

CHAPTER 17
ZONING CODE
INTRODUCTION
(2014-03 08/19/14)

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INTRODUCTION

17.01 PURPOSE.

This chapter is enacted to promote the health, safety, morals and general welfare; to regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot which may be occupied, size of yards, courts and other open spaces, density of population, location and use of buildings, structures and land for trade, industry, residence and other purposes and to divide the Village into districts of such number, shape and area as are deemed best suited to carry out such purposes; to provide a method for its administration and enforcement and to provide penalties for its violation.

17.02 INTERPRETATION.

- (1) The provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village.
- (2) It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants or agreements between parties or with any rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall govern.

17.03 ZONING ADMINISTRATOR.

- (1) Designated; duties.
 - (a) The Village Administrator, or the Village Administrator's designee, or the Village Board's designee, is established as the administrative and enforcement officer for this chapter ("Zoning Administrator").
 - (b) The duty of the Zoning Administrator shall be to interpret and administer this chapter and to issue or deny, after on-site inspection, all permits required by this chapter. The Zoning Administrator shall further:
 1. Maintain records of all permits issued and inspections made.

2. Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
3. Inspect all structures, lands, and water as often as necessary to ensure compliance with this chapter.
4. With the aid of the local law enforcement authority and the village attorney, investigate all complaints made relating to the location of structures and the use of structures, lands, and waters; give notice of all violations of this chapter to the owner, resident, agent, or occupant of the premises; and report uncorrected violations to the village attorney in a manner specified by him/her.
5. Assist the village attorney in the prosecution of violations of this chapter.
6. Be permitted access to public or private premises, lands, structures or water during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this chapter. If, however, the Zoning Administrator is refused entry after presentation of his/her identification, he/she may procure a special inspection warrant in accordance with Wis. Stat. §66.0119, except in cases of emergency.
7. Prohibit the use or erection of any structure, land, or water until he/she has inspected and approved such use or erection.
8. Request assistance and cooperation from the municipal police authority and village attorney as deemed necessary.

(c) Interpretation-Materially Similar Uses.

1. The Zoning Administrator shall determine if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described. Interpretations shall be ratified by the Village Board upon recommendation by the Plan Commission, before the Zoning Administrator's interpretation regarding the proposed use becomes effective. It is the intent of this section to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by conditional use permits. Uses not listed as a permitted use or as a conditional use are presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed as a prohibited use and is not

otherwise prohibited by law, the Zoning Administrator shall determine whether a materially similar use exists in this section.

2. Should the Zoning Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed, and the Zoning Administrator's decision shall be recorded in writing. Should the Zoning Administrator determine that a materially similar use does not exist, the matter may be referred to the Plan Commission for consideration for amendment to the zoning code to establish a specific listing of the use in question.

17.04 DISTRICTS.

- (1) The Village is hereby divided into the following zoning districts:
 - (a) Single-family Residence District.
 - (b) Two and Multiple Family Residence District.
 - (c) Commercial District
 - (d) Mixed Use Commercial and Single-family Residence District
 - (e) Industrial/Business Park District
 - (f) Planned Development District
 - (g) Government and Institutional District
- (2) The boundaries of the districts in sub. (1) are hereby established as shown on the map entitled "District Map, Village of Sturtevant, Wisconsin" which map is made a part of this chapter by reference. All notations and references shown on the district map are as much a part of this chapter as though specifically described herein.
 - (a) The district boundaries are either streets or alleys, unless otherwise shown, and where the designation on the district map indicates that the various districts are approximately bounded by a street or alley, such street or alley centerline shall be construed to be the district boundary line.

- (b) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines and where the designations on the district map are approximately bounded by lot lines, such lot lines shall be construed to be the boundaries of the district.
- (c) In unsubdivided property, the location of the district boundary lines shown on the district map shall be determined by use of the scale shown on such map.
- (d) There shall be a certified copy of the district map described above. A copy of such map shall be kept in the office of the Village Clerk/Treasurer and shall be available for inspection by any person during regular office hours. Such copy shall bear on its face the notation that it is the certified copy of the district map, the certificate to be signed by the Village President and attested by the Clerk/Treasurer and it shall show the number and the title of the ordinance and the date of its adoption. Thereafter, no amendment to this chapter which causes a change in the boundaries of any district shall become effective until such change, together with a certificate describing the change, has been shown on the certified copy. Such certificate of amendment shall likewise be signed by the Village President and attested by the Clerk/Treasurer and shall show the number of the amending ordinance and the date of its adoption.
- (e) The Village has adopted a comprehensive plan in accordance with Wis. Stat. §66.1001 entitled “A Multi-Jurisdictional Comprehensive Plan for Racine County: 2035.” Pursuant to Wis. Stat. §66.1001(3), zoning ordinances enacted or amended must be consistent with the Village’s comprehensive plan. Thus, areas of existing development shall, over time, be placed in a zoning district that is consistent with the land use designations shown on the land use plan map. Rezoning to achieve consistency between the zoning map and the comprehensive plan will be considered if requested by the property owner. The Village also reserves the right to initiate a rezoning to achieve consistency. See Table 17-1 for the land use category that corresponds with each zoning district designation.

TABLE 17-1

<u>Zoning District</u>	<u>Comprehensive Plan Land-Use Category</u>
Single-family Residence	Medium Density Residential
Two and Multiple Family Residence	High Density Residential
Commercial	Commercial
Mixed-Use Comm. and Single-family Res.	Mixed Use Commercial and Residential
Industrial/Business Park	Industrial/Business Park
Governmental and Institutional	Governmental and Institutional
Planned Development District	

17.05 DEFINITIONS.

For purposes of this chapter, certain words and terms are defined as follows:

GENERALLY. Words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; “building” includes “structure”; “shall” is mandatory and not directory. Any words not herein defined shall be construed as defined in the State and Village building codes.

ABUT OR ABUTTING. Having property lines in common.

ACCESSORY DWELLING UNIT. A habitable living unit added to, created within, or detached from a single-family dwelling, that typically provides the basic requirements for living, sleeping, eating, cooking, and sanitation and is usually subordinate in size, location, and appearance to the primary unit. Accessory dwelling units may not be income-producing. A “mother-in-law suite” is an example of an accessory dwelling unit.

ACCESSORY USE. A use subordinate or incidental to, and located on the same lot as, a principal use.

ACCESSORY STRUCTURE. A structure, including a facility or building, which is subordinate or incidental to the principle structure.

ADDITION. A completely new structure or new component to an existing structure.

ADJACENT. Two properties, lots or parcels are “adjacent” where they abut or where they are separated by a roadway or street, right-of-way, or railroad line, or any stream, river, canal, lake or other body of water.

AIRPORT, PUBLIC. Any airport which complies with the definition contained in Wis. Stat. §114.002(18m) or any airport which serves or offers to serve common carriers engaged in air transport.

ALLEY. A public right-of-way primarily designated to serve as access to the side or rear of those properties whose principal frontage is on some other street.

APARTMENT. See DWELLING, MULTIPLE-FAMILY.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BOARDING HOUSE. An establishment other than a hotel where lodging is provided for definite periods for compensation, and meals are regularly prepared and served as part of the rental arrangement. A bed and breakfast is one type of a boarding house.

