio waves or electromagnetic radio signals and is used in the provision of mobile services or radio broadcast services.

“Application” means an application for a permit under this section to engage in an activity specified as new construction or substantial modification of mobile service facilities or radio broadcast facilities or a class 2 collocation.

“Building Permit” means any applicable permit issued by the Building Inspector that authorizes an applicant to conduct construction activity that is consistent with the Village Building, Plumbing, Electrical and Mechanical Code, Chapter 11 of this Municipal Code.

“Class 1 Collocation” means the placement of a new mobile service facility or radio broadcast service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

“Class 2 Collocation” means the placement of a new mobile service facility or radio broadcast service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.

“Collocation” means class 1 or class 2 collocation or both.

“Distributed Antenna System” means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.

“Equipment Compound” means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities or radio broadcast service facilities.

“Existing Structure” means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the Village.

“Fall Zone” means the area over which a mobile support structure or radio broadcast tower or antenna is designed to collapse.

“Mobile Service” has the meaning given in 47 USC 153 (33).

“Mobile Service Facility” means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is

necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

“Mobile Service Provider” means a person who provides mobile service.

“Mobile Service Support Structure” means a freestanding structure that is designed to support a mobile service facility.

“Permit” means a Conditional Use Permit or Zoning Permit required by this section which authorizes any of the following activities by an applicant:

1. A class 1 collocation.
2. A class 2 collocation.
3. The construction of a mobile service support structure.
4. The construction of a radio broadcast service facility.

“Public Utility” has the meaning given in Wis. Stat. s. 196.01(5).

“Radio Broadcast Services” means the regular provision of a commercial or noncommercial service involving the transmission, emission, or reception of radio waves for the transmission of sound or images in which the transmissions are intended for direct reception by the general public.

“Radio Broadcast Service Facilities” means commercial or noncommercial facilities, including antennas and antenna support structures, intended for the provision of radio broadcast services.

“Search Ring” means a shape drawn on a map to indicate the general area within which a support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

“Substantial Modification” means the modification of a support structure, including the mounting of an antenna on such a structure that does any of the following:

1. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet, except it shall not be considered a substantial modification if a greater height is necessary to avoid interference with an existing antenna.
2. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more, except it shall not be considered a substantial modification if a greater height is necessary to avoid interference with an existing antenna.
3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation, or unless a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.
4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

“Support Structure” means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure, or a radio broadcast antenna support structure.

“Tower Facility” means the support structure for mobile services or radio broadcast services.

“Utility Pole” means a structure owned or operated by an alternative telecommunications utility, as defined in Wis. Stat. s. 196.01(1d); public utility, as defined in Wis. Stat. s. 196.01(5); telecommunications utility, as defined in Wis. Stat. s. 196.01(10); political subdivision; or cooperative association organized under Wis. Stat. ch. 185; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Wis. Stat. s. 182.017(1g)(cq); for video service, as defined in Wis. Stat. s. 66.0420 (2)(y); for electricity; or to provide light.

C. Applicability.

1. Facilities Regulated. The following facilities are subject to the regulations set forth in this Section and in section 35-151, Tower Site Standards:
 - a. New mobile service support structures and radio broadcast service support structures require conditional use permits.
 - b. Class 1 collocations that involve the substantial modification of an existing support structure, mobile service facilities, and radio broadcast service facilities require conditional use permits.
 - c. Class 2 collocations are permitted uses, require zoning permits, and are subject to the provisions set forth in subsection F.
2. Regulation. No installation or construction of the facilities regulated by this section are permitted except as provided in this section and Section 35-151, Tower Site Standards.

D. Location.

1. Mobile Service Support Structures. Pursuant to Wis. Stat. s. 66.0404(4)(c), the Village may not prohibit the placement of a mobile service support structure in particular locations in the Village.
2. Radio Broadcast Facilities. Pursuant to Wis. Stat. s. 66.0406(4), the Village may only deny the placement, construction or modification of radio broadcast service facilities in the Village for public health or safety concerns; therefore, pursuant to the intent of this Section set forth in subsection A, radio broadcast service facilities regulated by this Section, except amateur or citizen band towers that do not transmit a constant signal, shall not be located in any residential zoning district.

- E. Submission Requirements for New or Substantial Modifications of Facilities and Support Structures. The siting and construction standards for new or substantial modifications of mobile support structures and facilities and new or substantially modified radio broadcast service facilities are set forth in s. 35-151. Pursuant to Wis. Stat. ss. 66.0404 and 66.0406, the Village is limited in its regulation of such structures. In the event that said statutes are amended or repealed, the construction or modification of such structures shall be required to abide by the requirements set forth in s. 35-22, Principles and Standards for the Aesthetic Evaluation of Site and Building Projects, and s. 35-100, Conditional Uses of this Code if those requirements are allowed. While said statutes are in effect, notwithstanding the requirements found in ss. 35-22 and 35-100, the applicant shall only be required to supply the following information in its

application for a zoning permit and conditional use permit under this section, but shall be required to meet the requirements set forth in s. 35-151, Tower Site Standards:

1. The application shall be in writing and shall contain all of the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility or radio broadcast service facility.
 - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - e. If the application is to construct a new mobile service support or radio broadcast support structure, a construction plan which describes the proposed support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new support structure.
 - f. If an application is to construct a new mobile support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the service provider.
2. If an applicant submits an application for a permit hereunder which contains all of the information required under subsection 1, the application shall be considered complete. If the application is incomplete, the Zoning Administrator shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
3. Within 90 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the 90 day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the Building, Plumbing, Electrical and Mechanical Code and, subject to the limitations in this section, this Chapter.
 - b. Make a final decision whether to approve or disapprove the application.
 - c. Notify the applicant, in writing, of its final decision.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

4. The Village may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under subsection 1.f.
5. If an applicant provides the Village with an engineering certification showing that a mobile service support structure, a radio broadcast service facility structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in s. 35-151, that requirement does not apply to such a structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.

F. Collocation on Existing Support Structures.

1. A class 2 collocation is a permitted use and does not require a conditional use permit, but is regulated as follows:
 - a. A class 2 collocation is subject to the building permit requirements set forth in this Municipal Code.
 - b. If an applicant submits an application for a permit to engage in a class 2 collocation, the zoning application shall be in writing and shall contain all of the following information:
 - (1) The name and business address of, and the contact individual for, the applicant.
 - (2) The location of the affected support structure.
 - (3) The location of the proposed mobile service facility or radio broadcast service facility.
 - c. The Village shall consider an application containing the information required in subsection b. complete.
 - d. If any of the required information is not in the application, the Zoning Administrator shall notify the applicant in writing, within five days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 - e. Within 45 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the 45 day period:
 - (1) Make a final decision whether to approve or disapprove the application.
 - (2) Notify the applicant, in writing, of its final decision.
 - (3) If the application is approved, issue the applicant the relevant zoning permit.
 - (4) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

- G. Limitations. The Village is subject to the following statutory limitations when reviewing the applications for conditional use permits and/or zoning permits for the placement, construction or substantial modification of mobile service facilities or Class 2 collocations:
1. No application shall be disapproved based solely on aesthetic concerns.
 2. No environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions may be required.
 3. No regulation of radio frequency signal strength or the adequacy of mobile service quality is allowed.
 4. The placement of emergency power systems may not be prohibited, and backup battery power may not be required.
 5. The Village may not require that a support structure be placed on property owned by the Village.
 6. No application may be disapproved based solely on the height of the tower structure or on whether the structure requires lighting, and the height of the structure may not be limited to under 200 feet.
 7. Approval of an application shall not be conditioned on the agreement of the owner to provide space on or near the structure for the use of or by the Village at less than the market rate, or to provide the Village other services via the structure or facilities at less than the market rate, nor permitting the Village to place at or collocate mobile service facilities provided or operated by the Village or its entities or interests.
 8. The applicant may not be required to construct a distributed antenna system instead of a new tower structure or engaging in collocation.
 9. The application may not be disapproved because the Village has assessed that other locations may be suitable for conducting the activity.
 10. The applicant may not be required to indemnify or insure the Village in connection with the Village's exercise of its authority to approve the application.
- H. Fees.
1. Permits. The fees for Conditional Use Permits and Zoning Permits required hereunder shall be set by the Village Board and reflected in the Fee Schedule, provided, however, that pursuant to Wis. Stat. s. 66.0404(4)(d), the fee for a Conditional Use Permit required under subsection C.1.a. or b. shall not exceed \$3,000 and the fee for a Zoning Permit required under subsection C.1.c. shall not exceed the cost of the Building Permit or \$500, whichever is less. No recurring fee is allowed.
 2. Technical review. In the event the Plan Commission determines that it is necessary to consult with a third party in considering an application, all reasonable costs and expenses associated with such consultation shall be borne by the applicant, but the applicant shall not be required to pay travel expenses of the consultant. Failure to pay such costs and expenses or provide information required under this Section shall be grounds for denial or revocation of a permit. The applicant may provide to the Plan Commission the names

of consultants which the applicant believes are qualified to assist in resolving the issues before the Plan Commission.

I. Abandonment.

1. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned. In such circumstances, the owner of such antenna or tower or owner(s) of the property where the tower or antenna is located shall remove said antenna and/or tower including all supporting equipment, buildings, and foundations to a depth of five feet, and shall restore the location to its natural condition (except that any landscaping and grading may remain in the after-condition as determined by the Zoning Administrator) within 90 days of receipt of notice from the Zoning Administrator. If removal and restoration to the satisfaction of the Zoning Administrator does not occur within the said 90 days, the Zoning Administrator may remove and salvage said antenna/tower and all supporting equipment and buildings, and restore the site at the antenna/tower owner's or property owner's expense.
2. Security for Removal. The applicant shall provide to the Village, prior to the issuance of the conditional use permit, a surety in a form acceptable to the Village in the amount of \$20,000.00 to guarantee that the tower and all supporting equipment, buildings and foundations will be removed when no longer in operation. The Village must be named as the beneficiary of the surety, and the terms of the surety must provide that the Village will be given notice if the surety provider cancels the surety. If, prior to the removal of the tower, tower removal rates exceed \$20,000.00, the Village reserves the right to impose a special charge on the property in the event that the Village is required to remove the facilities.

J. Expiration of Permits; Continued Compliance.

1. A permit issued hereunder shall not expire, provided that the permit holder shall remain in compliance with all applicable laws and ordinances.
2. Upon written inquiry by the Plan Commission, the permit holder under this section shall present credible evidence of the continued compliance with the conditional use permit. Failure to establish compliance with the conditional use permit shall be grounds for the revocation of the permit. All reasonable costs and expenses associated with such consultation shall be borne by the holder of the permit. Failure to pay such costs and expenses or provide information requested by the Plan Commission shall be grounds for revocation of the permit. The holder of the permit may provide to the Plan Commission the names of consultants which the permit holder believes are qualified to assist in resolving the issues before the Plan Commission.

K. Village Not Responsible. The Village does not warrant any tower against design or structural failure. The Village does not certify that the design is adequate for any tower and the Village hereby accepts no liability through the issuance of a conditional use permit or zoning permit.

L. Coordination Between Village Departments. The Zoning Administrator shall coordinate with Building Inspector to ensure that all required time limits set forth in this Section are met.

M. Appeal. A party who is aggrieved by the final decision of the Village may bring an action in Racine County Circuit Court.

35-151 TOWER SITE STANDARDS

- A. Purpose. The site standards for tower facilities set forth in this section are to ensure site construction and development in a manner which will result in an appearance compatible with permitted uses in the zoning district and to protect adjacent property from safety hazards such as tower failure or falling ice.
- B. Site Size and Tower Setbacks.
1. The site shall be of a size and shape sufficient to provide an adequate setback from the base of the tower to any property line. Such setback shall be sufficient to:
 - a. Protect adjoining properties from the potential impact of tower failure and falling ice by being large enough in area to accommodate such failure and falling ice on the site.
 - b. Conform to the minimum shore yard setbacks.
 2. Setbacks. Setbacks shall not be less than the height of the tower above grade between the base of the tower and any property line. If the applicant presents to the Plan Commission a report by a structural engineer certifying the fall-down radius of the proposed tower to be less than its height, the allowed set back shall be that certified distance.
 3. Maximum Height. There is no maximum tower or antenna height, provided, however, that the height and setback distance limitations for a tower or antenna near a public use airport or heliport shall conform to the airport and airport approach protection provisions under Wis. Stat. ss. 114.135 and 114.136 or the tower or antenna height and setback distance provisions set by the federal aviation administration obstruction standards in 14 CFR Part 77, whichever applies. The height and setback distance limitations for towers or antennas near a private heliport at a medical facility used for air ambulance service, or a private use airport or heliport, shall conform to the federal aviation administration obstruction standards that apply to public use heliports. Prior written approval from the F.A.A. and Wisconsin Department of Transportation Bureau of Aeronautics, if applicable, shall be submitted to the Village.
 4. When more than one tower is placed on a site, all setback, design and landscape requirements shall be met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of each tower on the site will not lead to multiple failures in the event that one fails.
- C. Guy setback.
1. For a guyed structure, the site shall be of a size and shape sufficient to provide an adequate setback from a guy anchor to any property line abutting a residential district, public property or public street.
 2. A site with a guyed structure shall provide:
 - a. A setback of at least 25 feet between a guy anchor and any property line abutting a residential district, public property or street; and

- b. A setback equal to or exceeding the rear yard setback required for the adjoining property where the adjoining property is not a public property or street, nor in a residential district.
 - 3. A guy anchor may be located on an adjoining property when:
 - a. Written authorization from the adjoining property owner is provided at the time of application for conditional use approval; and
 - b. The guy anchor meets the requirements of subsection 2., above, as to all other adjoining property lines.
- D. Setbacks for Accessory Uses. Setbacks for all accessory structures and uses shall be at least as great as the required yards of the underlying zone for accessory structures. Accessory structures shall be limited to 15 feet in height.
- E. Tower Appearance and Illumination.
 - 1. For towers not regulated by the Wisconsin Department of Transportation Bureau of Aeronautics or the Federal Aviation Administration, a surface paint or finish shall be used that reduces the visibility of the tower.
 - 2. Facility structures and equipment, including supporting structures, shall be located, designed and screened to blend with the existing natural or built surroundings so as to reduce visual impacts.
- F. Landscaping. Landscaping of the site which abuts or is visible from streets, residences, public parks or areas with access to the general public other than the owner of the adjoining property, in order to mitigate the aesthetic and visual impacts of the tower, is suggested but not required.
- G. Site development, Roads and Parking.
 - 1. A minimum of one parking space shall be provided on each site. On sites with personnel routinely in attendance, additional parking spaces may be required by the Plan Commission.
 - 2. All sites must be served by a minimum 30-foot wide easement with a turnaround. The Plan Commission may modify the easement and turnaround requirement. All sites shall use existing access points and roads whenever possible.
- H.. Use of existing structures. A tower or antenna may locate on an existing alternative support structure such as a clock tower, steeple, silo, light pole, building, water tower or similar structure provided that towers located on roofs shall not occupy more than 50 percent of the roof surface of a building and shall be secured from the remaining area to prevent unauthorized access. The towers and antenna(s) shall be painted or otherwise treated to match the exterior of the structure.

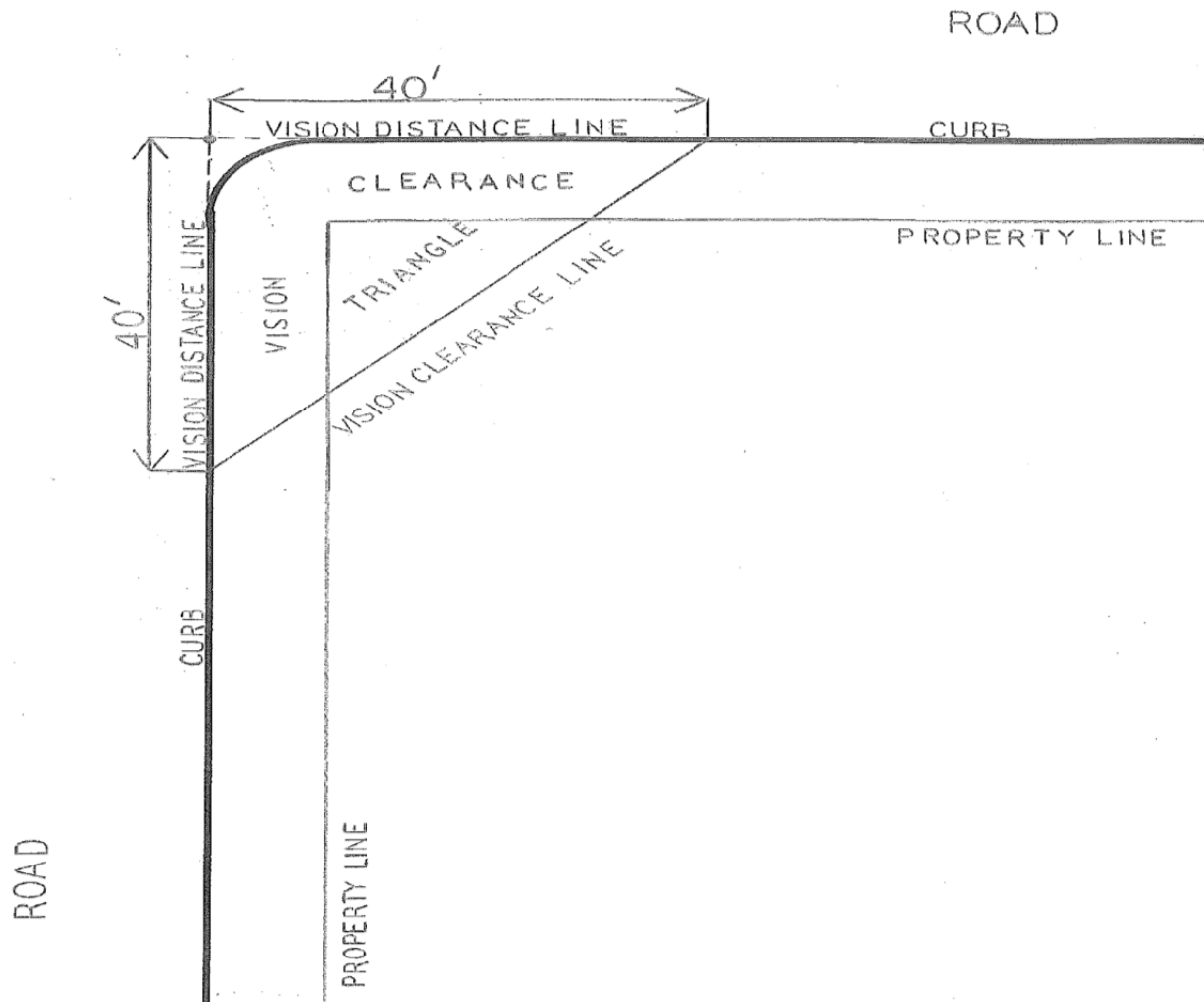
35-160 TRAFFIC, PARKING AND ACCESS

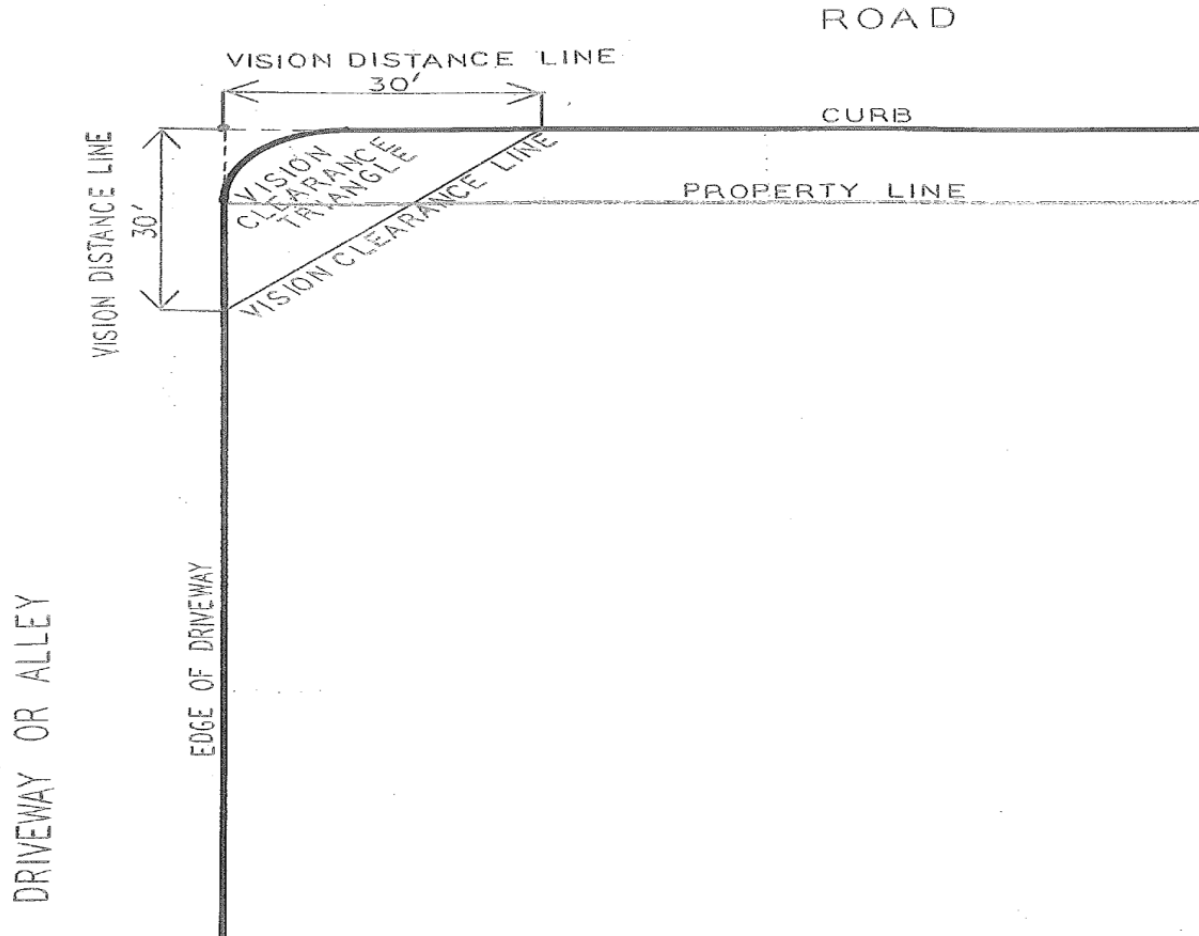
A. Vision Clearance at Intersections.

1. Corner lot. On a corner lot in any district, no obstructions, such as structures, parking or vegetation, shall be erected, placed, planted or allowed to grow to impede vision between a height of two feet and 10 feet above the curbline grade in the vision clearance triangle.
2. Dimensions.
 - a. Definitions. In this subsection:
 - (1) The "vision distance lines" are:
 - (a) At the intersection of two public or private streets, the lines extending a designated length from the intersection of the streets along the back of the curb of each street, and if no curb exists, along the edge of the shoulder of the street;
 - (b) At the intersection of a public or private street and an alley or driveway, the line extending a designated length from the intersection of the street and the driveway or alley along the back of the curb or the edge of the shoulder of the street, and the line extending a designated length from the intersection of the street and the driveway or alley along the edge of the pavement of the driveway or alley.
 - (2) The "vision clearance line" is the straight line connecting the non-intersecting ends of the vision distance lines.
 - (3) The "vision clearance triangle" is the triangular area created by the intersection of the two vision distance lines with the vision clearance line.
 - (4) See Exhibit 35-160(1).
 - b. The dimensions of a specific vision clearance triangle shall be determined by the Zoning Administrator, with input from the Public Works Manager. If the land owner disagrees with the decision of the Zoning Administrator, the land owner may request a determination by the Village Engineer, at the cost of the land owner, as follows:
 - (1) At the intersection of any street with a State or County Highway, the vision clearance triangle shall be determined by the method used by the State of Wisconsin Department of Transportation or the County, whichever is applicable.
 - (2) At the intersection of public or private streets, the length of the vision distance lines shall be 40 feet from their intersection.
 - (3) At the intersection of a driveway or alley with a public or private street, the length of the vision distance lines shall be 30 feet from their intersection.
 - c. Exceptions. The requirements of subsection A.2.a. do not apply to:

- (1) Public utility poles;
 - (2) Trees trimmed (to the trunk) from the ground to a line at least eight feet above the level of the pavement;
 - (3) Official warning signs or signals;
 - (4) Signs mounted nine feet or more above the ground and supported by a single support with a maximum cross section of 12 inches;
 - (5) Earth-formed obstructions, including retaining walls, at intersections which were existing on the date of passage of this Chapter.
 - (6) Mailboxes.
3. Existing Buildings. Except as otherwise set forth in this Chapter, no building located at the intersection of two or more streets, where a vision clearance less than provided above exists as of the date of the passage or amendment of this Chapter, shall be structurally altered on the exterior within the vision clearance triangle unless a vision clearance triangle meeting the requirements of this section is provided at the corner of the building nearest such intersection.
 4. Historic Preservation Overlay District. Buildings in the HPO shall follow the guidelines for that District, and the Historic Preservation Committee may grant exceptions to the requirements of this section. Other obstructions, except as set forth in subsection A.2.c., may not be placed in the vision clearance triangle.
 5. Exceptions by Plan Commission. The Plan Commission may grant exceptions to the vision clearance requirements where the characteristics of the intersection are such that traffic safety hazards would not be created and the placement of signs or structures within the vision clearance triangle would contribute to the objectives of the zoning district. Such an exception shall be subject to review and approval by the Public Works Manager.

EXHIBIT 35-160(1):





- B. Loading Requirements. On every lot on which a business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way.
1. B-1 through B-6 Districts (Business): one space at least 10 x 25 feet for each 5,000 sq. ft. of floor space or part thereof.
 2. M-1 through M-3 Districts (Industrial): one space of at least 10 x 50 feet for each 10,000 sq. ft. of floor area or part thereof.

35-161 PARKING REQUIREMENTS.

In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, or extended, increased off-street parking stalls for all vehicles in accordance with the following:

- A. Adequate access to a public street shall be provided for each parking space, and driveways shall be at least 12 feet wide for one and two family dwellings, and a minimum of 24 feet wide for all other uses. The minimum width for all other uses may be reduced to 14 feet where the drive is to accommodate one-way exit vehicle flow only.

- B. Each required off-street parking space shall open directly onto an aisle or driveway that is wide enough to provide safe and efficient means of vehicular access to the parking space.
- C. The size of each parking space shall be not less than 180 square feet in area nor less than nine feet in width, exclusive of the space required for ingress and egress.
- D. Location.
 - 1. The location of the required parking shall be on the same lot as the principal use or not over 400 feet from the principal use. When planning new parking lots, every attempt shall be made to minimize the effect of headlights and noise from parking lot driveway entrances and exits on adjacent residential areas.
 - 2. Alternatives to on-site parking: municipal, shared or off-site parking. When the provisions of subsection 1. cannot be met, parking may be provided by municipal, shared, or off-site parking.
 - a. The petitioner shall submit written documentation to the satisfaction of the Plan Commission that shared parking spaces are available to satisfy the parking requirements. Shared parking agreements shall provide evidence that either parking lots are adequate in total number of spaces to accommodate multiple users or that parking spaces will be shared at certain times of the day (i.e., one activity uses the spaces during daytime hours and another activity uses the spaces during evening hours). Off-site parking lots shall be located not more than 400 feet from the principal building entrance that it is intended to serve, unless the petitioner's business or other use is located in the HPO Historic Preservation Overlay District and may be served by a municipal parking lot.
 - b. When a reduction of parking spaces attributable to shared parking or off-site parking is requested, the petitioner shall submit written verification that such parking is available for the life of the applicant's use and shall include copies of any contracts, joint lease agreements, easements, and other such documentation to show that such shared parking can be accomplished. The method by which the required shared parking will be provided is subject to the approval of the Village Attorney upon request by the Village Zoning Administrator, and may be required to be recorded under the provisions of subsection (c) of this section. Off-site parking spaces shall be clearly posted for the joint use of employees, tenants and/or customers of each respective use sharing those spaces.
 - c. Recording of restrictions. The Plan Commission may require that a declaration of land use restriction be recorded upon the subject property at the Racine County Register of Deeds to ensure that future owners are informed of use restrictions resulting from the administration of this section.
- E. Minimum Required Parking Lot Setbacks, Landscaping, and Plans.
 - 1. Minimum Required Setback for Off-Street Parking Areas Abutting a Public Street Right-of-Way Line. No off-street parking area shall be closer than eight feet from a public street right-of-way line. The area between the parking lot and the adjacent street right-of-way shall consist of landscaping meeting the requirements of this Chapter.
 - 2. Minimum Required Setbacks for Off-Street Parking Areas. Except in cases where greater restrictions apply, as set forth in paragraph 3 below, no off-street parking area or associated driveway serving more than five vehicles shall be closer than eight feet to a

side or rear lot line of an abutting lot or parcel. The area between the parking lot and the lot or parcel line shall consist of landscaping meeting the requirements of this Chapter.

3. **Minimum Required Setbacks for Off-Street Parking Areas Abutting Residential Districts.** No off-street parking area or associated driveway serving more than five vehicles shall be closer than ten feet to a side or rear lot line of an abutting Residential District. The area between the parking lot and the lot or parcel line shall be screened from such district by a solid wall, solid fence, and/or coniferous plantings of an equivalent solid visual density or other effective means deemed adequate by the Plan Commission and shall be built and maintained at a minimum height of six feet.
4. **Minimum Distance of Truck Parking from Any Residential Zoning District.** No truck parking of Class 7 trucks (26,001 to 33,000 lbs., GVW) or greater shall be allowed within 150 feet of any residential zoning district.
5. **Minimum Required Landscaped Area and Landscaping Within Off-Street Parking Lots.**
 - a. All public off-street parking areas that serve ten vehicles or more and are created, redesigned, and/or rebuilt subsequent to the adoption of this Chapter, shall be provided with evenly dispersed landscape areas within the interior of such off-street parking areas.
 - b. The landscaped area shall total not less than five percent of the surfaced area (inclusive of both parking stalls and associated drives). Perimeter landscaped areas adjacent to the off-street parking lot shall not be included in the aforementioned required five percent. The minimum size of each such required landscape area in the off-street parking lot shall not be less than 100 square feet in area and not less than nine feet in width or length. Canopy trees shall be provided at the rate of one tree for each 15 off-street parking spaces (or fraction thereof) within the interior of the off-street parking area. The preservation of existing canopy trees in the parking area may be included in the calculation of the required minimum landscape area.
6. **Minimum Landscaping Requirements To Be Met.** All landscape plant materials required by this Chapter shall meet the following minimum requirements.
 - a. **General Plant Material Standards.** All new landscape plant material shall be grown in a nursery located in plant hardiness zone 4 and shall conform to the applicable requirements as specified in the current edition of American Standard for Nursery Stock as approved by the American National Standards Institute, Inc. and sponsored by the American Nursery and Landscape Association. Botanical plant names shall be in accordance with the current edition of New Pronouncing Dictionary of Plant Names prepared by the American Joint Committee on Horticultural Nomenclature.
 - b. **Plant Material Minimum Size Standards.** All required new landscape plant material shall be, at the time of installation, those minimum sizes as set forth in Table 35-161.1.