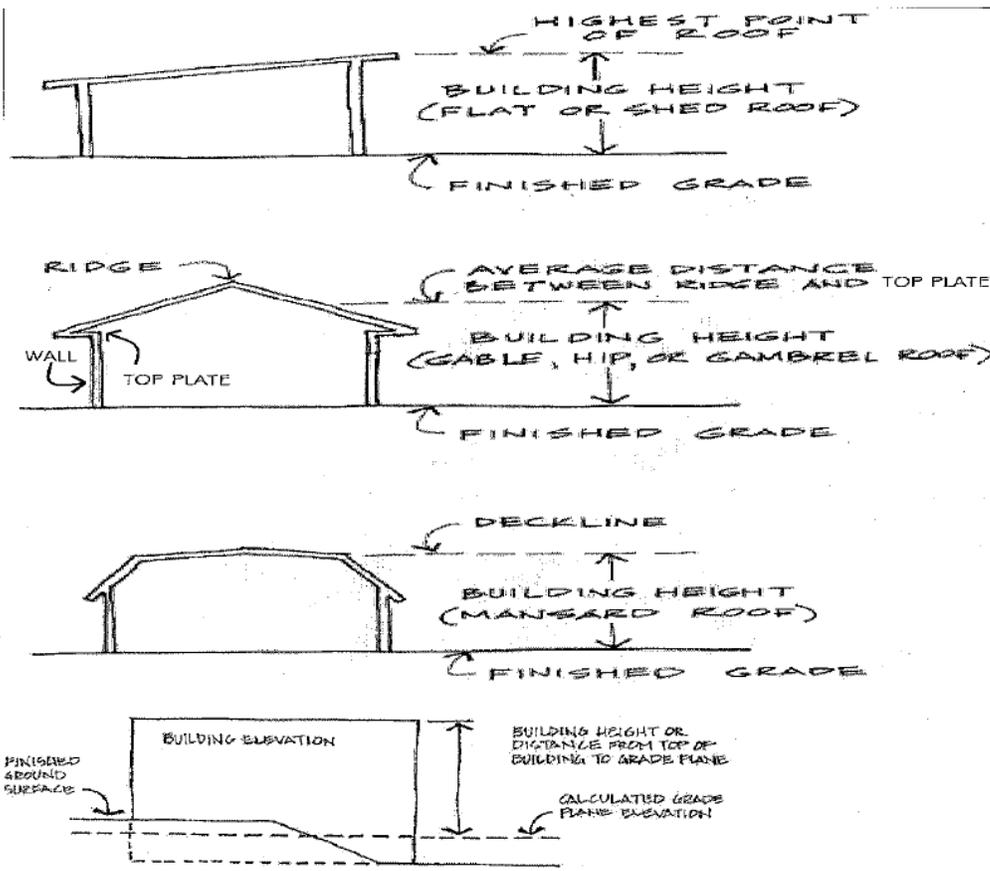
BODY PIERCE, as a verb, means to perforate any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing. (Cr. #099-5)

BODY-PIERCING ESTABLISHMENT means the premises where a body piercer performs body piercing. (Cr. #099-5)

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

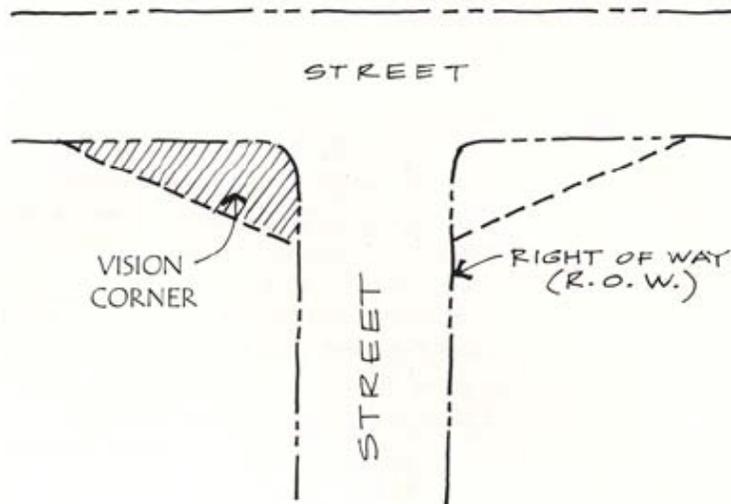
BUILDING, ACCESSORY. A building or portion of a building subordinate to the principal structure and used for a purpose customarily incidental to the permitted use of the principal structure or the use of the premises. An automobile trailer or other vehicle or part thereof or other building used as a temporary or permanent dwelling or lodging place is not an accessory building or use for the purposes of this chapter.

BUILDING, HEIGHT OF. The vertical distance from the average curb level in front of the lot or the finished grade at the front building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height between the plate and ridge of the highest gable, gambrel, hip or pitch roof.



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CLEAR VISION AREA. The triangular area adjacent to the intersection of any street within which no obstruction may be placed that blocks the sight lines for vehicular traffic.



COMPREHENSIVE PLAN. A document adopted by the Village Board under authority of Sec. 66.1001, Wis. Stats.

CONDITIONAL USE. A use which is not permitted as a matter of right but rather only when conducted pursuant to a conditional use permit issued under the procedures and limitations established in this Chapter. See Sec. 17.29.

CONVENIENT CASH BUSINESS (also known as a “payday loan business,” “title for cash business,” “check cashing business,” or similar enterprise). Any entity licensed pursuant to Wis. Stat. Sections 218.05 or 138.09, 138.14, or 138.16, and any amendments thereto, which accepts a check or title for payment, holds the check or title for a period of time before negotiating or presenting the check or title for payment, and pays to the issuer an agreed-upon amount of cash, or which refinances or consolidates such a transaction.

DWELLING. One or more rooms providing complete living facilities for one family, including kitchen facilities or equipment for cooking, or provisions for same, and including a room or multiple rooms for living, sleeping, bathing and eating. Also known as a “dwelling unit.”

DWELLING, SINGLE-FAMILY. A detached building designed for and occupied exclusively by not more than one family.

DWELLING, TWO-FAMILY. A detached or semi-detached building designed for and occupied exclusively as the residence of not more than two families, each living as an independent house-keeping unit.

DWELLING, MULTIPLE-FAMILY. A dwelling or group of dwellings on one lot containing separate living units for three or more families, but which may have joint services or facilities.

EXCEPTION. A use of property, including the use and location of buildings, the size of lots and the dimensions of required yards, which is not in full conformity with the terms of this chapter but which is permissible by reason of special provisions of this chapter.

FAMILY. One or more persons occupying a dwelling and living together as a single housekeeping entity.

FENCE. An artificial structure of posts and boards, wire, pickets, panels, rails or similar materials that is used as an enclosure of land. For purposes of this chapter, a fence shall not include vegetation, nor shall it include a retaining wall that retains or supports earth. Additionally, a fence shall not include a temporary snow fence that is installed and removed within the months of November through April, nor shall it include a temporary fence required to be erected by this Code. The “good side” of the fence is the side of the fence that by virtue of its design and appearance would generally be considered as the most aesthetically pleasing side of the fence.

FLOOR AREA. The sum of the gross horizontal areas of all floors of a structure, measured from the exterior walls or from the center line of a wall separating two structures. However, the floor area of a dwelling shall not include unimproved space, such as utility rooms, garages, breezeways and unenclosed porches, or attics or basements with only one means of ingress and egress.

FRONTAGE. That distance where a property line abuts a street right-of-way line.

GARAGE, PRIVATE. A building or building appendage that is accessory to a principal structure, providing for the storage of automobiles and in which no occupation or business for profit is carried on, and enclosed on all four sides and pierced only by windows and customary doors.

GARAGE, PUBLIC. Any building or premises, other than a private or storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

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

HOME OCCUPATION. Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

HOUSE. Unless a different meaning is clearly intended by the context, "house" shall mean a single-family dwelling.