Table 35-161(1)

MINIMUM SIZE STANDARDS FOR REQUIRED PLANT MATERIALS

Plant Material Type	Minimum Required Size of Plants
Canopy Trees:	
Single Stem:	3-inch caliper
Multi-stem Clump:	12 feet tall
Coniferous Trees	6-feet tall
Ornamental Trees	1.5 inch caliper
Shrubs	2 feet tall

- c. **Off-Street Parking Area Surfacing.** All open, off-street parking and loading spaces in all zoning districts except residential districts shall be improved with pavement of either asphalt or concrete. Storm water drainage facilities shall be as required and approved by the Village Engineer.
- d. **Concrete Curb and Gutter Required for All Off-Street Parking Areas and Associated Drives.** Concrete curb and gutter shall be required for all off-street parking areas serving five or more vehicles in the following zoning districts: R-4, R-8, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, and P-1. The expansion of any existing off-street parking lot must meet this requirement.
- e. **Permanent Marking of Off-Street Parking Stalls.** All off-street parking areas serving five or more vehicles shall have all parking stalls permanently marked by painted lines or other approved material and said marking shall be maintained so as to be legible at all times.
- f. **Parking Spaces for Use by Persons with Disabilities.** All open, off-street parking areas shall provide parking spaces for persons with disabilities meeting all applicable "Americans with Disabilities Act (ADA) Guidelines for Buildings and Facilities" as documented in the Federal Register. Vol. 56, No. 144, July 26, 1991 as amended. Unless conflicting with the above specified "Americans with Disabilities Act (ADA) Guidelines for Buildings and Facilities" requirements as amended, the following standards are applicable:
 - (1) **Minimum Required Number of Accessible Off-Street Parking Spaces for Use by Persons with Disabilities.** The following Table 35-161(2) shall apply. The minimum required number of accessible off-street parking spaces for use by persons with disabilities shall be considered as a part of the total off-street parking spaces required.

Table 35-161(2) "MINIMUM REQUIRED NUMBER OF ACCESSIBLE OFF-STREET PARKING SPACES FOR PERSONS WITH DISABILITIES" ADA Standards for Accessible Design 4.1.2(5)

Total Number of Off-Street Parking Spaces in Parking Lot or Area	Minimum Required Number of Accessible Off-Street Parking Spaces (60" & 96" aisles)	Van-Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
	Column "A"		
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1,000	2 percent of total parking provided in each lot	1/8 of Column "A"*	7/8 of Column "A"***
1,001 and over	20 plus 1 for each 100 over 1,000	1/8 of Column "A"*	7/8 of Column "A"***
*one out of every 8 accessible spaces		**7 out of every 8 accessible parking spaces	

- (2) Minimum Dimensions for Off-Street Parking Spaces Provided for Use by Persons with Disabilities. The minimum dimensions for all parking spaces provided for use by persons with disabilities shall be 14 feet wide by 20 feet long for automobiles and 17 feet wide by 20 feet long for vans. The minimum access aisles for such spaces shall be 60 inches for automobile spaces and 96 inches for van spaces.
- (3) Distance to Facility Entrances for the Location of Off-Street Parking for Persons with Disabilities. Off-street parking spaces provided for the use of persons with disabilities shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.
- (4) Signage of Off-Street Parking Spaces Serving Persons with Disabilities. All parking spaces provided for the use of disabled persons shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by disabled persons. Such signs shall comply with the requirements of the aforementioned "Americans with Disabilities Act (ADA) Guidelines for Buildings and Facilities" as amended and with Wis. Stat. ss. 346.50, 346.503, and 346.505.

g. Minimum Number of Off-Street Parking Spaces required:

Table 35-161(3) NUMBER OF PARKING STALLS

<i>Use</i>	<i>Minimum Parking Required</i>
Single-family, two-family, multi-family dwellings	2 spaces for each dwelling unit
Motels, hotels, lodging, and boarding houses	1 space for each guest room plus 1 space for each 2 employees
Hospitals and dormitories	1 space for each 2 beds plus 1 space for each 2 employees
Sanitariums, institutions, rest and nursing homes	1 space for each 5 beds, plus 1 space for each 2 employees
Medical and dental clinics	5 spaces for each doctor
Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 space for each 4 seats
Colleges, secondary, and elementary schools	1 space for each 2 employees plus 1 space for each 10 students of 16 years of age or more
Restaurants, bars, places of entertainment, repair shops, retail and service stores	1 space for each 150 square feet of floor area and 1 space for each 2 employees
Manufacturing and processing plants, laboratories and warehouses	1 space for each 3 employees
Financial institutions, business, government, and professional offices	1 space for each 300 square feet of floor area and 1 space for each 2 employees
Funeral Homes	1 space for each 4 seats
Bowling alleys	5 spaces for each alley
Lodges and clubs	1 space for each 5 members
Automotive repair garages	1 space for each regular employee plus 1 space for each 250 square feet of floor area used for repair work
Gasoline filling stations	3 spaces for each grease rack or similar facility plus 1 space for each attendant
Uses not listed	In the case of structures or uses not mentioned, the provision for a use which is similar shall apply.
Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.	

- h. Employee Parking. Parking spaces required on an employee basis, as set forth in Table 35-161(3) shall be based on the average number of employees on duty or residing, or both, on the premises at any one time.
- i. Minimum Width of Off-Street Parking Rows and Aisles. The design of all off street parking regulated by this Chapter shall be in conformance with the requirements set forth in Table 35-161(4).

Table 35-161(4) MINIMUM WIDTH OF OFF-STREET PARKING ROWS AND AISLES

<i>Type of Row</i>	<i>Parallel Spaces</i>	<i>45 Degree Angle Spaces</i>	<i>60 Degree Angle Spaces</i>	<i>90 Degree Angle Spaces</i>
Single Row & Aisle	20 ft.	35 ft.	40 ft.	45 ft.
Double Row & Aisle	28 ft.	60 ft.	62 ft.	65 ft.

j. Modifications to required parking spaces. The Village recognizes that, due to the particularities of any given land use or development, the inflexible application of the parking supply requirements set forth in subsection g. of this section may result in a land use or development either with inadequate parking supply or parking supply far in excess of its needs. Therefore, the Plan Commission may permit or require deviations from the requirements of subsection g. of this section and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standards set out in subsections j.(1), j.(2) and j.(3) of this section. Whenever the Plan Commission permits or requires a modification to the prescribed parking supply requirements, it may also request the recording of the same under the provisions of subsection D.2.c. of this section with the Racine County Register of Deeds.

- (1) Additional parking spaces can be required if it is determined that the prescribed requirement for a particular development will lead to traffic congestion or parking violations in adjacent streets or unauthorized parking in nearby private parking lots.
- (2) A reduction in parking spaces can be required if it is determined that the prescribed requirement for a particular development would result in the wasteful use of property that could more desirably be used for additional building development, in the case of a land use or development which would produce less parking demand, or for environmentally useful or aesthetically pleasing open space.
- (3) In the HPO Historic Preservation Overlay District, the Plan Commission may also eliminate or modify the parking lot landscaping requirements of this Section.

35-162 DRIVEWAYS.

- A. Definition. For the purpose of this section, a driveway shall be defined as a private road, drive or roadway giving access from a public way, road or highway to abutting grounds.
- B. Application and Permit. The procedures for obtaining a Driveway Permit and certain standards for driveways are set forth in section 6-7, Driveway Permits; Protection of Streets During Construction, of this Municipal Code.
- C. All driveways installed, altered, changed, replaced or extended after the effective date of this Chapter shall meet the requirements in this section. Driveway culverts and apron end walls shall be constructed and/or installed as may be required in section 6-7 of this Code.
- D. Surface.
 1. Driveway aprons in all zoning districts shall be asphaltic concrete as provided in s. 6-7, except driveways directly accessing agricultural land.

2. All lots in the R-1 through R-5 Residential, B-1 through B-6 Business, M-1 through M-3 Manufacturing and P-1 Institutional Park Zoning Districts hereafter constructed shall, at the time of said construction, have installed thereon, at the owner's or builder's expense, a hard-surfaced, dustproof, paved driveway and off-street parking meeting the standards and specifications as herein provided within 12 months of occupancy.

For houses existing in one of these districts prior to the effective date of this Code that have existing driveways, a hard-surfaced drive shall not be required for modifications to the driveway, with the exception that if the width of the approach is widened, then a hard-surfaced apron, consistent with section 6-7 of this Municipal Code, shall be required from the road to the property line.

3. Driveways in zoning districts not listed in subsection 2. may consist of gravel or other surfaces, provided that the road strength of the driveway is capable of supporting emergency and fire vehicles.

E. Width and Location.

1. Driveway aprons in all zoning districts shall be at least the width required in s. 6-7.
2. Driveways for one and two family dwellings shall have a minimum width of 12 feet. Driveway widths for all other uses shall be determined during the plan review and shall be established by the Public Works Manager and Zoning Administrator based on traffic flows, current conditions and future expectations for the area.
3. Openings for vehicular ingress and egress in all zoning districts, except the Manufacturing and Agricultural Districts, shall not exceed 30 feet at the street line and 35 feet at the roadway. Openings for vehicular ingress and egress in the Manufacturing and Agricultural Districts shall not exceed 30 feet at the street line and, at the roadway, shall not exceed the width determined by the Public Works Manager.
4. Islands between driveway openings shall be provided with a minimum of six feet between all driveways and three feet at all lot lines. The area between the lot line and adjacent driveway shall be a landscaped area.
5. Vehicular Entrances and Exits to drive-in theaters, banks and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; or garages shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.
6. For existing single-family residences located on interior lots where the side yard is not adequate to permit access to an off-street parking area located in back of the building setback line, a parking area adequate to park one or two automobiles may be constructed in front of the building setback line, if approved by the zoning administrator.
7. For existing single-family residences located on corner lots where the side yard or back yard is not adequate to permit access to an off-street parking area located in back of the building setback line, a parking area adequate to park one or two automobiles may be constructed in front of the building setback line at a place farthest from the intersection of the streets, if approved by the zoning administrator.

4. Length.
 1. The driveway shall extend from the curb or, in the absence of a curb, from the street surface to an off-street parking area or garage. The off-street parking area and/or garage combined shall be adequate to park the required number of vehicles, consistent with s. 35-161, behind the setback line for the zoning in which the construction takes place.
 2. Driveways extending 1,000 feet or more from a public or private road shall receive approval from the contracted fire company and additional driveway width may be required to accommodate fire vehicles in case of an emergency prior to obtaining a driveway permit.

- F. Hard Surface Specifications. Where driveway aprons, driveways and off-street parking areas must be hard-surfaced and dust proof, they must be constructed to meet the specifications of this section and the requirements of the Public Works Manager as to finish, slope and strength. Expansion joints shall be located as required.
 1. The driveway apron on a public right of way shall meet the requirement of s. 6-7 of this Code.
 2. Driveways and parking beyond the apron.
 - a. On property where pavement is required, the driveway from the apron to the edge of the right of way shall consist of three inches of asphalt (one and one-half inch binder course, one and one-half inch surface course) on a six inch compacted granular base. The driveway from the edge of the right of way into the property shall be constructed of six inches of portland cement reinforced concrete on a four inch compacted granular base, or three inches of asphalt (one and one-half inch binder course, one and one-half inch surface course) on a six inch compacted granular base.
 - b. Where driveways and/or parking areas consist of materials other than asphaltic concrete are allowed, they shall have road strength capable of supporting emergency and fire vehicles.

- G. Street Projects. When a street project necessitates the removal of a portion of a driveway:
 1. Regardless of zoning district, if asphaltic concrete is removed to accommodate a street project, it will be replaced with asphaltic concrete as part of the project.
 2. If a hard surface material that is not asphaltic concrete was used in the right-of-way in a zoning district where a hard surface is required for a driveway, the Village may remove that material to accommodate street projects, may replace the material with asphaltic concrete, and shall not be liable for replacing it with the same or similar material.
 3. If a hard surface material was used in a zoning district where a hard surface material is not required for a driveway, in the event the Village intends to remove the other hard-surface material as part of a street project, it will notify the property owner in writing. In the event that the property owner wishes to restore the other hard-surface material at his or her own expense (rather than have the Village restore the driveway within the right-of-way with asphalt), the property owner must notify the Village within 30 days of receiving the Village's notice, in which case the Village will place gravel rather than asphalt in the portion of the driveway located in the right-of way beyond the required depth of the asphaltic concrete apron. The property owner will have one year to restore that portion of

the driveway with the other hard-surface material. If the driveway has not been restored with the other hard surface material within one year of the placement of the gravel, the Village will place asphalt on the portion of the driveway located in the right-of-way and will charge the full cost of doing so to the property owner as a special charge pursuant to Wis. Stat. s. 66.0627, and if the property owner fails to pay the special charge within 30 days of being billed therefore, the charge shall be considered delinquent and shall become a lien on the property and shall be included in the tax roll for collection.

- H. The Zoning Administrator may revoke any driveway permit issued by written notice at any time that the Administrator finds that the provisions of this Chapter or any laws, orders, plans and specifications are not being complied with. See s. 6-7 of this Municipal Code.

35-163 HIGHWAY ACCESS

- A. No direct private access shall be permitted to the existing or proposed rights-of-way of any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of arterial streets intersecting other arterial streets or local streets within 100 feet of the intersection of the right-of-way lines.
- B. Access Barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, may be required to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- C. Temporary Access to the above rights-of-way may be granted by the Plan Commission after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed 12 months.
- D. With respect to each lot in residential districts R-1 to R-3 inclusive only one driveway shall be permitted to exit/enter said lot from each street that directly abuts such lot on the front, rear and each side; and any driveway exiting/entering said lot from more than one street will connect with the driveway or driveways exiting/entering from any other street or streets. This provision shall only apply to driveways constructed after the effective date of this Code.

35-170 SIGNS.

- A. Intent. It is the intent of this Chapter to insure that signs compliment both the natural environment around them and the architecture of the buildings associated with the signs. Signs must convey information clearly without being aesthetically distracting. The sign regulations are intended to promote the effective use of signs; to maintain and enhance the aesthetic environment of the Village; to promote pedestrian and vehicular safety; to protect property values by minimizing the adverse effects of signs; and to provide a procedure for fair and consistent enforcement, by:
1. Establishing a permit system to allow a broad variety of sign types in commercially and industrially zoned districts and a limited variety of signs in other zoned districts, subject to the standards and procedures of this Chapter.
 2. Allowing certain signs in residentially zoned districts that are small, unobtrusive and incidental to the principal use of the respective premises on which they are located, subject to the substantive requirements of this Chapter, but without a requirement for permits.
 3. Prohibiting all signs not expressly permitted by this Chapter.
 4. Prohibiting all signs which have the potential for disrupting or distracting vehicular traffic.

35-171 PERMITTED AND PROHIBITED SIGNS; PERMITS.

- A. Regulations. Signs shall be allowed or prohibited as set forth in this Chapter. Signs that are allowed require a sign permit unless otherwise noted. No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered unless it is in conformity with the provisions of this Chapter.
1. Type of signs allowed.
 - a. Monument. The design of freestanding signs should recognize that they are part of the landscape. These signs use low mounting walls, masonry bases, shrubs, and ground cover, and seasonal plantings to integrate them with their sites.
 - b. Wall. Wall signs shall complement the architecture of the building. They shall not extend above the roofline.
 2. Types of signs not allowed.
 - a. Roof.
 - b. Pole.
 - c. Projecting.
 3. Location of Signs. All signs shall be located on the premises of the business. Off premises advertising signs (billboards) are not allowed.
- B. Permits. ~~A~~A zoning permit application for a sign must be submitted to the Zoning Administrator on forms provided by the Village, and shall be accompanied by the fee for the permit application determined by the Village Board and set forth in the Fee Schedule. The zoning permit application must contain or have attached thereto at least the following information:

1. Applicant's name, address, and telephone number.
2. Location of building, structure, or lot to which or upon which the sign is to be located.
3. Name of person or entity erecting the sign.
4. A drawing of such sign indicating the materials to be used, the type of illumination, if any, and the method of construction and attachment. The drawing must be drawn at a scale no smaller than 1/10 inch equals one foot or dimensions must be shown on the drawing.
5. A drawing indicating the location and position of the sign in relation to nearby buildings, structures, and lot lines. The drawing must include the sign's height above finished yard grade. The drawing must be at a scale no smaller than one inch equals 50 feet or dimensions must be shown on the drawing. All setback measurements must be taken from the street right of way and lot lines.
6. Signs requiring county, state and/or federal approval must provide a copy of all such approvals with the sign permit application.
7. Additional information as may be required by the Zoning Administrator, the Plan Commission, the Village Board or the Board of Appeals.

35-172 MEASURING SIGNS.

- A. In calculating the area of a sign to determine whether it meets the requirements of this Chapter, the Zoning Administrator will include the sign copy and any border or frame surrounding that copy. Customary supporting members of a sign will be excluded from the area calculation. The area of irregularly-shaped signs or of signs containing two or more detached elements will be determined by the area of the smallest circle, square, triangle, rectangle, or combination thereof, that will encompass all elements of the sign. Where individual letters, words, emblems, symbols, etc. are affixed to a building, a rectangle around the entire phrase or sentence will be measured to compute the sign area. Where the sign background is made a different color from the building such as by painting, the area of different color will be measured. Back-to-back, side-by-side, bottom-on-top, and V-shaped signs constitute one sign.
- B. Spherical, free-form, sculptural, or other non-planar sign area is 50 percent of the sum of the areas using only the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. Signs with more than four faces are prohibited.
- C. The sign height shall be computed as the distance from the base of the sign or structure to which it is attached at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:
 1. Existing grade prior to construction; or
 2. The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of elevating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a street or the grade of the principal pedestrian entrance to the principal structure on the site, whichever is lower.

35-173 SIGNS ALLOWED IN ALL ZONING DISTRICTS, NO PERMIT REQUIRED.

The following signs do not require permits, but must meet the size and placement limitations of this Chapter.

- A. Real Estate Signs. Real estate signs that advertise the sale, lease, or rental of the structure(s) and/or property upon which said signs are temporarily located are permitted on all properties advertised for sale, lease, or rent. Such real estate signs are not to exceed nine square feet in area on one side and 18 square feet in area on all sides in a residential ("R") district, or 32 square feet in area on one side and 64 square feet in area on all sides in other districts. These signs shall be removed within 30 days following sale, lease, or occupancy. Real estate signs may be located not closer than ten feet to any street right-of-way, nor closer than ten feet to a side or rear lot line. Only one such sign is permitted per street frontage and no sign may exceed a height of 20 feet.
- B. Property address numbers assigned by the Village and of a design approved by the Village that are required to be placed on every principal structure or as designated by the Village in clear view from the street on which the address is assigned.
- C. Signs not readable beyond the boundaries of the lot or parcel upon which they are situated and not readable from any street right-of-way or which are intended solely for providing information to parties on-site.
- D. Traffic and other official signs of any public or governmental agency, such as railroad crossing signs, trespassing signs, signs indicating danger, or signs used as aids to service or safety including water dependent informational signs with public health, safety or regulatory information that are no larger than necessary to accommodate the information that needs to be displayed.
- E. Any identification or display of any official court or public office, notices thereof, or any flag, emblem, or insignia of a nation, federal, state, county, or other governmental unit or school.
- F. Any sign that is located completely within an enclosed building and such sign is not placed in a window facing outward for the purpose of being readable from outside the building.
- G. Tablets, grave markers, headstones, statuary, or monuments of persons or events that are noncommercial in nature.
- H. Temporary signs, not over four square feet in area and not more than five feet in height, for events sponsored by non-profit organizations or for a non-profit charitable event. Such signs must be located at least five feet from the outer limits of the street right-of-way and ten feet from a side or rear lot line, and may be erected 30 days prior to the event, and must be removed within three days after the event.
- I. Works of art with no commercial message.
- J. Temporary holiday decorations or displays with no commercial message.
- K. Signs on a truck, bus, trailer, or other vehicle incidental to the use of such vehicle while operated in the normal course of a business. (But see s. 35-174, Prohibited Signs.)
- L. Recreational, informational, and directional signs within a federal, state, county or Village park or cemetery which are not readable from external streets.

- M. On-premises directional signs such as "Enter," "Exit," and "Do Not Enter" signs, when the principal purpose of the sign is traffic control, the sign does not exceed 12 square feet in area on one side and 24 square feet on all sides, the sign height is five feet or less, and the sign is set back at least ten feet from any property line or outer limits of the street right-of-way line. The number of signs on one premises shall be limited to the number necessary to safely direct traffic into the specific site.
- N. Temporary private sale signs advertising occasional noncommercial sales of personal property such as "house sales," "garage sales," "rummage sales," and the like.
- O. Construction signs erected on the premises where construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project. Such signs are subject to the dimensional and locational standards of **subsection C.1.(b) for ground signs**.
- P. Memorial Signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

35-174 PROHIBITED SIGNS.

The following signs are prohibited in all zoning districts:

- A. Specifically prohibited signs include projecting signs, billboards, pole signs, roof signs, pylon signs, flashing or moving signs or beacons, bench signs, trailer signs, banner signs on poles or buildings, balloons, inflatable advertising devices, inflatable signs and pennants. No sign shall contain, include or be illuminated by any flashing light, or moving part or be illuminated by other than white lights or be composed of any animated part. Colored coverings are not permitted.
- B. Vehicle Signs. Parking any vehicle, trailer, farm wagon, or equipment to be readable from a street right-of-way, that has attached thereto or located thereon any sign or advertising device for the purpose of providing advertisement of a product or directing people to a business or activity is prohibited. This provision shall not prohibit signs attached to a vehicle, trailer, farm wagon, or equipment if the sign is incidental to the primary use of the vehicle, trailer, farm wagon, or equipment; nor shall this provision prohibit any official signs in the street right-of-way regulated by the federal, state, county, or local government.
- C. Interference with Traffic. Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape, and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

35-175 POLITICAL SIGNS.

Political signs may be displayed during an election campaign period if they are located on a zoning lot, behind the outer limits of the street right-of-way line, with the permission of the owner or tenant. Such signs may not interfere with traffic or pedestrian safety.

- A. Political signs not exceeding 11 square feet in area and not having an electrical, mechanical or audio component during an election campaign period as provided in Wis. Stat. s. 12.04 are allowed in any zoning district without a permit.

- B. Political signs affixed to a permanent structure that do not extend beyond the perimeter of the structure, if the sign does not obstruct a window, door, fire escape, ventilation shaft or other area that is required by an applicable building code to remain unobstructed are allowed in any zoning district without a permit.
- C. Other Political Signs. Signs that do not meet the requirements of subsections A or B shall not exceed 16 square feet in sign area on one side and 32 square feet in sign area on all sides, or the maximum size allowed for signs in the applicable zoning district, whichever is greater. **A maximum of four such signs may be placed on a zoning lot.** For traffic and pedestrian safety, such signs must be located at least 50 feet from any street right-of-way intersection. A permit is not required.
- D. Signs Having an Electrical, Mechanical or Audio Auxiliary. Political signs having an electrical, mechanical or audio auxiliary are only allowed if in conformance with the provisions of this Chapter. A permit is required.
- E. Responsibility. The person or organization responsible for the erection or distribution of political signs, or the owner, owner's agent, tenant or tenant's agent of the property upon which such signs are located shall be responsible for the proper erection or removal of said signs.

35-176 DISTRICT REGULATIONS FOR SIGNS.

The following provisions are specific to the Zoning Districts of the Village.

- A. Residential Districts. The following signs are allowed in Residential Districts. All signs not specifically allowed in this Chapter are prohibited in Residential Districts.
 - 1. No Permit Required.
 - a. Signs not to exceed two square feet located on the premises.
 - b. Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two feet in height and ten feet in length are allowed.
 - 2. Permit Required.
 - ~~a.a.~~ Single-family, two-family, and multi-family permanent residential development signs not to exceed 48 square feet in area on one side and 96 square feet in area on all sides, that are located at entrances to subdivisions or developments or along abutting streets or highways, identifying residential complexes or displaying the property addresses. Said signs must be located on an outlot, permanent easement, or other common area and they must be located not closer than 15 feet to any street right-of-way, nor closer than ten feet to any side or rear lot line. Such signs may not exceed 12 feet in height. No more than two such signs are permitted for any one subdivision or development.
 - b. Temporary development signs for the purpose of designating a new building or development or for promotion of a subdivision may be permitted for a period up to two years, and extensions may be granted for a period not to exceed five years total. Signs may not exceed 48 square feet in area on one side and 96 square feet in area on all sides; may not exceed 12 feet in height, and must be located not closer than 15 feet from any street right-of-way and 75 feet from any

street right-of-way intersection, nor closer than ten feet to any side or rear lot line. Only one such sign is permitted per street frontage.

- B. Business and Industrial Districts. The following signs are allowed in all Business and Industrial Districts, except for Adult Establishments, subject to the conditions specified. All of the signs listed require a permit.
1. Wall Signs placed against the exterior walls of buildings are allowed and shall not extend outside of a building's wall surface, shall not exceed 500 square feet in area for any one premises, and shall not exceed 20 feet in height above the mean centerline street grade.
 - a. Wall signs placed against the exterior walls of buildings may not extend more than 12 inches outside of a building's wall surface, may not exceed 30 feet in height, and may not extend above the roofline of a flat roof, or the eave line of a building with a gambrel, gable, dome, or hip roof, or the deckline of a building with an mansard roof.
 - b. Total area of all wall signs may not exceed 500 square feet in area for any one premises; except that in multi-tenant shopping centers, the anchor tenant(s) may each have 500 square feet of allowable sign area, and the total area of individual wall signs for non-anchor businesses within such multi-tenant structures shall not exceed 50 square feet per tenant. An anchor tenant is defined as the major store or stores within a shopping center exceeding 40,000 square feet in total floor area.
 2. Monument Signs (Ground Signs) shall not exceed 15 feet in height above the mean centerline street grade, nor shall the height of the sign exceed eight feet from the base of the sign. Monument signs shall not be located closer than 15 feet to a street right of way or closer than ten feet to a side or rear lot line. A monument sign shall not exceed 100 square feet on one side nor 200 square feet on all sides for any one premises.
 - a. Required Landscaping at Base of Monument Sign. All monument signs shall provide a landscaped area with appropriate natural plant material groundcover and other landscape plantings located at the base of the monument sign equal in area to the area of the face of the sign.
 - b. When earthen berms are used as part of the landscaping, the earthen berms shall maintain a side slope of three to one with a maximum berm height of three feet above the surrounding grade. When earthen berms are used, earthen berms shall count towards the maximum permissible sign height.
 3. On-Site Directional Ground Signs. On-site directional signs may be allowed giving directions to areas such as employee or visitor parking and shipping or loading zones. The maximum size of directional ground signs shall not exceed three square feet in area on each side and the maximum height shall be 48 inches. Such signs shall be on the ground floor only and be readable from the public right-of-way.
 4. Window Signs may be placed only on the inside of buildings and first floor windows and doors. No permit is required for window signs that are not readable from the street right-of-way. The total area of all window signs requiring a permit shall not cover more than 20 percent of the total window area to which they are applied, or 100 square feet, whichever is less.

5. Marquee, awning, and canopy signs affixed flat to the surface of a marquee, awning, or canopy are permitted provided that the signs do not extend vertically or horizontally beyond the limits of such marquee, awning, or canopy. A marquee, awning, or canopy for a shopping center may not extend beyond a point one foot back from the vertical plane formed by the curbline in the shopping center. No marquee, awning, or canopy may project into a required street yard, side yard, or rear yard, unless such structure already exists as an existing legal nonconforming structure or was approved by variance and such sign does not increase the dimensional nonconformity. A name sign not exceeding two square feet in area located immediately in front of the entrance to an establishment may be suspended from a marquee, awning, or canopy provided that the bottom of the name sign is at least 12 feet above the sidewalk or 15 feet above a driveway or alley. The total area of all marquee, awning, or canopy signs may not exceed 60 square feet in area for any one premises.
 6. Time and/or temperature devices and/or changeable copy signs may be erected as wall signs, ground signs, or canopy signs and must meet the requirements attendant to those sign types. Time and/or temperature devices may change their copy not more than once every four seconds.
 7. Signs on any one site are further limited as follows:
 - a. Shopping Centers and multi-tenant buildings may provide one ground sign for each street frontage. Such facilities may also provide one wall sign or one canopy sign for each business in the building.
 - b. Gasoline stations, service stations, convenience stores with pumps, or any combination thereof may provide one ground sign. Wall signs and canopy signs may also be provided subject to total square footage limitations. Signs advertising incidental products for sale that are window signs or located on the gasoline pumps, and are not readable from the street right-of-way, will not require permits or be regulated in number.
 - c. For all other uses, total signs are limited to two signs per street frontage.
- C. Conservation and Park Districts. The following signs are allowed in Conservation and Park Districts, subject to the conditions herein specified.
1. No Permit Required.
 - a. On-premises or off-premises recreational directory signs not to exceed two in number, indicating the direction and/or distance to a specific cottage, resort, residence, or recreation facility that is located within an agricultural, resource conservation or park district, not to exceed 12 square feet in display area on one side and 24 square feet on all sides, five feet in height and no closer than ten feet to any right-of-way or property line.
 - b. Signs over show windows or doors of a nonconforming business establishment not to exceed two in number announcing, without display or elaboration, only the name and occupation of the proprietor and not to exceed a total of 20 square feet in area for all signs, and 20 feet in height.
 - c. Name, occupation, and warning signs not to exceed two square feet located on the premises.