HOTEL. A building or group of buildings containing rooms intended or designed to be used or that are used, rented, or hired out to be occupied or that are occupied for sleeping purposes by guests.

JUNKYARD (SALVAGE YARD). Any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber, inoperable machinery, tires, or other materials stored or customarily stored for salvage, buying, selling, exchanging, dealing, disassembling, packing, bailing, wrecking, or handling, including the accumulation of more than three (3) inoperable vehicles unless such accumulation shall be housed in a completely enclosed building.

LOADING SPACE. An off-street space or berth on the same lot with a building or contiguous to a group of buildings and abutting on or having direct access to a public street or alley for the temporary parking of a commercial vehicle while loading or unloading cargo.

LODGING HOUSE. A building other than a hotel where lodging only is provided for compensation for not more than 5 persons not members of the family.

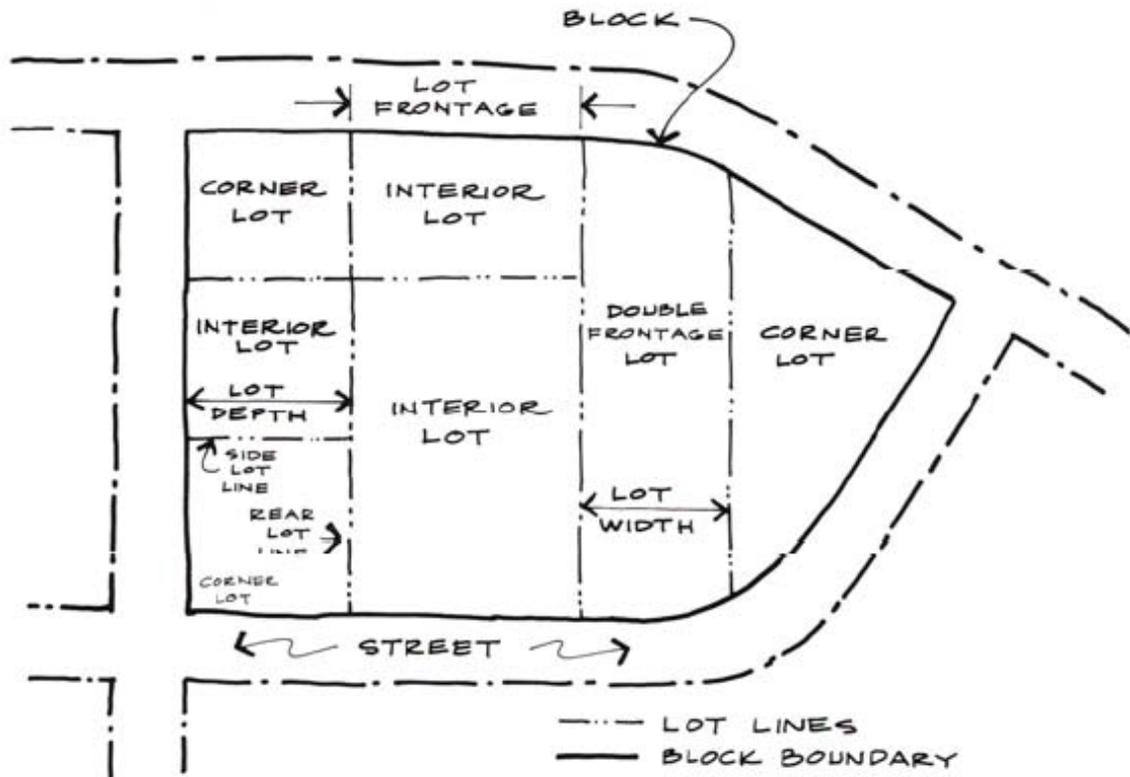
LOT. A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, and other open space provisions of this chapter.

LOT, CORNER. A lot abutting on 2 or more streets at their intersection, provided that the interior angle of such intersection is less than 135°. Corner lots shall have two "street yards," being those sides fronting on the lots' two public roadways, and two side yards.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. See through lot.

LOT, INTERIOR. A lot other than a corner lot.



LOT, THROUGH. An interior lot having frontage on 2 nonintersecting streets; also known as a double frontage lot.

LOT LINES. The lines bounding a lot as defined herein.

MOTEL. A building or group of detached, semi-detached, or attached buildings on a lot containing guest dwellings, each of which has a separate outside entrance leading directly to rooms, with a garage or parking space conveniently located with each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

NONCONFORMING. A description of the legal status of a lot, parcel, structure or use that was lawfully established, erected or commenced prior to the adoption or amendment of applicable land development or zoning regulations, or that was established, erected or commenced in compliance with then-applicable land development or zoning regulations, and that fails to meet currently-applicable land development or zoning requirements, including without limitation area, height, yards, setback, or use restrictions, only because of a change in the applicable land

development or zoning regulations, or due to annexation, condemnation of a portion of the lot, or other governmental action.

OFFICE. A building, or part thereof, used primarily for conducting the affairs of a business, profession, service, industry, government, or like activity.

OFFICIAL MAP. A map adopted by the Village Board under authority of s. 62.23(6), Wis. Stats.

PARCEL. A distinct tract or plot of land. Unless a different meaning is clearly intended by the context, “parcel” shall be interchangeable with “lot”.

PARKING LOT. A building or premises containing one or more parking spaces, open to the public free or for a fee.

PARKING SPACE. An unobstructed piece of ground or floor space sufficient for the temporary storage of one automobile. Each such parking space shall be located off the public street but accessible thereto and shall be not less than 180-sq. ft. in area, exclusive of the means of ingress and egress. A loading space is not a parking space.

PRINCIPAL STRUCTURE. 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. For example, and without limitation, a house would be the principal structure on a residential lot.

RIGHT-OF-WAY LINE. A street line.

ROADSIDE STAND. A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and not wholly enclosed and used solely for the sale of farm products.

SETBACK. The minimum horizontal distance between the front street right-of-way line and the nearest point of a building or any projection thereof, excluding uncovered steps. “Within the setback line” means between the setback line and the street line.

SELF-STORAGE FACILITY, CLIMATE-CONTROLLED Any building with central access that is composed of individual rooms, units or defined areas, which are rented to the public for storage of personal property and which have independent, interior access and locks under the control of the tenant.

SELF-STORAGE FACILITY, COLD STORAGE (a/k/a MINI-STORAGE UNITS). Any building or group of buildings that is composed of contiguous individual rooms or units, which are rented to the public for the storage of personal property and which have independent, exterior access and locks under the control of the tenant.

STORY. That portion of a building included between the surface of a floor and the surface of the floor next above it or, if there be no floor above it, the space between the floor and the ceiling next above it.

STORY, HALF. The space under any roof, i.e. the attic, except if occupied for dwelling purposes, which shall then be counted as a full story for the purposes of this chapter.

STREET. A right-of-way that provides a channel for vehicular circulation; is the principal means of vehicular access to abutting properties; and includes space for possible amenities or appurtenances, such as utilities, sidewalks, pedestrian walkways, bicycle lanes, and drainage. Any such right-of-way is included in this definition, regardless of whether or not it is developed. Street includes any vehicular way that is an existing state, county or municipal roadway; is shown upon a plat approved pursuant to law; or is approved by other official action; and includes the land between the street lines, whether improved or unimproved. Unless a different meaning is clearly intended by context, street shall include all highways, as defined in Wis. Stat. § 340.01(22), all roadways, as defined in Wis. Stat. § 340.01(54), and all streets, as defined in Wis. Stat. § 340.01(64).

STREET LINE. A dividing line between a lot, tract or parcel of land and a contiguous street, also known as a right-of-way line.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as foundations, bearing walls, columns, frames or girders.

STRUCTURE. Anything constructed or a combination of materials that form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water. Structure includes, without limitation, all buildings, driveways, patios, sheds and lean-tos.

TATTOO, as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

TATTOO ESTABLISHMENT means the premises where a tattooist applies a tattoo to another person.

VARIANCE. An authorization granted by the Board of Appeals, pursuant to established procedures and limitations, allowing such deviation from the dimensional standards of this zoning code as is not contrary to the public interest but in keeping with the spirit of the ordinance, where, owing to special circumstances unique to the property, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. A variance may not permit the use of a property that is otherwise prohibited by this chapter or allow floodland construction that is not protected to the flood protection elevation. See Sec. 17.26.

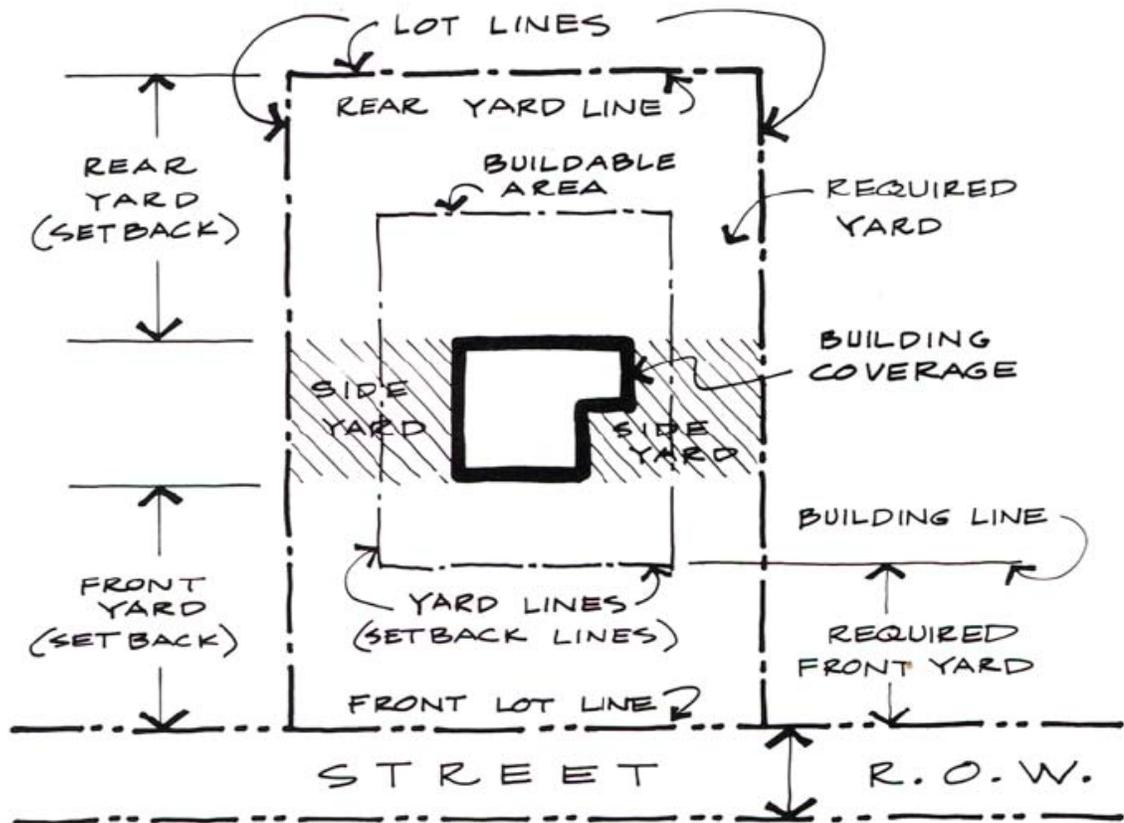
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YARD. An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided herein.

YARD, FRONT. A yard extending the full width of the lot between the front lot line and the nearest part of the principal structure, excluding only uncovered steps.

YARD, REAR. A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the principal structure, excluding only uncovered steps. In the case of irregular or triangular lots, where none of the lines bounding the rear of the lot are at an angle of less than 45° to the front lot line, the rear lot line for the purposes of this chapter shall be a line 15' long, wholly within the lot, parallel to the front lot line or the main chord thereof and at the maximum distance from the lot line.

YARD, SIDE. A yard extending from the front yard to the rear yard, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest part of the principal structure.



GENERAL PROVISIONS

17.06 APPLICATION.

Except as otherwise provided in this chapter, the following regulations shall apply to all districts.

17.07 BUILDINGS AND USES.

- (1) No provision of this chapter shall be construed to bar an action to abate the use or occupancy of any land, buildings or other structures as a nuisance under the laws of the State or ordinances of the Village.
- (2) No provision of this chapter shall be construed to prohibit the customary and necessary construction, reconstruction or maintenance of overground or underground public utility neighborhood service lines and mechanical appurtenances to such lines, where reasonably necessary for the preservation of the public health, safety, convenience and welfare.
- (3) The use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
- (4) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- (5) Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one principal structure on one lot, unless otherwise provided in this ordinance or as permitted as part of an approved plan of development. Notwithstanding the above, more than one principal structure may be constructed in the commercial, industrial or institutional districts with the prior approval of the Plan Commission.
- (6) All streets, alleys and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be the same zone as the property immediately abutting upon such alleys, streets or railroad rights-of-way. Where the center line of a street or alley serves as a district boundary, the zoning of such street or alley

unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such property line.

17.08 NONCONFORMING USES, STRUCTURES AND LOTS.

- (1) The existing lawful use of a building, premises, structure, or fixture at the time of the enactment of this chapter or any amendment thereto may be continued although such use does not conform with the provisions of this chapter for the district in which it is located, but such nonconforming use shall not be enlarged or extended. The total structural repairs or alterations in such a nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use.
- (2) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.
- (3) A nonconforming use shall not be changed to any other nonconforming use unless or until a permit therefor shall have been issued by the Plan Commission, which may attach such conditions as it deems appropriate.
- (4) If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to the regulations for the district in which it is located.
- (5)
 - (a) The above restrictions on repairs or alterations to damaged or destroyed nonconforming structures do not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, location, and use that it had immediately before the damage occurred if all of the following apply:
 1. The nonconforming structure was damaged or destroyed on or after May 2, 2006.
 2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold or infestation.
 - (b) If the above conditions are applicable, the size of a structure may be larger than the size it was immediately before the damage or destruction if

necessary for the structure to comply with applicable state or federal requirements.

- (6) If two or more abutting lots, any of which is nonconforming, are or come under common ownership, such nonconforming lots may not be sold separately from the abutting lots and shall be combined by the owner with any abutting conforming lot, or, if none, into one single lot, by use of a deed restriction or similar instrument, which shall be recorded in the office of the Racine County Register of Deeds Office. This subsection shall not apply if a habitable principal structure already exists on each such abutting lot.

17.09 PRIOR PERMITS EXCEPTED.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this chapter and the construction of which shall have been started within 6 months from the date of such permit and completed within 12 months of such date.