- d. Bulletin Boards for public, charitable or religious institutions not to exceed 24 square feet in area located on the premises.
 - 2. Permit Required.
 - a. Public and private institutional and park names signs. Such signs may be erected as wall signs or ground signs and shall meet the requirements set forth for the business and industrial districts.
- D. Agricultural and Urban Reserve Districts. The following signs are allowed in the Agricultural and Urban Reserve Districts with a permit:
 - 1. On-premises agricultural homestead signs, where the principal purpose of the sign is to identify the name and address of a farm operation and/or date of establishment, which may not exceed 24 square feet in area on one side and 48 square feet in area on all sides, limited to one sign for any one farm, and such signs are located at least ten feet from the outer limits of the street right-of-way or any property line, and such signs do not exceed ten feet in height. Such signs may be exempt from the aforementioned height limit if painted upon the wall of an accessory structure. The size of such wall signs may exceed 24 square feet if done in an aesthetically pleasing manner that is approved through a site plan review by the Plan Commission.
 - 2. Temporary, non-illuminated, off-premises agricultural directional signs not to exceed four in number, indicating the direction and/or distance to an agricultural roadside stand, not to exceed 12 square feet in display area on one side and 24 square feet in area on all sides, a maximum of five feet in height, at least ten feet from the outer limits of the street right-of-way and five feet from any other property line. Such signs must be removed within ten days of discontinuing operation of a roadside stand. Provided the sign(s) are relocated per the issued permit and the permit holder remains the same, the issued permit continues to be valid for successive years.
 - 3. Agricultural signs pertaining to the sale of products actually grown on the farm or in connection with a roadside stand not to exceed 32 square feet in area on one side and 64 square feet on all sides for no more than two signs on any one farm, such signs are located at least ten feet from the outer limits of the street right-of-way or any property line, such signs do not exceed 15 feet in height, and such signs are located on the same premises as the products for sale.
 - 4. Signs for agricultural businesses that are approved by conditional use shall be treated as commercial/industrial signs are allowed.

35-177. SIGN REGULATIONS.

- A. Signs Illuminated By Spotlights. If a sign is illuminated by one or more spotlights specifically directed at it, the spotlights are to be fully shielded so that they are not visible from public streets or adjoining property.
- B. Lighting of Signs. Lighting of signs shall be permitted. Lighting of signs shall incorporate cutoff lighting where the illumination source is not visible from the viewing highway, or from neighboring homes and businesses.
- C. Animation of Signs. No signs using animated or flashing messages are allowed unless specifically set forth herein.

- D. Existing Signs. Any sign lawfully existing at the time of the adoption or amendment of this Chapter may be continued although the use, size, or location does not conform with the provisions of this Chapter. However, it shall be deemed a nonconforming use or structure; and the provisions of Section 35-200 of this Chapter shall apply.

35-178 SIGN CONSTRUCTION AND MAINTENANCE STANDARDS.

A. Construction.

1. All signs shall be constructed, erected and maintained to support the actual dead load, plus wind loads of not less than 40 pounds per square foot acting upon it, without exceeding the allowable stresses of the material.
 - a. The exposed area subject to wind pressure shall be the total area of all parts of the sign, including structural framing projected on a plane perpendicular to the direction of the wind.
 - b. In determining the stress in any member, the wind shall be assumed to blow from that horizontal direction and from that inclination from the vertical (but not to exceed 20 degrees above or below the horizontal) which produces the maximum stress in such member. No shielding effect on one element from another shall be considered where the distance between such elements exceeds four times the smaller projected dimension of the windward element.
2. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign is permitted subject to the approval of the jurisdictional authority, provided that the space occupied is roped off, fenced off, or otherwise isolated as directed by said authority.
3. No sign or any part thereof or sign anchor, brace, or guide rod may be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any such sign or any anchor, brace, or guide rod may be erected, put up, relocated, or maintained so as to hinder or prevent ingress or egress through such door, doorway, fire escape, window, or opening designated by the contracted fire department, or so as to hinder or prevent the raising or placing of ladders against such building by the fire department as necessity may require.
4. Upon request of the Zoning Administrator, it is the responsibility of the applicant to establish by competent evidence that the sign meets any above stated standards or requirements.

- B. Sign Maintenance. The owner of a sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of obnoxious substances, rubbish and weeds.

35-180 MODIFICATIONS.

- A. Height. The district height limitations stipulated elsewhere in this Chapter may be exceeded in accordance with the following:
1. Architectural Projections such as spires, belfries, cupolas, domes, flues and chimneys are exempt from the height limitations of this Chapter.
 2. Special Structures, such as fire towers and substations, are exempt from the height limitations of this Chapter, but conditional use permits may be required. See section 35-100.
 3. Essential Services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter.
 4. Solar Energy Systems, Wind Energy Systems, and Tower Facilities are regulated under sections 35-130 through 35-151 and must meet the applicable requirements.
 5. The height and setback distance limitations for a structure near a public use airport or heliport shall conform to the airport and airport approach protection provisions under Wis. Stat. ss. 114.135 and 114.136 or the wind turbine height and setback distance provisions set by the federal aviation administration obstruction standards in 14 CFR Part 77, whichever applies. The height and setback distance limitations for a structure near a private heliport at a medical facility used for air ambulance service, or a private use airport or heliport, shall conform to the federal aviation administration obstruction standards that apply to public use heliports.
- B. Yards. The yard requirements set forth in this Chapter may be modified as follows:
1. Uncovered Stairs, landings, bulkhead doors and fire escapes may project into any yard but not to exceed five feet, may not be closer than three feet to any lot line, and may project into a required court not more than three and one-half feet, provided light and ventilation are not obstructed.
 2. Architectural Projections such as chimneys, flues, sills, eaves, belt courses, decorative projections, lighting fixtures, balconies, bay/bow windows and ornaments may project into any required yard; but such projection shall not exceed three feet.
 3. Residential Fences, Hedges, and Walls are allowed without a permit on the property lines of residential districts, but shall not in any case exceed a height of six feet in side and rear yards and four feet in street yards; and shall not be closer than two feet to any public right-of-way. No residential fence may be located in a driveway, drainage utility, or preservation easement.
 4. Retaining walls are allowed anywhere in a yard provided, however, that no individual wall shall exceed three feet in height, and a terrace of at least three feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three feet to the base setback line. A zoning permit for a retaining wall is required.
 5. Security Fences are allowed on the property lines in all districts except residential districts, but shall not exceed ten feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

6. Accessory Uses and detached accessory structures are permitted in the side and rear yard only; they shall not be closer than ten feet to the principal structure, shall not exceed 15 feet in height, shall not occupy more than 20 percent of the rear yard area, and shall not be closer than five feet to any lot line nor ten feet to any alley line. See also section 35-21, which may modify these requirements.
 7. Accessory structures other than buildings, *i.e.*, windmills, play structures, flag poles, and similar structures, shall not exceed in height their distance from the nearest lot line, provided, however, that if the applicant presents to the Plan Commission a report by a structural engineer licensed by the State of Wisconsin certifying the fall-down radius of the proposed structure to be less than its height, the allowed setback shall be that certified distance.
 8. Essential Services, utilities, electric power and communication transmission: See section 35-21.
 9. See also s. A.5. of this Section.
- C. Average Setback. The required setbacks for new residential structures or additions to existing residential structures may be decreased in any residential district to the average of the existing setbacks of the abutting structures on each side but in no case may be less than 15 feet.
- D. Corner Lot. A corner lot is a lot that abuts two or more streets at their intersections, provided that the corner of such intersections has an angle of 135 degrees or less, measured on the lot side. There shall be two street yards, one side yard and one rear yard on a corner lot. The Zoning Administrator may determine the rear and side yards on the lot.

35-190 ARCHITECTURAL CONTROL.

No zoning permit required by this Municipal Code shall be issued unless it has been approved by the Plan Commission pursuant to the Architectural Control provisions of this Section unless the work to be performed under the zoning permit is exempted from review under this section or this Code, or does not change the exterior facade or character of the structure.

- A. Compliance. For the purpose of promoting compatible development, aesthetics, stability of property values, and to prevent impairment or depreciation of property values in the Village of Rochester, no structure shall hereafter be erected, moved, reconstructed, extended, enlarged, or have its exterior altered or changed in such a manner as to violate the principles set forth in subsection B. of this Section.
- B. Principles. To implement and define criteria for the purposes set forth in subsection A, the following principles are established:
 - 1. The design or exterior appearance of a building or sign which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards is not permitted.
 - 2. The design or exterior appearance of a building or sign which is so identical with those adjoining as to create excessive monotony or drabness is not permitted.
 - 3. Any exposed facade or roof of a building or a sign that is not constructed or faced with a finished material that is aesthetically compatible with the other facades, roofs or signs and presents an attractive appearance to the public and to surrounding properties is not permitted.
 - 4. No building or sign shall be permitted to be sited on a property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
- C. Administration. The Zoning Administrator shall require that each zoning permit application in any district be accompanied by plans showing the exterior elevations of all existing and proposed structures on the property; a description of the proposed materials to be used; and proposed floor elevations of all structures.
 - 1. The Zoning Administrator shall review permit applications for minor exterior alterations, decks, accessory structures less than 200 square feet in size, and signs pursuant to the standards set forth in Section 35-22 of this Chapter and subsection B. of this Section. If, in the Zoning Administrator's judgment and experience the standards have been met, he may issue the permit according to the requirements of this Code. If, in the Zoning Administrator's judgment and experience the standards have not been met or are in question, or he has a concern regarding the application of the standards, he may, in his discretion, refer the application to the Plan Commission pursuant to subsection C.2 of this Section.
 - 2. The Zoning Administrator shall transmit all zoning permit applications not exempted in subsection C.1. and their accompanying plans to the Village Plan Commission for the Plan Commission's review and determination, with the exception that structures reviewed by the Historic Preservation Committee pursuant to Chapter 38, or reviewed previously

via site plan or developer's agreement; and permits that do not affect the exterior structure may be excluded.

3. See also Section 35-22.
- D. **Review and Findings.** The Plan Commission shall review the referred plans at a subsequent meeting; but not more than 45 days after the original application for a zoning permit. The Plan Commission shall not approve any zoning permits unless it finds, after viewing the application that the structure, as planned, will not violate the principles set forth in Section 35-22 of this Chapter and subsection B. of this Section. If an application is rejected, the Commission shall set forth the reasons for the rejection in writing.
 - E. **Appeals.** Any person or persons aggrieved by any decisions of the Plan Commission related to architectural control may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the Village Clerk within 30 days after the filing of the decision with the Zoning Administrator.

35-200 NONCONFORMING USES, STRUCTURES, PROPERTIES AND FIXTURES.

- A. Nonconforming Uses. The lawful use of a building, structure, property or fixture that existed at the time this Chapter or an applicable amendment to this Chapter took effect and which is not in conformity with the provisions of the Chapter, including the routine maintenance of such a building, structure or property, may be continued, subject to the following conditions, exceptions and regulations:
1. If a nonconforming use is discontinued for twelve consecutive months, any future use of the building, structure, property or fixture shall conform to this Chapter.
 2. Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter may be continued although such use does not conform with the provisions of the Chapter. However, such nonconforming use may not be extended or enlarged.
 3. 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 it is permanently changed to conform to the use provision of this Chapter.
 4. A file of all non-conforming uses shall be maintained by the Zoning Administrator listing the following: owner's name and address; tax identification number, use of the buildings, premises, structures and fixtures, and the accumulated value of any permitted repairs since becoming a non-conforming use.
- B. Nonconforming Structures. A dwelling or other structure that existed lawfully before this Chapter or an applicable amendment to this Chapter took effect and which is not in conformity with the provisions of this Chapter for development regulations such as setbacks, height, lot area, lot width, lot coverage, yards, parking, loading, access, etc. may be continued, subject to the following:
1. A nonconforming structure may be repaired, maintained, renovated or remodeled without regard to the cost of the work.
 2. A nonconforming structure may not be extended, enlarged, reconstructed, moved, structurally altered or expanded except when:
 - a. Such extension, enlargement, reconstruction, etc. is required by law or so as to comply with the provisions of this Chapter; or
 - b. The change does not result in an increase to the nonconforming nature of the structure. No such change may increase the parking requirements for the use unless the on-site parking requirements of this Chapter are met.
 3. A nonconforming structure that is damaged beyond repair or destroyed may only be reconstructed in conformance with the provisions of this chapter, except that such a structure may be restored to the size, location and use that it had immediately before the damage or destruction occurred as follows:
 - a. The damage or destruction occurred on or after March 2, 2006; and
 - b. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

- c. If the requirements of a. and b. are met, the size of the structure may be larger than the size it was immediately before the damage or destruction occurred if necessary for the structure to comply with applicable state, federal and Village requirements.

C. Existing Nonconforming (Substandard) Properties.

1. A substandard lot is one which:
 - a. Does not contain sufficient width, depth or area to conform to the dimensional requirements of this Chapter, and
 - b. Was a legal lot or parcel of record in the office of the County Register of Deeds prior to the original adoption of this Chapter or any applicable amendment to this Chapter.
2. A substandard lot not abutting property owned by the same owner may be used as a single building site provided that the use is permitted in the district and provided that there is compliance with each of the requirements of this section.
3. All substandard lots abutting property not owned by the same owner, as set forth in s. 4, shall comply with all relevant district and shoreland requirements insofar as is practicable, as determined by the relevant provisions of this Chapter, but in no event shall be less than the following:

Lot	Width	Minimum 30 ft.
	Area	Minimum 4,000 sq. ft.
Building	Height	Maximum 30 ft.
Yard (Setbacks)	Street	Minimum 25 ft., the second street yard on corner lot shall not be less than 10 feet
	Side	16 percent of the lot width, but not less than 5 feet nor greater than the zoning district side yard setback requirement for a standard lot size
	Rear	Minimum 25 ft.
	Shore	Minimum 50 ft.

4. For the purposes of this Chapter, lots and property shall be considered owned by the same owner when owned by: the same individual or other legal entity; an individual and another in joint tenancy or as tenants in common, and either of said joint tenants or tenants-in-common owns other abutting lots individually or as joint tenants or tenants in common with another; an individual and other abutting lots are owned by his or her 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 said lots are owned by an individual and other abutting lots are owned by a corporation or other legal entity in which said individual is an officer or director or controlling stockholder.

5. If both an abutting lot or lands and a substandard lot are owned by the same owner on the effective date of this Chapter, or if an abutting lot or lands and a substandard lot become owned by the same owner subsequent to the effective date of this Chapter, the substandard lot shall not be sold or used without full compliance with the provisions of this Chapter. Such lots shall be combined into one lot by use of a deed restriction, quit claim deed, or similar instrument, which shall be recorded in the office of the County Register of Deeds, unless a habitable principal structure already exists on each lot that meets the applicable minimum requirements of s. 35-15.I. In the A-1 and A-3 agricultural district, a farm owner is permitted to divide off separate parcels for the residences of the parents or children of the farm owner, and such parcels shall be considered as separate lots, must meet A-2 District zoning requirements and shall not be considered substandard lots. The provisions of Chapter 30 apply to these divisions.
 6. Where public water supply systems are not available, private well construction shall be required to conform to Wis. Admin. Code ch. NR 812. Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by Chapter 10, Public and Private Sewage Systems, of this Code. No private waste disposal systems or parts thereof shall be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or their use changed without full compliance with Chapter 10. A zoning permit for a principal structure or an addition thereto may not be issued until evidence of such compliance is provided to the Zoning Administrator.
- D. Changes and Substitutions. Once a nonconforming use, structure or property has been changed to conform, it shall not revert back to a nonconforming use or structure.
- E. Shoreland-Wetland, Shoreland and Floodplain Districts. Nonconforming uses, structures, properties and fixtures in Shoreland-Wetland and Shoreland Districts are subject to the requirements set forth in Chapter 36. Nonconforming uses, structures, properties and fixtures in Floodplain Districts are subject to the requirements set forth in Chapter 37.