17.10 ACCESSORY BUILDINGS.

- (1) Accessory buildings in the Single-family and Two and Multiple Family Residential Districts which are not part of the principal structure shall comply with the following requirements. For purposes of this section, square footage shall mean the footprint of the accessory building.
 - (a) For lots with an area greater than 108,900 sq. ft. (2 ½ acres) the owner may construct one accessory building of 4,135 sq. ft. or less and a second accessory building of 865 sq. ft. or less. If installing only one accessory building, the owner may construct one accessory building of 5,000 sq. ft. or less. Accessory buildings in excess of 1,050 sq. ft. shall require a conditional use permit in accordance with Section 17.29 of the Village Zoning Code.
 - (b) For lots with an area of 65,341 sq. ft. (1 ½ acres) to 108,900 sq. ft. (2 ½ acres), the owner may construct one accessory building of 2,400 sq. ft. or less, and a second accessory building of 865 sq. ft. or less. If installing only one accessory building, the owner may construct one accessory building of 3,265 sq. ft. or less. Accessory buildings in excess of 1,050 sq. ft. shall require a conditional use permit in accordance with Section 17.29 of the Village Zoning Code.

- (c) For lots with an area of 12,000 sq. ft. to 65,340 sq. ft (1 ½ acres), the owner may construct one accessory building of 900 sq. ft. or less, and a second accessory building of 150 sq. ft. or less. If installing only one accessory building, the owner may construct a building of 1,050 sq. ft. or less.
 - (d) For lots with an area less than 12,000 sq. ft, the owner may construct one accessory building of 600 sq. ft. or less, and a second accessory building of 150 sq. ft. or less. If installing only one accessory building, the owner may construct a building of 750 sq. ft. or less.
 - (e) Notwithstanding the above subsections, accessory buildings shall not occupy more than 50% of the rear yard area.
 - (f) Accessory buildings shall not exceed 15 feet in height, as measured to the top of the roof ridge board from the surrounding ground elevation, except as may be necessary to accommodate a 6:12 standard pitched roof. No accessory building may be more than one story.
 - (g) Accessory buildings shall not be nearer than 8 feet to any lot line, except that buildings on or with respect to lots existing prior to the adoption of Ordinance 2003-32 (i.e., October 7, 2003) shall not be nearer than 4 feet to any lot line. Where a private garage has an entrance facing an alley, the entrance shall not be located nearer than 10 feet from the nearest alley line. Accessory buildings must comply with all setback requirements.
 - (h) The provisions of Section 17.18(2) relating to “home occupations” and home “professional office” shall apply to all accessory buildings in residential districts.
 - (i) No accessory building is allowed without a principal structure existing on the same lot.
- (2) Non-Residential Accessory Building Restrictions. The number and size of accessory buildings allowed in non-residential districts shall be as permitted by the Plan Commission.

17.11 Reserved.

17.12 Reserved.

17.13 FRONT, SIDE AND REAR YARD REGULATIONS.

- (1) No part of a yard or open space provided about any building in compliance with the provisions of this chapter shall be included as a part of a yard or open space required for another building.
- (2) Where boundary lines of different districts coincide there shall be a side yard in each district. The width of the side yard in the district with the smaller required minimum side yard shall be the average width of the required minimum side yards in the two abutting districts. Any rear yard abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yard in the two districts which abut the district boundary line.
- (3) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard and the ordinary projections of sills, belt courses, cornices and ornamental features extending not more than 12”.
- (4) Open and enclosed fire escapes and fire towers may project into a required yard not more than 5’ provided they be so located as not to obstruct light and ventilation.
- (5) Temporary Structures and Temporary Storage. No temporary structure or temporary storage is allowed within a front yard. Temporary storage and temporary structures may be located in side yards or rear yards for a period of not longer than five months in any 12-month period. For purposes of this section, a “temporary structure” is any structure that is designed without a permanent foundation, and “temporary storage” means the keeping of any item(s) anywhere on a property outside of a permanent structure and, with respect to legally- and mechanically-operable motor vehicles, any place but a property’s driveway. Any temporary structure or temporary storage use other than as allowed in this subsection is permitted only as otherwise provided in this Chapter for permanent structures or permanent storage. Temporary structures and temporary storage may be permitted within side yard and rear yard setback areas provided that such uses do not cause adverse impacts on neighboring properties, including due to storm water runoff or snow accumulation.

17.14 SETBACKS.

- (1) Where 50% or more of the frontage within 120 feet on both sides of a property (excluding the width of any streets) is occupied by buildings having setbacks which are greater or less than the setback required by this chapter for the district in

which such frontage is located, the setback shall be the average setback established by such buildings.

- (2) Where less than 50% of the frontage is occupied by buildings, the setback for the remainder of the frontage shall be as follows: (Am. #089-04)
 - (a) Greater Setbacks. Where vacant lots abut an occupied lot having a setback greater than is required by this chapter, the setback on the abutting vacant lots shall be the average of the setback required by this chapter for the district in which such lot is located and the setback on the occupied lot.
 - (b) Lesser Setbacks. Where vacant lots abut an occupied lot having a setback less than is required by this chapter, the setback on the vacant lots shall be the setback required by this chapter for the district in which such lots are located. No part of the building on such occupied lot which is within the setback line shall be enlarged or structurally altered unless such enlargement or structural alteration is outside the setback line required by this chapter for the district in which such lot is located. The purpose of this paragraph is to finally establish a setback line which is not less than the minimum setback determined to be necessary for the preservation of the public safety, health, welfare and convenience.
- (3) Subject to the provisions of subs. (1) and (2) above, but without regard to setback restrictions otherwise provided in this chapter, the following setbacks shall apply: (Cr. #089-04) (See also, with respect to subdivisions abutting on state trunk highways or connecting highways, Wis. Admin. Code TRANS 233)
 - (a) Durand Ave. Every building located on property accessing Durand Ave. shall be setback a minimum of 50' from the Durand Ave. right-of-way line and, unless otherwise approved by the Plan Commission not more than 75' from the Durand Ave. right-of-way line. Every building located on property located on Durand Ave., but not accessing Durand Ave., shall be setback from the Durand Ave right-of-way line such distance as is determined by the Plan Commission to be adequate for green space and the sidewalk, but in no event less than 15' from the Durand Ave. right-of-way line.
 - (b) Wisconsin St. Every building to be erected and constructed upon lands fronting on Wisconsin St. in the Village shall be so constructed that the front of the building shall be set back not less than 4' from the line designated as the sidewalk line of Wisconsin St. provided, however, that on the east side of Wisconsin St. north of the north line of Park Court Subdivision as recorded, the setback shall be 75' from the east right-of-way

line of Wisconsin St. and further provided that on the west side of Wisconsin St. north of the north line of the S½ of the N½ of Section 21, T3N, R22E, the setback shall be 25' from the west right-of-way line of Wisconsin St. No parking of vehicles shall be permitted within 25' of the right-of-way line of Wisconsin St. in such 75' and 25' setbacks.

- (c) Washington Ave. Every building to be erected and constructed upon lands fronting on Washington Ave. in the Village shall be so constructed that the building shall be set back not less than 100' from the right-of-way of Washington Ave. No parking of vehicles shall be permitted within 25' of the right-of-way line of Washington Ave.
- (d) Through Lots. Buildings on through lots which extend from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements of both streets be complied with.

17.15 MOTOR VEHICLE PARKING.

- (1) **LOADING AND UNLOADING.** In any commercial or industrial district wherever a lot abuts upon a public or private alley, sufficient space for the loading and unloading of vehicles shall be provided on the lot in connection with any business or industrial use so that the alley shall at all times be free and unobstructed for the passage of traffic.
- (2) **OFF-STREET PARKING AND LOADING.**
 - (a) Required Off-Street Parking. Off-street vehicle parking space shall be provided for buildings and uses as specified in this section, except as may be otherwise permitted by the Plan Commission. Such parking shall be reasonably adjacent to the use or building being served; be intended specifically to serve the residents, patrons or employees of the use or buildings; and the required number of spaces shall be demonstrably usable and accessible for such purpose.

<u>Use</u>	<u>Minimum Off-Street Parking Requirements</u>
Single-family Dwelling	At least two spaces per dwelling. Parking spaces serving a single-family dwelling need not be striped.
Two and Multiple-Family Dwelling [Am. 10/19/93]	Two spaces per dwelling unit. Parking spaces serving a two-family dwelling need not be striped.

Public Assembly Facilities Providing for Seated Audiences (Churches, Theaters, Auditoriums, etc.)	One parking space per every 3 seats.
Hotels, Motels	One space per guest room plus one space per every 3 employees.
Elementary and Secondary Schools	Two spaces per classroom or auditorium requirement (whichever is greater).
High Schools	One per 3 students of maximum peak hour capacity.
Funeral Homes	Minimum 12 per chapel or parlor, plus 1 per funeral vehicle kept on premises.
Hospitals	One per every 3 beds plus one per every 2 employees.
Nursing, Convalescent, Rest and Homes for the Elderly Clinics	One per every 5 beds plus one per every 2 employees and one per staff doctor. Medical - 5 per doctor. Dental - 3 per doctor.
Industrial Uses	One per every 2 employees.
Office Buildings	One per every 2 employees.
Retail Stores, Shopping Centers	One per every 150 sq. ft. of primary floor area.
Rooming Houses, Boarding Houses, Dormitories, Clubs with Sleeping Rooms	One per each sleeping room.
Customer Service Establishments (Barber, Beauty Shop, Appliance Repair, etc.)	One per every 100 sq. ft. of primary floor area.

Restaurants, Taverns, Supper Clubs and Bars	One space per 2 seats.
Gymnasiums, Health Salons, Swimming Pools, Skating Rinks and Dance Halls, Commercial	Minimum one space per 3 persons, based on maximum number of persons who may be accommodated at one time per design capacity and one per 3 employees.
Bowling Alleys	Minimum 7 spaces per alley, plus additional spaces required for additional uses such as restaurants and the like.
Financial Institutions	One space per 300 sq. ft. of primary floor area and one space per 2 employees.
Automobile Service Stations	Minimum one space per employee, plus 2 per each service stall.

In any case as to parking requirements for any use except single-family and two-family dwellings, such case should come to the Plan Commission, which shall have the final authority to determine the appropriate application of the parking requirements to the specific situation.

- (b) Application to Existing Uses. The provision of parking space shall not be required for legally existing uses as of April 21, 1981, but shall be required for any expansion of such use by the addition of new primary floor area or other partial expansion of building or use generating new parking demand.
- (c) Area. A required off-street parking space shall be at least 9' in width and at least 20' in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Enclosed parking spaces shall have a vertical clearance of at least 7'. With prior Plan Commission approval and for good cause shown, some or all parking space lengths may be reduced from 20' to 18'.
- (d) Disabled Parking Requirements. Unless more stringent number, size and/or location requirements are applicable under state or federal law, the following provisions shall apply. Additionally, such number of disabled parking spaces as is required by state statute or federal law shall have an access aisle, meeting minimum applicable requirements, immediately adjacent to the parking spaces to provide entry to and exit from vehicles by

persons with physical disabilities, and such access aisle spaces shall also be marked as required.

1. Number of Spaces:

TOTAL PARKING SPACES PROVIDED	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES
1 to	1
26 to	2
51 to	3
76 to	4
101 to	5
151 to	6
201 to	7
301 to	8
401 to	9
501 to	2% of
More than 1,000	20 plus one for each 100 over

2. Stall Size and Location:

Disabled parking spaces shall be at least twelve feet (12') wide and located as close as possible to an entrance which allows a physically disabled person to enter and leave the principal structure or use area.

3. Disabled Parking Signs:

All required disabled parking spaces shall be posed with signs as follows:

- a. Disabled parking signs shall consist of a white rectangle with longer dimension vertical, having green message, a green arrow, if required under this section, and a blue and white international symbol for the barrier-free environments. The sign may be reflective or non-reflective.
- b. The sign shall include the words "reserved parking" and the words "vehicles with VET or DIS plates or state disabled card" or other words with similar meaning.
- c. The size of the sign shall be not less than 12 inches by 18 inches.

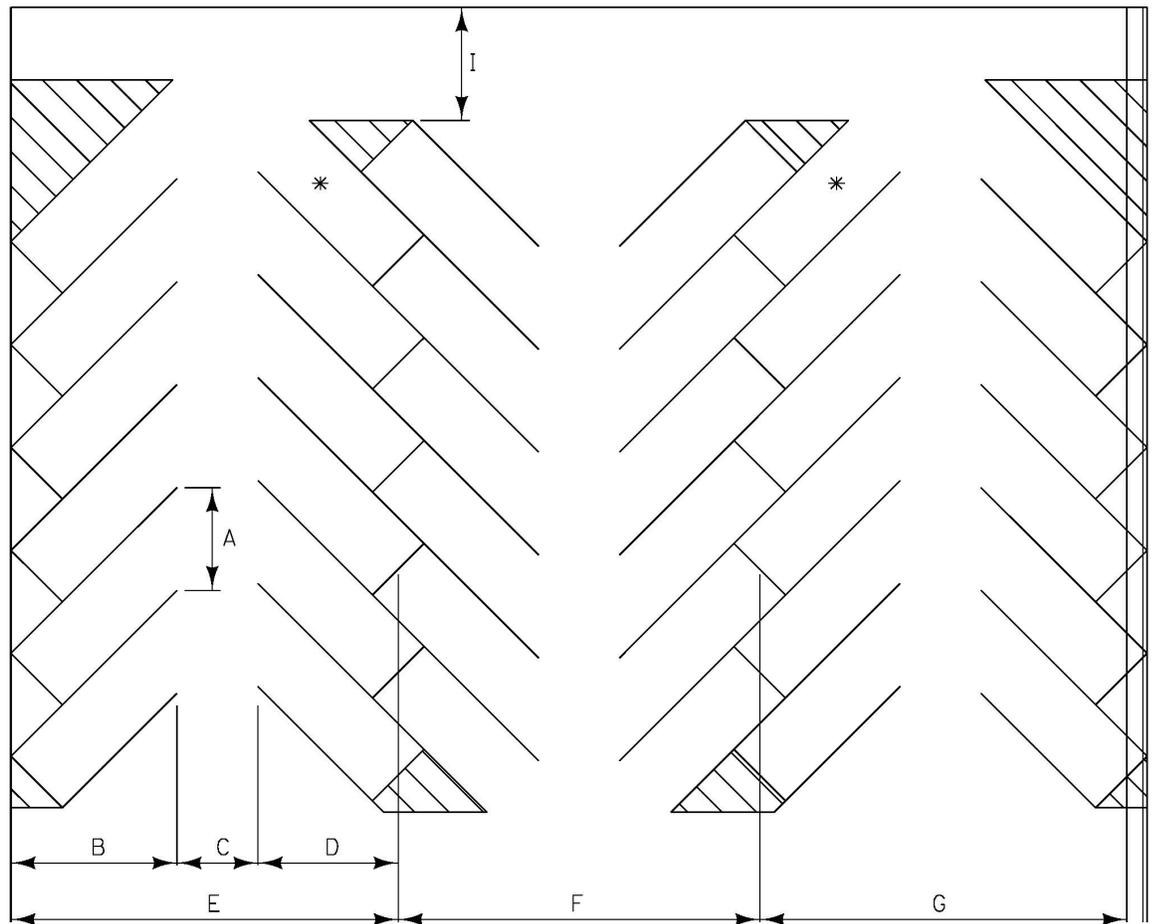
- d. A right arrow, left arrow, or words "This Stall" or similar wording shall be included near the bottom of the sign.
- e. Each sign shall be erected on an adequate support. The vertical distance from the parking lot surface to the bottom of a sign shall be not less than 4 feet. A single sign with the message "This Space" or similar wording shall be used to designate a single reserved space. At least 2 signs are required for multiple reserved spaces. When 2 signs are used they shall be located at the outermost limits of the spaces reserved and, by arrow, designate the location of the reserved spaces. A sign shall be located at the end of an angled or right-angled space and shall be set to face a motorist entering the space.
- f. Signs in place prior to adoption of the rules: Signs which are in place prior to the effective date of these standards and specifications may remain in place and have the same effect as the signs described herein for 5 years after the effective date provided that they include the international symbol for barrier-free environments and the wording required under 3.a) either as a part of the original sign or on a supplementary plaque or plaques.