35-210 ZONING BOARD OF APPEALS.

- A. Establishment. There is hereby established a Zoning Board of Appeals for the Village of Rochester for the purpose of hearing appeals and applications, and granting variances and exceptions to the provisions of this Chapter and other chapters of this Code as may be set forth therein.
- B. Membership. The Zoning Board of Appeals shall consist of five members appointed by the Village President and confirmed by the Village Board. The members shall serve for such compensation, if any, as may be fixed by the Village Board. Removal shall be by a two-thirds vote of the Village Board and after public hearing.
 - 1. Terms shall be for staggered three-year periods; for those first appointed, one shall serve for one year, two for two years, and two for three years.
 - 2. The Chair shall be designated by the Village President.
 - 3. Pursuant to Wis. Stat. s. 62.23(7)(e)2, the Village President shall appoint, for staggered 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 First¹ Alternate shall act, with full power, only when a 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.
 - 4. A secretary and other employees may be employed by the Zoning Board of Appeals.
 - 5. The Zoning Administrator shall attend all meetings for the purpose of providing technical assistance, but shall not be secretary of the Board.
 - 6. Official Oaths shall be taken by all members in accordance with Wis. Stat. s. 19.01 within ten days of receiving notice of their appointments.
 - 7. Vacancies shall be filled for the unexpired term of all members, including alternate members, in the same manner as appointments for a full term.
- C. Organization. The Zoning Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Chapter.
 - 1. Meetings shall be held at the call of the Chair and shall be open to the public.
 - 2. Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Board and shall be public record.
 - 3. The Board of Appeals may take action if a quorum is present, by a majority vote of the members present, to take any action authorized by statute or this Code, unless a greater number of votes is required.
- D. Powers.

1. The Zoning Board of Appeals shall have the powers set forth in Wis. Stat. s. 62.23(7)(e) and all other powers provided by statute and Village Code, including but not limited to the following powers:
 - a. Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 - b. Variances. To hear and grant appeals for variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Code shall be observed and the public safety, welfare, and justice secured. The Zoning Board of Appeals may authorize upon appeal variances where special conditions, such as terrain cover or nearby existing or potential land or water uses prevent applicant from meeting the provisions of this Chapter. The Zoning Board of Appeals may specify expiration dates for variances as set forth in Wis. Stat. s. 62.23(7)(e)7.
 - c. Interpretations and Boundary Lines. To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Village Plan Commission has made a review and recommendation.
 - d. ~~Unclassified Uses.~~ Te and Special Exceptions. After the Plan Commission has made a review and recommendation, to hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district ~~and the Village Plan Commission has made a review and recommendation, and to hear and grant applications for special exceptions provided that the waiver of the zoning regulations are justified under the circumstances.~~
 - f. Temporary Uses. To hear and grant appeals of denied applications for temporary uses permits provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses and the Village Plan Commission has made a review and denied that application. The permit shall be temporary, revocable, subject to any conditions required by the Zoning Board of Appeals, and shall be issued for a period not to exceed twelve months. Compliance with all other provisions of this Chapter shall be required.
 - g. Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issue of a permit.
 - h. Other Appeals, Variances, Boundary Disputes, etc. See the applicable chapter.
 2. Assistance. The Board may request assistance from other Village officers, departments, commissions, and boards.
 3. Oaths. The Chair may administer oaths and compel the attendance of witnesses.
- E. Appeals and Applications. Appeals from the decision of the Zoning Administrator or other official concerning the literal enforcement of this Code may be made by any person aggrieved or by any officer, department, board, or other body of the Village. Such appeals shall be filed with the secretary within 30 days after the date of written notice of the decision or order of the official. Applications may be made by the owner or lessee of the structure, land, or water to be affected at

any time and shall be filed with the secretary. Such appeals and applications 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, or a location sketch drawn to scale, showing all of the information required under Section 35-11 for a Zoning Permit.
 3. Additional Information required by the Village Plan Commission, Village Engineer, Zoning Board of Appeals, Zoning Administrator or other official. For regulations set forth in other chapters, see also the appropriate Chapter.
- F. Hearings. The Zoning Board of Appeals shall fix a reasonable time and place for the required public hearing, and shall give notice as specified in Section 35-240 of this Chapter unless a different notice is required by the appropriate Chapter. See the appropriate Chapter for DNR hearing notice requirements for shoreland-wetland, shoreland, floodplain, or other areas covered in a specific chapter. At the hearing the appellant or applicant may appear in person, by agent, or by attorney. Failure to appear may result in a decision based upon the available information.
- G. Findings. No variance to the provisions of this Code shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings.
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 of uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the ordinances should be changed.
 3. Economic Hardship and Self-Imposed Hardship Not Grounds for Variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 4. 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.
 5. Additional Requirements. Additional requirements for a variance may be set forth in the applicable Chapter.
- H. Decision. The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, Village Plan Commission and/or other official. Conditions may be placed upon any permit ordered or authorized by this Board. Variances, Substitutions, or Use Permits granted by the Board shall expire within **six** months unless substantial work has commenced pursuant to such grant. For decisions regarding floodplain areas, see Chapter 37.

- I. Notice of Decision to DNR. See the appropriate Chapter for notice of decision requirements for shoreland-wetland, shoreland, floodplain, or other areas covered in a specific chapter.

- J. Review by a Court of Record. Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Zoning Board of Appeals.

35-220 CHANGES AND AMENDMENTS.

- A. Authority.
1. Whenever the public necessity, convenience, general welfare or good zoning practice require, the Village Board of Trustees may, by ordinance, change the district boundaries, land uses, or amend, change or supplement the regulations established by this Chapter and other zoning and land use chapters, and amendments thereto.
 2. Such change or amendment shall be subject to the review and recommendation of the Village Plan Commission.
 3. The provisions of this Chapter shall apply to other zoning and land use chapters where no specific provisions are set forth in those chapters.
- B. Initiation. A change or amendment may be initiated by the Village Board, Village Plan Commission, Village Historic Preservation Committee, or by a petition of one or more of the owners or lessees of property within the area proposed to be changed. The petitioner shall pay the fee required prior to any publication or hearing thereon, and no part thereof shall be returned to the applicant regardless of the disposition of the petition.
- C. Petitions. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, and in case of a change of use, specify the proposed use and have attached the following:
1. Plot plan drawn to scale showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.
 2. Owner's names and addresses of all properties lying within 300 feet of the area proposed to be rezoned.
 3. Additional information required by the Village Plan Commission or Village Board.
- D. Recommendations. The Village Plan Commission shall review all proposed changes and amendments within the corporate limits after signs have been posted and notice has been sent to abutting property owners as set forth in s. 35-240 and the public has been given the opportunity for input, and shall recommend that the petition be granted as requested, modified, or denied. The recommendation shall be made at a meeting subsequent to the meeting at which the petition is first submitted, and shall be made in writing to the Village Board.
- E. At the first Village Board meeting subsequent to initial consideration by the Plan Commission, the Village Board shall determine whether to schedule a public hearing for consideration of an ordinance to enact the change or amendment.
- F. Hearings. The Village Board shall hold a public hearing ~~upon each recommendation prior to enacting any such ordinance~~, and shall give notice as ~~specified in Section 35-240 of this Chapter required by applicable state statutes, inclusive of notice to neighboring municipalities, the owner or operator of an airport, or the DNR where applicable~~
- FG. Village Board Action. Following such hearing and after careful consideration of the Village Plan Commission's recommendation, the Village Board shall vote on the proposed change or amendment.

| GH. Shoreland, Shoreland-Wetland and Floodplain District Boundary Changes Limited. See the applicable Chapter of this Code.

| H. Protest.

1. In the event of a protest against such district change or amendment to the regulations of this Chapter, duly signed and acknowledged by the owners of 20 percent or more of the areas of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent extending 100 feet from the street frontage of such opposite land such changes or amendments shall not become effective except by the favorable vote of three-fourths of the members of the Village Board voting on the change.
2. If the proposed amendment would make any change in an airport affected area and the owner or operator of the airport bordered by the airport affected area protests against the amendment, the amendment shall not become effective except by the favorable vote of two-thirds of the of the members of the Village Board voting on the proposed change.
3. Notices of such tentative recommendations or proposed changes in the regulations may contain the street names and house or lot numbers for purposes of identification if the commission or board so determines.

| J. Comprehensive Plan. All proposed ordinances must be reviewed for compliance with the November 2009 "A Multi-Jurisdictional: Comprehensive Plan for Racine County: 2035" as amended from time to time (the "Village Comprehensive Plan") adopted by and applicable to the Village of Rochester. No change may be adopted in violation of Wis. Stat. s. 66.1001(3), which requires that zoning ordinances be consistent with the adopted plan.

35-230 PLAN COMMISSION APPROVAL

- A. Building Site and Operational Plans. Where required: In the case of certain uses, as determined by the Zoning Administrator, the character of which could have substantial adverse impact on surrounding property values or public highway facilities by reason of the arrangement of structures and related uses on the land including the total appearance of said arrangement or by arrangement of access from public streets to off-street parking and loading facilities, or where specifically directed in this Chapter, it will be required as a qualifying condition to their permissibility to submit for approval by the Plan Commission their proposed building site and operational plans.
- B. Use by Right Not Infringed: Such required approval under this Section shall be limited solely to reasonable compliance with design, locational and operational requirements and shall not involve the basic permissibility of the use where such use is permitted as a "permitted use".
- C. Acceptability Criteria. In determining the acceptability of the building, site or operational plans, the Plan Commission shall take into consideration the following factors as well as any others it deems related:
1. The general design and appearance of any structures in terms of generally accepted standards of good taste, particularly in terms of the relationship and effect upon surrounding properties and compliance with this Chapter.
 2. The relationship of structures and uses to each other and to the site, with particular consideration of traffic flow, access, screening of parking and storage areas and general appearance.
 3. The character of the operation in terms of its impact upon traffic facilities, sewage disposal, water supply and environmental character with particular consideration of the control of any possible noise, dust, odor or other undesirable operating characteristic, including compliance with the Performance Standards of Section 35-250. The Plan Commission shall take into account the recommendations of the Western Racine County Sewerage District related to pre-treatment of sewage, the requirement for testing manholes, and other sewage disposal issues, if those recommendations are received by the Plan Commission.
- D. Form of Submittal.
1. Before issuing any applicable permit, the Zoning Administrator shall submit the necessary building, site and operational plans to the Plan Commission for its consideration. Such plans shall be in reasonable detail to enable the Commission to properly evaluate them, and shall specifically include the following:
 - a. A site plan of the property accurately dimensioned showing the location of all existing and proposed structures and use area.
 - b. Name of project.
 - c. Owner's and/or developer's name and address.
 - d. Architect and/or engineer's name and address.
 - e. Date of plan submittal.

- f. Existing topography shown at a contour interval not less than two feet, (or where not readily available elevations at appropriate locations).
 - g. Proposed changes in topography.
 - h. The characteristics of soils related to contemplated uses.
 - i. The type, size, location and dimensions of all structures including fences and walls.
 - j. Location and number of parking, loading and storage areas.
 - k. Primary building materials used in construction of all structures.
 - l. Height of building(s).
 - m. Location and size of existing and proposed sanitary sewers, septic tanks and disposal fields, holding tanks, storm sewers and water mains.
 - n. Location of proposed solid waste (refuse and recycling) storage area.
 - o. Location of pedestrian sidewalks and walkways.
 - p. Existing and proposed public right-of-way widths.
 - q. Location, type, height and intensity of proposed lighting.
 - r. Location of existing trees, and extent and type of proposed plantings including type and extent of erosion control.
 - s. A graphic delineation of any planned development staging.
 - t. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.
 - u. Any other site or use information, such as 100 year interval flood lines, which will assist the Plan Commission in making a determination and recommendation on the proposal.
2. In addition, operations plan data to be submitted with all plan review applications shall include at least the following:
- a. Specific use of site and building(s).
 - b. Hours of operations.
 - c. Number of full and part time employees.
 - d. Estimate of daily truck and auto trips to the site.
 - e. Type of materials and equipment to be stored on site.

- f. Method of handling solid and liquid waste disposal, including information required in order to ensure compliance with Chapter 10, Public and Private Sewerage Systems, as applicable for commercial and industrial users.
- g. Method of exterior maintenance (site and buildings).
- h. Method of site and building security other than local law enforcement.
- i. Copies of all special use permits issued by state or county agencies.
- j. Any other information which will assist the Plan Commission in making a determination and recommendation of the proposal.

E. Time for Submittal; WRCSD Review.

- 1. Time for Submittal. The information required in this section shall be submitted to the Village Clerk no later than 20 days prior to the Plan Commission meeting at which it will be reviewed.
- 2. WRCSD Review. Within five days of submittal of a Building Site and Operational Plan, the Clerk shall forward a copy of said Plan to the Western Racine County Sewerage District (WRCSD), and shall inform WRCSD of the date that said Plan will be considered by the Plan Commission. If no recommendation by the WRCSD is received by the date that the Plan Commission reviews the Plan, the Plan Commission may take action without input from the WRCSD.

35-240 NOTIFICATION - PUBLIC HEARINGS.

Notice of any public hearing which the Plan Commission, Village Board or Zoning Board of Appeals is required to hold under the terms of this Ordinance shall specify the date, time and place of said hearing and shall state the matter to be considered at said hearing. Notice shall be provided as required by applicable state statutes, **inclusive of notice to neighboring municipalities, the owner or operator of an airport, or the DNR where applicable.** The following notifications shall be required in addition to the notice required by statute:

A. Posting of Signs.

1. Except as set forth in subsection 2., at least fourteen days prior to initial Plan Commission or Zoning Board of Appeals review, an applicant for a conditional use permit, zoning change or land division review shall post one or more signs, clearly visible from each adjoining road, advising of the pending conditional use, zoning change, or land division review. The signs shall remain in place until the day after final determination by the public hearing before the Plan Commission, Village Board, or Zoning Board of Appeals. The signs shall be provided by the Village and shall be returned by the applicant no later than two days after the public hearing. Improper posting may result in the Plan Commission delaying consideration until a later meeting.
2. In the event that the Village rezones more than 20 parcels of land as part of a Village-initiated rezoning, no signs shall be required, but notice to owners of the property being rezoned shall be provided as set forth in subsection B.2.