Note: The standards and specifications pertaining to Disabled Parking Requirements meet the provisions of Wisconsin ss. 346.503 with respect to parking spaces for vehicles displaying special registration plates or special identification cards.

- (e) Striping. All parking spaces shall be clearly striped with white or yellow stripes a minimum of 3" wide. Such striping shall delineate parking space dimensions consistent with space number and size requirements of the Village of Sturtevant.
- (f) Access. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. No driveway across public property at the right-of-way line shall exceed a width of 35', unless excepted by the Plan Commission.

(g) Design and Maintenance.

1. Open and Enclosed Parking Spaces. Accessory parking spaces may be open to the sky or enclosed in a building.
2. Surfacing. All open off-street parking areas shall be improved with a compacted base and a permanent-wearing surface.
3. Parking Lot Layout Geometrics.



* - These stalls may not be used for certain layouts.

Measurement description	Parking stall angle			
	45°	60°	75°	90°
A. Stall width parallel to aisle (ft.)	12.7	10.4	9.3	9
B. Stall depth to wall (ft.)	20.5	21.8	21.6	20
C. Aisle width between stall lines (ft.)	10	14	21	24
D. Stall depth, interlock (ft.)	17.3	19.6	20.5	20
E. Module - wall to interlock (ft.)	47.8	55.4	63.1	64
F. Module - interlocking (ft.)	44.6	53.1	62	64
G. Modules - interlock to curb (ft.)	45.3	52.9	60.6	61.5
H. Bumper overhang (ft.)	2	2.3	2.4	2.5
I. Cross aisle - one way (ft.)	14	14	14	14
I. Cross aisle -two way (ft.)	20	20	20	20

- (h) Screening. All open automobile parking areas containing more than 4 parking spaces located less than 40’ from a property line shall be effectively screened on each side adjoining or fronting on any property situated in a residential district or any institutional premises by a wall, fence or densely planted compact hedge not less than 5’ nor more than 8’ in height.
- (i) Parking Lot Landscaping.
1. Street Edge Landscaping. Street edge landscaping, unless specifically excluded, shall include a rhythmic planting of trees no more than 50’ on center of the tree trunk. Rhythmic planting shall mean the inclusion of 2 to 3 different species of trees planted in an alternating fashion. Trees shall be planted parallel to the right-of-way. Trees shall be canopy, deciduous trees of the varieties set forth in Section 8.11(3)(b)-(c), and meeting the “canopy” definition in paragraph 3. Trees bordering a parcel shall be of the same species in order to provide visual continuity along the street edge. In addition to rhythmic planting of trees, a secondary landscape layer located behind the tree line should be created using ornamental fences and continuous evergreen hedges that block views of parking areas. Unless otherwise noted these should have a minimum height of 4’ above the elevation at the right-of-way. Berms should not be used as a device for visual screening unless specific approval is given by the Village Board. When berms are approved for use, they shall have a minimal slope in contrast to the surrounding landscape. When a berm is intended to screen a building from a public right-of-way, the berm must be configured so that the building is screened at all visual

angles from the public right-of-way. Trees, fences, and hedges may be eliminated when there is a planned view of an open landscaped area included as part of a long-term open space management plan in a planned unit development or as provided by the standards for pedestrian main streets.

2. Shared Cross-Easements. Vehicular access between adjacent sites shall occur when possible, eliminating the need to return to the public street when traveling between multiple adjacent sites. Site access from arterial and local streets shall be shared between sites whenever possible.
 3. Landscape Features in Large Surface Parking Lots. For large surface parking lots with more than fifty (50) parking spaces, landscaped islands shall be located at the ends of aisles and spaced geometrically throughout parking lots and along the likely pedestrian routes. For every twenty (20) parking spaces, three hundred (300) square feet of landscaped area should be provided. For the purposes of this paragraph, landscape features shall be defined as canopy trees (where the canopy is intended to be at least eight (8) feet above grade) and hedges or bushes with an intended height of four (4) feet or greater. The pattern and geometry of the landscape should follow the geometry of the buildings and circulation system. It should not appear as a series of isolated plantings unrelated to the visual character of the spaces created by the buildings and lots. Where feasible, trees and landscape features should be combined to create larger public spaces/greens within or adjacent to buildings and active uses.
 4. Linkages to Trails, Environmental Features, Sidewalks and Public Places. Pedestrian linkages shall be provided to abutting trail systems and pedestrian walkways. The internal trails and walkways shall be connected in a pedestrian-friendly manner to the commercial uses on the site, building entries, and parking access.
- (j) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to create a nuisance and such lighting shall be extinguished 1/2 hour after the close of business except as may otherwise be permitted or required by the Village Board for maintaining illumination with less candlepower after the time specified above. Lighting shall be shielded so that illumination is not directed toward the sky.

- (k) Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with any parking lot.
- (3) **OFF-STREET COMMERCIAL VEHICLE PARKING IN RESIDENTIAL DISTRICTS**. No person shall park or store more than one commercial vehicle or trailer weighing more than 6,000 pounds in any residential district in the Village, including Two and Multiple Family Residence Districts, except for purposes of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence located in the residential district, unless such person obtains a conditional use permit under sub. (4).
- (4) **CONDITIONAL USE PERMIT TO ALLOW OFF-STREET PARKING OF MORE THAN ONE COMMERCIAL VEHICLE IN RESIDENTIAL DISTRICTS**. A person may apply for a conditional use permit to park more than one commercial vehicle at the applicant's residence in a residential district in accordance with the procedures set forth in Section 17.29 of this Municipal Code. The application shall include the applicant's name, the name of the owner of the site where the commercial vehicle would be parked or stored, a description of the commercial vehicle including its weight, the proposed route of travel to the applicant's residence, the names and addresses of all residents living within 400 feet of the proposed site, and such other information as the Zoning Administrator requires.

17.16 SITE PLAN AND ARCHITECTURAL CONTROL

- (1) **OBJECT AND PURPOSE**. The purpose of this section is to promote the public health, safety and general welfare of the citizens of the Village by providing regulations concerning the site plan and the architectural requirements pertaining to the exterior design of all non-residential and all two- and multiple-family dwelling unit residential structures hereafter built, enlarged, altered, or demolished within or moved within or into the Village and to prohibit structures incompatible with the character of surrounding or neighboring structures constructed or being constructed and to thereby maintain and conserve the taxable value of land and buildings throughout the Village and prevent the depreciation thereof. The Village of Sturtevant hereby establishes Architectural standards to promote stability of property values, to promote compatible development, to protect certain public investments in the area, to maintain an attractive community as a place to live and work, to preserve character and quality, and to raise the level of community expectations for the quality of its environment. The purpose of this section is also to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards of life and property, and to facilitate existing plans.