B. ~~Public Hearing~~Written Notice.

1. Except as set forth in subsection 2., fourteen days prior to ~~a Public Hearing to be held by the Village Board concerning a~~ initial Plan Commission review of an application for conditional use, zoning change, or land division, the Clerk shall send a written notice to the property owner and to the property owners abutting the subject property, including abutting owners on the opposite side of the street, advising of the date of the ~~public hearing~~meeting when the proposal will first be considered.
2. In the event that the Village rezones more than 20 parcels of land as part of a Village-initiated rezoning related to state or federal requirements, or related to the adoption of a Planning and Zoning Ordinance with associated changes to the zoning designations to be reflected on the Zoning Map, written notice to abutting property owners shall not be required. The Clerk shall send a written notice to the owners of the property being rezoned, advising of the date of the public hearing when the rezoning will be considered.
3. No individual notice to property owners is required when the Village makes text changes to the Planning and Zoning Ordinance without changing the zoning designation of individual parcels. The Village shall provide all notices required by Wisconsin Statutes.
4. The Village shall maintain a list of persons who submit a written request to receive notice of any proposed zoning action that affects the allowable use of that person's property and shall send the person notice as required by Wis. Stat. s. 62.23(7)d.4., but the applicable ordinance or amendment may take effect even if the Village fails to send such notice.

35-250 PERFORMANCE STANDARDS.

- A. Compliance. The performance standards enumerated below are designated to limit, restrict and prohibit the effects of uses permitted by this Chapter outside their premises. The use of all structures, lands, air and water shall hereafter, in addition to complying with the use, site and sanitary regulations contained in this Chapter, shall comply with the performance standards in this Section.
- B. Air Pollution. No activity shall be permitted which emits air pollutants in excess of the standards permitted by all applicable laws, regulations and ordinances.
- C. Fire and Explosive Hazards. All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with fire-fighting and fire-suppression equipment and devices that are required by law and standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in compliance with state and federal law.
- D. Glare and Heat. No activity shall emit glare or heat that is visible or measurable outside the premises, except activities in the industrial district which may emit sky reflected glare which shall not be visible at ground level outside the premises.
- E. Water Quality Protection. No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life. In addition, no activity shall withdraw water or discharge any liquid, gaseous, or solid materials so as to exceed or contribute toward the exceeding of the standards set by state and federal law.
- F. Noise.
 - 1. No activity in an M-1 Industrial District shall produce a sound level outside the property boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

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

2. No other activity in any other district shall produce a sound level outside its premises that exceeds the following:

Octave Band Frequency (Cycles per second)	Sound Level Decibels
0 to <75	72
75 to <150	67
150 to <300	59
300 to <600	52
600 to <1200	46
1200 to <2400	40
2400 to <4800	34
4800 and above	32

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

- G. Odors. No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises.
- H. Radioactivity and Electrical Disturbances. No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises including radio and television receiver operation, except as set forth in this Chapter.
- I. Vibration. No activity in any district shall emit vibrations which are discernible without instruments outside its premises. No activity in any district shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (Cycles per second)	Outside the Premises
0 to <10	.0020
10 to <20	.0010
20 to <30	.0006
30 to <40	.0004
40 to <50	.0003
50 & over	.0002

35-260 LEGAL STATUS PROVISIONS.

- A. 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, or permits previously issued pursuant to laws. However, wherever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.
- B. Interpretation. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- C. Severability. If any section, clause, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- C. Repeal. All other ordinances or parts of ordinances of the Village and the previous Town of Rochester inconsistent or conflicting with this Chapter, to the extent of the inconsistency only, are hereby repealed.

35-300 DEFINITIONS.

GENERAL DEFINITIONS.

For the purpose of this Chapter, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meaning or are intended to be interpreted to have a specific meaning. Words used in the present tense in this Chapter include the future. The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual. The word "shall" is mandatory, the word "should" is advisory, and the word "may" is permissive. Any words not defined in this Article shall be presumed to have their customary dictionary definitions, or as defined by statute or in state and village building codes.

SPECIFIC WORDS AND PHRASES

"Accessory Use, Building or Structure" means a use, building or structure which:

- A. Is or will be subordinate to, and serves, a principal use, building or structure;
- B. Is or will be subordinate in area, extent, or purpose to the principal use, building or structure served;
- C. Contributes to the comfort, convenience or necessity or occupants of the principal use, building or structure; and
- D. Is or will be located on the same zoning lot as the principal use, building or structure.

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.

"Adult Bath House" means an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the state and which establishment provides to its patrons an opportunity for engaging in "specified sexual activities."

"Adult Body Painting Studio" means an establishment or business wherein patrons are afforded an opportunity to paint images on a "specified anatomical area." For purposes of this chapter, the adult body painting studio shall not be deemed to include a tattoo parlor.

"Adult Bookstore" means an establishment or business having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

"Adult Booth" means any area of an adult establishment set off from the remainder of such establishment by one or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of "specified anatomical areas" or the conduct or simulation of "specified sexual activities."

"Adult Cabaret" means any nightclub, bar, restaurant, or similar commercial establishment which features:

- A. Live performances which are characterized or distinguished by the exposure of "specified anatomical areas" or the removal of articles of clothing; or

- B. Films, motion pictures, video cassettes, digital video disks, video reproductions, slides or other visual presentations which are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas."

"Adult Establishments" means and includes, but is not limited to: adult bookstores, adult motion picture theaters (indoor or outdoor), adult mini-motion picture theaters, adult video stores, adult bath houses, adult motels, adult theatres, adult novelty shops, adult massage parlors, adult modeling studios, adult body painting studios, and adult cabarets.

"Adult Massage Parlor" means an establishment or business with or without sleeping accommodations which provides services including any method of rubbing, pressing, stroking, kneading, tapping, pounding, vibrating or stimulating a "specified anatomical area" with the hands or with any instruments, heat and light treatments of the body, and all forms and methods of physiotherapy not operated by a medical practitioner or professional physical therapist licensed by the state.

"Adult Mini Motion Picture Theater" means an enclosed building with a capacity for less than 50 persons used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

"Adult Modeling Studio" means any establishment or business where a person who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Adult modeling studios shall not include a proprietary school licensed by the State of Wisconsin or a college, technical college, or university; or in a structure:

- A. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- B. Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and
- C. Where no more than one nude or semi-nude model is on the premises at any one time.

"Adult Motel" means hotel, motel, or similar commercial establishment which:

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

"Adult Motion Picture Theater" means an enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

"Adult Motion Picture Theater (Outdoor)" means a parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguishably characterized by an

emphasis on matter depicting, describing or relating to "specified sexual activity" or "specified anatomical areas."

"Adult Novelty Shop" means an establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on or designed for "specified sexual activity" or stimulating such activity.

"Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

"Adult Video Store" means an establishment or business having as a substantial or significant portion of its stock and trade for sale or rental of motion pictures or other visual media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

"Advertising Sign" means a sign that pertains to goods sold or manufactured or services rendered on the premises upon which the sign is located.

"Airport Affected Area" means the area of the Village lying within three miles of the boundaries of an airport, as set forth in Wis. Stat. s. 62.23(6)(am)1.b.

"Alley" means a special public right-of-way affording only secondary access to abutting properties.

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

"Animal Units": See Chapter 39

"Animated Sign" means any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.

"Arterial Street" means a public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.

"Asphalt and/or Tar Paving Mix Plant" means a plant wherein asphalt, tar or other petroleum products or byproducts are prepared or mixed, wither alone or with other ingredients, as a material for paving or surfacing.

"Automobile Wrecking Yard" means any premises on which more than one automotive vehicle, not in running or operating condition, is stored in the open.

"Back-to-Back," "Side-by-side," "Bottom-to-top," and "V-Shaped Signs" are signs that are physically contiguous and share a common structure, in whole or in part, or are located not more than 15 feet apart at their nearest point in cases of "back-to-back" or "V-shaped."

"Balcony" means a platform that projects from the wall of a building four feet or less, is surrounded by a railing or balustrade, is open and roofless, and which is suspended or cantilevered from, or supported solely by, the structure to which it is attached.

"Banner" means any sign of lightweight fabric, plastic, coated paper, or similar material not enclosed in a rigid frame that is mounted to a pole or a structure at one or more edges. Flags or pennants are not

considered banners.

“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.

“Beacon” or “Search Light)” means any light with one or more beams that rotate or move or any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source.

“Bed & Breakfast” or “B & B” means a private owner-occupied residence that offers sleeping accommodations to not more than a total of 20 tourists or transients in eight or fewer rooms which provides no meals other than breakfast and provides breakfast only to renters of the place.

“Billboard” means a sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located,

“Boarders” are any unrelated persons, other than the owner, living within a single household unit and paying compensation for such service.

“Boarding House” means a building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

“Brew Pub” means a restaurant that manufactures up to 5,000 barrels of fermented malt beverages per year on premises for either consumption on premises or sale in hand-capped or sealed containers in quantities up to one-half barrel or 15½ gallons sold directly to the consumer.

“Building” means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials.

“Building Area” means the total living areas bounded by the exterior walls of a building at the floor levels, but not including unfinished basement, utility rooms, garages, porches, breezeways, or unfinished attics.

“Building Height” means the vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs; or to the deck line of mansard roofs.

“Bus Shelter” means a small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.

“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, tent or other mobile recreational vehicle.

“Canopy Sign” means any sign that is part of or attached to an awning, canopy, or other fabric, plastic or structural protective cover. A marquee is not a canopy. The overhead protective cover used for fuel pumps is considered a canopy.

“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 chapter or other land use chapters.

“Changeable Copy Sign” means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign not more than once every eight seconds or the minimum standards set by the Federal Highway Administration, whichever is longer. Each change of message shall be accomplished in one second or less. A sign on which the only copy that changes is an electronic or mechanical indication of time, date, or temperature is considered a "time and temperature" portion of a sign and not a changeable copy sign or traveling message sign.

“Clear Cutting” means the removal of an entire stand or area of trees or shrubs. See Chapter 36

“Clothing Repair Shops” means shops where clothing is repaired, such as shoe repair shops, seamstresses, tailor shops, shoe shine shops, clothes pressing shops, but none employing over five persons.

“Clothing Stores” means retail stores where clothing is sold, such as department stores, dry goods, stores, shoe stores, dress shops, hosiery shops and millinery shops.

“Concrete Ready Mix Plant” means a plant where water, gravel, sand, crushed stone, or other aggregate is mixed with cement and placed within a truck or trucks for the purpose of mixing such ingredients and to create and manufacture concrete thereby while said truck is in transit to its ultimate point of delivery.

“Conservation Standards” means guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide prepared by the U.S. Department of Agriculture, Soil Conservation Service, for Racine County, adopted by the county soil and water conservation district supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities, from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation plan.

“Core Area of Living Space” means that area or space within a dwelling unit, devoted to the principal residential use of the structure, excluding attached garages, porches, sheds, decks, carports, and other appurtenances.

“Corner Lot” means a lot abutting two or more streets at their intersections provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

“Crawlways” and “Crawl Spaces” mean 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.

“Day Care Center” means a Day Care Center, Child Care Center, or Family Day Care Home establishment providing care and supervision for four or more persons under the age of seven and licensed by the State of Wisconsin pursuant to Wis. Stat. ch. 48.

“Decibel” means a unit for measuring the relative loudness of a sound (abbreviated dB) measured on an "A" weighted decibel scale.

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

“Density Bonus” means the allocation of development rights that allow a parcel to accommodate additional square footage or additional residential units beyond the maximum for which the parcel is

zoned or beyond the net density established in the adopted land use plan, usually in exchange for the provision or preservation of an amenity at the same site or at another location.

“Density Net” means the numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in acres) upon which the dwelling units are proposed to be located and including common open space and associated recreational facilities within the area; the result being the number of dwelling units per net residential acres of land. Net density calculations exclude all or a portion of the area occupied by rights-of-way of publicly dedicated streets and private streets, floodplains, wetlands, and water.

“Department” or “DNR” means the Wisconsin Department of Natural Resources.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, or other structures, or accessory uses, the placement of manufactured or mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, or deposition of materials.

“Directional Sign” means any auxiliary sign that is limited to directional messages principally for assisting in the flow of pedestrian or vehicular traffic, such as enter, exit, and one way.

“Directory Sign” means a sign listing the tenants or occupants of a building or group of buildings and that may indicate their respective professions or business activities.

“Displaced Threshold” means a horizontal line on a runway, perpendicular to the runway centerline. Departing aircraft must be airborne before crossing the displaced threshold. Incoming aircraft may not touch down before crossing the displaced threshold.

“District, Basic” means a part or parts of the Village for which the regulations of this Chapter governing the use and location of land and buildings are uniform.

“District, Overlay:” Overlay districts provide for the possibility of super-imposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

“Dwelling” means a detached building designed or used exclusively as a residence or living place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or travel trailers.

“Dwelling, Single-Family” means a detached building designed for and occupied exclusively by one family.

“Dwelling, Two-Family” means a detached building containing two separate dwelling units, designed for and/or occupied by not more than two families.

“Dwelling, Multiple-Family” means a residential building containing three or more separate dwelling units designed for and/or occupied by three or more families, with the number of families in residence not to exceed the number of dwelling units provided.

“Efficiency” means a dwelling unit consisting of one principal room with no separate sleeping rooms.

“Elevation” means, as appropriate for the context, either:

- A. The height in feet above National Geodetic Datum of 1929, also known as mean sea level datum;
or

B. A scale drawing of the front, side or rear of a structure.

“Emergency Shelter” means a public or private enclosure designed to protect people from aerial, radiological, biological or chemical warfare, fire, flood, windstorm, riots and/or invasions.

“Essential Services” means services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

“Exception” or “Special Exception” means a special or unique situation, excluding a change in use or a use prohibited in a zoning district, which may be authorized by the Zoning Board of Appeals and which may justify the waiver of the regulations applicable thereto and does not necessarily require the demonstration of an unnecessary hardship or practical difficulty.

“Existing Manufactured Home Park or Subdivision” 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 this Chapter. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads

“Expansion of Existing Manufactured Home Park or Subdivision” 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.

“Expressway” means a divided arterial street or highway designated by the State as an expressway as set forth in Wis. Stat. s. 84.295.

“FAA” means the Federal Aviation Administration.

“Face” means the surface of a sign upon which the message is displayed. One sign structure may have more than one face.

“Family” means one or more persons occupying the premises and living together as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodging house, club fraternity or hotel.

“Fixture” means an article in the nature of personal property which has been so annexed to the realty that it is regarded as a part of the real property; that which is fixed or attached to something permanently as an appendage and is not removable. A thing is deemed to be affixed to real property when it is attached to it by roots, imbedded in it, permanently resting upon it, or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts, or screws. Goods are fixtures when they become so related to particular real estate that an interest in them arises under real estate law, e.g., a furnace affixed to a house or other building, counters permanently affixed to the floor of a store, or a sprinkler system installed in a building. A sign permanently affixed to the land or a structure is a fixture.

“Flag” means any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, school, or to indicate membership in a non-profit organization.

“Flashing Sign” means any directly or indirectly illuminated sign on which the natural or artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. This definition includes parts that move while the light remains constant, giving the impression of changing or

flashing lights. Intermittent signs only providing information such as time, date, and temperature and changeable copy signs as defined herein are not considered "flashing signs."

"Floodplain" and all definitions related to floodplains: see Chapter 37.

"Frontage" means the dimension of a lot abutting a public street measured along the street right-of-way line. For lots abutting a lake or stream, the smallest dimension measured along the shoreline.

"Garage, Private" means a structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the residents of the premises.

"Garage, Public or Commercial" means any garage other than a private garage.

"Gift Store" means a retail store where items such as art, antiques, jewelry, books and notions are sold.

"Gravel Pit", "Sand Pit" means any place where gravel or sand is removed from its natural state of deposit by digging, pushing, or any other method, and sold or held for sale or distribution.

"Greenhouse" means a building or structure constructed chiefly of glass, glasslike or translucent material, cloth or lath, which is devoted to the protection or cultivation of flowers, shrubbery, vegetables, trees and other horticultural and floricultural products.

"Greenhouse (Commercial)" means a greenhouse used for the growing of plants, all or part of which are sold at retail or wholesale.

"Ground Sign" or "Monument Sign" means any permanent free-standing sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and which does not exceed 15 feet in height.

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

"Hardware Store" means a retail store where items such as plumbing, heating and electrical supplies, sporting goods or paints are sold.

"Hearing Notice" means a publication or posting meeting the requirements of Wis. Stat. ch. 985. For appeals, a Class 1 notice, published once at least one week (7 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 (7 days) before the hearing. Additional requirements set forth in this Chapter and other land uses chapters apply.

"Historic Structure" means any structure that is either:

- A. 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;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

“Hotel” means a building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five sleeping rooms, with no cooking facilities in any room or apartment.

“Household Occupation” means any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises, does not exceed twenty-five percent of the area of any floor, uses only household equipment, and no stock in trade is kept or sold except that made on the premises. A household occupation includes uses such as babysitting, millinery, dressmaking, canning, laundering, and crafts, but does not include the display of any goods nor such occupations as barbering, beauty shops, dance schools, real estate brokerage, or photographic studios.

“Hub Height” (referring to a wind turbine) means the distance measured from ground level to the center of the turbine hub.

“In-law Suite” means a physical arrangement of a dwelling unit in such a fashion that a separate living quarters is created within a dwelling unit for the sole purpose of allowing related persons to live in the secondary living area while that owner and his or her family resides in the principal living area. The secondary living area may contain a bedroom, bathroom and kitchenette which permits a limited degree of independence, but does not create a separate housekeeping entity.

“Junkyard” or “Salvage Yard” means any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber, inoperable machinery, inoperable vehicles, tires or other materials that are stored or customarily stored for salvage, buying, selling, exchanging, dealing, disassembling, packing, bailing, wrecking, or handling unless such accumulation is housed in a completely enclosed building.

“Kennel”: see s. 9-1.L. of this Municipal Code.

“Kitchen” means a place (such as a room) with cooking facilities including kitchen-type counters and/or cabinets, a kitchen sink, or any appliances for the preparation or preservation of food, including but not limited to, gas or electric ranges, ovens or stovetops, microwave ovens, refrigerators with more than five cubic feet of capacity, or freezers.

“Kitchenette” means a small kitchen or an alcove containing minimal cooking facilities.

“Land Use” means any nonstructural or structural use made of unimproved or improved real estate. (See also “Development.”)

“Livestock Facility” and related definitions, see Chapter 39.

“Living Rooms” means all rooms within a dwelling except closets, foyers, storage areas, utility rooms and bathrooms.

“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 or alley, for the temporary parking of commercial vehicles while loading or unloading cargo.

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

provided that no such parcel shall be bisected by a public street, and shall not include any portion of a public right-of-way. No lands dedicated to the public or reserved for easements greater than 20 feet or for roadway purposes shall be included in the computation of lot size for the purposes of this Chapter.

“Lot, Corner” means a lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

“Lot, Double Frontage” means a parcel of land, other than a corner lot, with frontage on more than one street or with frontage on a street and a navigable body of water. Double frontage lots, located between two streets for the purpose of this Code, shall be deemed to have two street yards and no rear yard and double frontage lots located between a street and a navigable body of water, for the purpose of this Chapter, shall be deemed to have a street yard and a shore yard and no rear yard.

“Lot Lines and Area” means the peripheral boundaries of a parcel of land and the total area lying within such boundaries.

“Lot Width” means the width of a parcel of land measured at the required minimum street yard setback line.

“Machine Shops” means shops where lathes, presses, grinders, shapers and other wood and metal working machines are used, such as blacksmith, tinsmith, welding and sheet metal shops; plumbing, heating and electrical repair and overhaul shops.

“Maintain,” “Maintenance” or “Routine Maintenance” means the act or process of restoring to original soundness, including redecorating, refinishing, non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

“Manufactured Home” has the meaning set forth in Wis. Stat. s. 101.91(2), and includes “Mobile Homes” as defined in Wis. Stat. s. 101.91(10). For the purpose of this Chapter, it does not include mobile recreational vehicles or travel trailers.

“Marquee” means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather. Marquee sign shall mean any sign attached to, in any manner, or made a part of a marquee.

“Mineral Extraction Operation, Quarrying Operation” means a gravel pit, sand pit, or quarry, including washing, crushing or other processing.

“Minor Structure” means any small, movable accessory structure erected or constructed, such as birdhouses, tool houses, pet houses, play equipment and arbors, less than 36 square feet in area.

“Mobile Home”: see Manufactured Home.

“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.”

“Modular Home” means a structure which is partially pre-assembled at a manufacturing plant and placed on a lot or parcel as a dwelling unit or units. Also called “pre-fabricated” or pre-cut” homes or “double-wide” units. For purposes of this chapter, the term manufactured home shall generally be used

to describe this type of structure. It shall be further distinguished from the term manufactured home. (See definitions of manufactured home and mobile home.)

“Motel” means a series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.

“Municipality” or “Municipal” means the Village of Rochester unless otherwise noted.

“NAVD” or “North American Vertical Datum” means the reference used for elevations to mean sea level datum, 1988 adjustment.

“NGVD” or “National Geodetic Vertical Datum” means the reference used for elevations to mean sea level datum, 1929 adjustment.

“Navigable Waters” shall have the meaning set forth in Wis. Stat. s. 281.31(2)(d).

“Nonconforming Lot; Nonconforming Property” means a lot that existed lawfully before the current zoning or subdivision ordinance was created or amended, but does not meet the current lot width, depth or area requirements for the zoning district.

“Nonconforming Structure” means a dwelling, building, structure or fixture that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current ordinance.

“Nonconforming Use” means the use of a building, premises, structure or fixture that was lawful at the time that a zoning ordinance was adopted or amended, but that does not conform to the use restrictions in the current zoning ordinance.

“Normal Maintenance and Repair, Sign” means cleaning, painting, replacing broken and vandalized non-structural parts; replacing light bulbs; and other like minor routine repairs in a manner that does not change or alter the basic copy area, design, or structure of the sign.

“Obsolete Sign” means any sign that no longer correctly directs or exhorts any person or advertises a business, service, product, tenant, or activity no longer conducted, available, or in existence on the premises where such sign is displayed.

“Off-Road Trail” means a new or existing trail made for the use of an off road vehicle(s) where a permanent and defined path has been created and/or where the landscape has been manipulated in such a manner as to create a path or ruts that may or may not include jumps, pits, hills, and/or berms.

“Off-Road Vehicle” means a motorized vehicle designed for use on a variety of non-improved surfaces including but not limited to, dune buggies, four-wheel drive vehicles, snowmobiles, all-terrain vehicles (ATVs), dirt bikes, mini bikes, motor bikes, mopeds and trail bikes. Agricultural equipment (such as farm tractors, seeders, combines, cultivators, etc.) used in the operation of a farm, garden tractors and riding lawnmowers are not off-road vehicles.

“Ordinary High Water Mark (OHWM)” 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.

“Parking Lot” means a structure or premises containing ten or more parking spaces open to the public. Such spaces may be for rent or a fee.

“Parking Space” means a graded and surfaced area of not less than 180 square feet in area (or a smaller area approved for the district) either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

“Parties of Interest” means all abutting property owners, all property owners within 100 feet, and all property owners of opposite frontages.

“Pennant” means any lightweight plastic, fabric, or other material, whether or not it contains a message of any kind, suspended from a rope, wire, or string, usually in series that typically streams in the wind.

“Person” means an individual, group of individuals, corporation, partnership, association, municipality, state agency or other legal entity.

“Pond” means a natural or artificial (manmade) body of standing water smaller than a lake which generally retains water year round.

“Pole Sign (freestanding sign, self-supporting sign)” means any sign that is mounted on one or more poles so that the bottom of the sign is at least six feet in height.

“Portable Sign” means any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including but not limited to signs designed to be transported by means of wheels; signs converted to A-or T-frames; menu and sandwich board signs; umbrellas used for advertising; and signs attached to or painted on vehicles, trailers, or equipment that are parked and readable from the street right-of-way, unless said vehicles, trailers, or equipment are used in the normal day-to-day business operations.

“Principal Structure” means a structure used or intended to be used for the principal use as permitted on such lot by the regulations of the district in which it is located.

“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 Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

“Professional Home Offices” means residence offices of clergymen, doctors, dentists, architects, landscape architects, professional engineers, registered land surveyors, lawyers, real estate agents, accountants, artists, teachers, authors, musicians, or other recognized professions used to conduct their professions where the use meets the requirements set forth in subsection 35-21.J. for home occupations.

“Projecting Sign” means any sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from the side of the building.

“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.

“Pyramiding” means the act of obtaining or providing access to public bodies of water across private lots or lands in a manner which increases the number of families which have access to that water to a degree greater than what would occur with individual riparian owners having individual lots fronting on the water. The effect of pyramiding is to funnel backlot development from offshore lots or residences via a narrow parcel of land to provide access to the water. Publicly owned access point shall not fall within this definition.

“Quarry” means any place where material consisting in whole or in part of rock or stone are removed from their natural state by cutting, blasting, digging, pushing, or any other method, and sold or held for sale or distribution.

“Rear Yard” means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearer point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

“Recreational Vehicle” – see Mobile Recreational Vehicle

“Recycling” means the transfer, transporting, processing, marketing, and conversion of solid waste into usable materials or products and includes the stockpiling and disposal on non-usable portions of solid wastes, but does not include the collection of solid wastes.

“Recycling Center” means a facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, within a completely enclosed building.

“Recycling Drop-Off Site” means a collection point for recyclable materials. Temporary storage of specific materials is permitted on each site, but no processing of such items is allowed.

“Recycling Plants” means a facility that is not a junk yard and in which recoverable resources are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.

“Relocatable Structure” means a structure or building which can be moved to its desired location.

“Roadside Stand” means an accessory structure having a ground area of not more than 300 square feet, not closer than 25 feet to any street right-of-way line, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises (or adjoining premises).

“Roof Sign” means any sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above any point of a building with a flat roof, the deck line of a building with a mansard roof, or the eave line of a building with a gambrel, gable, dome or hip roof.

“Runway” means any existing or planned rectangular paved surface which is specifically used for the landing and/or taking off of aircraft.

“Screening” means a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

“Self-Service Storage Facility” means any structure designed and used for the purpose of renting or leasing individual storage spaces to tenants who are to have access to such space for the purpose of storing and removing personal property; also known as a miniwarehouse.

“Salvage Yard” means an area consisting of buildings, structures or premises where junk waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

“Shore Protection Structures” means structures which are intended to reduce shoreline erosion and bluff recession by providing an artificial protective barrier against direct wave and ice attacks on the beach and bluff toe, by increasing the extent of the beach available to absorb wave energy before the water reaches the bluff, by dissipating wave energy and/or by stabilizing the bluff slope. Shore protection structures include bulkheads, revetments, seawalls, groins, breakwaters and slope stabilization measures.

“Shore Yard” means a yard extending across the full width or depth of a lot, the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle and containing the ordinary highwater mark of a lake, pond, flowage, river, stream or wetland nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the ordinary highwater mark.

“Shorelands” means those lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond, or flowage, and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

“Shoreline” means the intersection of the land surfaces abutting lakes, ponds, rivers, streams, flowages, and wetland with the ordinary highwater mark.

“Side Yard” means a yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

“Sign” means any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.

“Sign (Temporary)” means any sign which pertains to auctions, bazaars, festivals, or other similar events or to any aspect of a political campaign.

“Smoke Unit” means the number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes.

“Stable, Commercial” means a building or land where horses are kept for remuneration, hire, sale, boarding, riding, or show.

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

“Streamer” - see “Pennant.”

“Street” means a public or private right-of-way providing primary access to abutting properties.

“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 principal structure. Corner lots shall have two such yards.

“Structural Alteration” means any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

“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.

“Structure (Principal)” means a structure used or intended to be used for the principal use as permitted on such lot by the regulations of the district in which it is located.

“Structure (Temporary)” means a movable structure.

“Subdivision” - See Chapter 30.

“Substantial Construction” means a considerable amount of work done towards completing the project that received approval, that may include obtaining necessary plot plans, surveys, engineering data, easements, deed restrictions, approvals, permits, and physically starting the project. For typical building construction projects, the site work must progress beyond grading and completion of structural foundations, and construction must be occurring above grade to be considered substantial work.

“Substantial Improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the present equalized assessment value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. The term does not include either, 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or 2) any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historical places. Ordinary maintenance does not include structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other non-structural component.

“Temporary Sign” means any sign intended for a limited or intermittent period of display.

“Temporary Structure” means a movable structure.

“Turning Lane” means an existing or proposed connecting roadway or lane between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

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

“Utilities” means public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical, power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulations stations but not including sewage disposal plants, municipal incinerators, warehouses, ships, and storage yards.

“Variance” means an authorization by the Zoning Board of Appeals for a use which is not allowed under the zoning district or for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards within this Chapter ~~and within the floodplain zoning section.~~ See also the other land use chapters of this Municipal Code.

“Violation” means the failure of a person, structure or other development to be fully compliant with the land use chapters.

“Wall Sign” means any sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 12 inches from such building or structure.

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

“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.

“Wetlands” means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

“Wind Energy” and related items: see section 35-140.

“Window Sign” means any sign that is placed inside a window or upon the windowpanes or glass and is readable from the street or highway.

“Yard” means an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

“Yard (Rear)” means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

“Yard (Street)” 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 principal structure. Corner lots shall have two such yards.

“Yard (Side)” means a yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal street.

“Zoning Administrator” means a person appointed by the Village President and confirmed by the Village Board of Trustees to administer and enforce this Chapter and the other land use chapters. Reference to the Zoning Administrator shall be construed to include duly appointed Deputy Administrators.

35-500 ENFORCEMENT AND PENALTIES.

A. Enforcement.

1. **Double Fee.** A double fee shall be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
2. **Stop Work Order.** The Zoning Administrator may issue a stop work order for a project to prevent further non-complying work. No person may continue construction or use after a stop work order has been issued. The person who receives such a stop work order may contest the validity of the same by requesting a hearing before the Zoning Board of Appeals. The Zoning Board of Appeals shall affirm the stop work order unless the appellant shows that the Zoning Administrator erred in determining that the construction or use violated a provision or provisions of this Chapter.

B. Penalties.

1. Any building or structure hereinafter erected, moved, placed, or structurally altered or any use established in violation of the provisions of this Chapter or other land use chapter by any person, including building contractors or their agents, shall be deemed an unlawful structure or use. In case of any violation, the Village Board, Village Plan Commission, the Zoning Administrator or any property owner who would be specifically damaged by such violation may institute an action to enjoin, remove or vacate any use, erection, moving, alteration, or placement of any building or use in violation of this Chapter.
2. Any person who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or who resists enforcement shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$200.00 and all applicable costs for each violation and in default of payment of such forfeiture and costs may be imprisoned in the County Jail, until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense. See also Chapter 50.