- (2) FINDING OF CONFORMITY. No non-residential use, development, or structure, or residential building containing two or more dwelling units, shall hereafter be erected, moved, reconstructed, extended, enlarged, altered, or changed until the Plan Commission has reviewed and approved site plans and architectural plans for the use, site, or structure. The Plan Commission shall not approve any plans that violate the intent and purposes of this ordinance.

- (3) SITE PLAN REVIEW. Village staff shall review the site, existing and proposed structures, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewer and water systems, lighting, erosion control measures, and the proposed operation. The Plan Commission will approve plans only after determining that:
 - (a) The proposed use conforms to all use and design provisions and requirements found in this Ordinance or any other codes or laws.
 - (b) The use or uses conform to the uses permitted for that zoning district per sections 17.18 through 17.24 of the Village Code.
 - (c) When a site plan modification or addition is reviewed, all existing non-conformities and outstanding code violations shall be identified, resolved, and remedied, to the extent possible.
 - (d) All buildings and structures shall conform to the required area, yard, setback, and height restrictions of the Village Zoning Ordinance.
 - (e) Plans must adhere to the Village's requirements for grading and drainage.
 - (f) Plans shall meet all requirements for parking per the Zoning Ordinance.
 - (g) Land, buildings, and structures shall be accessible to emergency vehicles as well as the disabled following proper ADA guidelines.
 - (h) Dumpsters and other trash receptacles shall be screened from view from street right-of-way and adjacent residential uses. Exterior screening should be comparable to the exterior of the building.
 - (i) Outdoor storage areas for materials, equipment, fuel, scrap, inoperative vehicles, and other such objects shall not be visible from public rights-of-way nor from neighboring, residential properties.

- (j) Buffer Strip. Adverse effects of the development and activities upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping. Building permit and inspection are required for all fences per the Zoning Ordinance.

(4) ARCHITECTURAL STANDARDS.

- (a) Legislative findings. The Village Board makes the following legislative findings with regard to this section:

1. The outward design appearance of a building can have a substantial and long-lasting effect on surrounding properties and the overall character of a community.
2. Buildings and especially those within a largely developed area should fit into the context in which they occur.
3. Architectural design standards should allow for a variety of architectural styles and be flexible to the greatest extent possible.
4. The standards in this section are intended to provide meaningful guidance to applicants, design professionals, and public officials.
5. This section is not intended to limit or infringe upon reasonable accommodations to afford a person with disabilities equal opportunity to use and enjoy a building.
6. The standards in this section are intended to promote the public health, safety, and welfare and are reasonably related to the public purpose of achieving an attractive, functional, and prosperous community.

- (b) Architectural standards. Buildings subject to review under this section shall adhere to the following architectural standards:

1. The scale of the building shall be compatible with the overall massing and the individual parts of adjacent buildings, especially existing and anticipated residential buildings in a residential zoning district.
2. A commercial or institutional building with two or more stories shall be designed to include a base, middle, and cap. For the purpose of this subsection, the base consists of one or more entryways and

ground floor windows; the middle is set apart from the base by a molding, reveal, or other suitable feature, and may consist of windows, balconies, or both; and the cap consists of a roof overhang, a parapet cornice, or other similar feature.

3. Windows, doors, and other openings must form a unified composition in proportion to the building elevation.
4. For commercial buildings, clear glass shall occupy a minimum of 40 percent of the first floor of buildings that front on a sidewalk intended for pedestrian circulation.
5. A docking or loading area for a commercial, institutional, or industrial building shall be easily accessible to service vehicles, separated from the on-site parking area, and designed to serve multiple establishments and tenants, when possible. Such docking or loading area shall not be readily visible from a public street, an on-site customer parking area, or an abutting property in a commercial or residential district. Screening from view may be accomplished by integrating such area into the overall design of the building (e.g., inside of the building or use of architectural extension of a building wall) or by using a fence; a berm; landscaping, above what is otherwise required in this code; other suitable feature; or any combination thereof.
6. Principal structures located in a commercial zoning district having a front elevation of more than 750 square feet in area shall be divided into distinct planes of 500 square feet or less. The following design features can be used to meet this provision (1) canopies or awnings; (2) arcades; (3) porches; (4) vertical wall offsets having a minimum depth of 8 inches and a minimum width of 10 feet; (5) horizontal offsets having a minimum depth of 2 feet; (6) pilasters having a minimum depth of 8 inches, a minimum width of 12 inches, and a minimum height of 80 percent of the wall height; (7) recessed areas for entryways and the like having a minimum depth of 8 inches; and (8) other suitable multi-dimensional design features.
7. Oversized fenestration elements which tend to create a monumental scale shall not be used unless specifically required by the type of building or relationship to its surroundings.

8. Awnings shall be designed to complement doors and windows to which they relate. Awnings should be composed of straight planar surfaces and opaque materials and shall not be lit from within.
9. Building entrances must be clearly recognizable from parking lots and pedestrian circulation routes. An entrance could be distinguished with the use of a recess or projection, a canopy, a change in exterior building materials, a change in height, added design elements, and added architectural features.
10. The appearance of a side or rear of a commercial or institutional building that is readily visible from a public street or an abutting property in a commercial or residential zoning district shall be the same as or similar to the front of such building.
11. Rooftop mechanical equipment shall be positioned so it is not readily visible from a public street or an abutting property in a residential zoning district. Rooftop mechanical equipment may be placed in an enclosure or screened from view provided such enclosure or screening is used as an element of the building's architecture.
12. Accessory buildings and other structures shall be of the same or similar architectural design and materials as the principal structure.
13. Fencing shall complement the appearance of onsite buildings.
14. Building façade colors shall be non-reflective, subtle, neutral, or earth tone. The use of high intensity colors, metallic colors, black, or fluorescent colors on façades shall be prohibited. Building trim and architectural accent elements may feature brighter colors, but such colors shall be muted, not metallic, not fluorescent, and not specific to particular uses or tenants. Notwithstanding the above, standard corporate and trademark colors may be permitted by the Plan Commission.

(5) **PLAN COMMISSION DUTIES.** For the purposes of this section the Plan Commission shall be charged with the administration thereof. The Plan Commission may, if it desires, hear the applicant for the building permit in question or the owner of the lot on which it is proposed to erect or move the structure in question, together with any other persons, whether residents or property owners desiring to be heard, giving such notice of the hearing as it may deem sufficient. Such hearing may be adjourned from time to time but not for

more than 48 hours and within 48 hours after the close of the hearing the Plan Commission shall in writing make or refuse to make the finding required by sub. (3) as to conformity with the immediate neighborhood. Such finding and determination shall be in writing and signed on behalf of the Plan Commission by its chairman and secretary. The secretary shall thereupon file a copy of such findings and determination in the office of the Village Clerk/Treasurer. Thereupon the Building Inspector shall issue or refuse to issue a building permit in accordance with the determination of the Plan Commission.

- (6) APPEAL. Any person feeling himself aggrieved by the findings and determination of the Plan Commission may appeal such findings to the Village Board within 30 days after written notice shall have been delivered to him, such appeal to be in writing setting forth the basis of the appeal and to be filed with the Clerk/Deputy Treasurer. Such appeal shall thereupon be heard at the next regular meeting of the Village Board. The appeal shall follow the format set forth in Wis. Stat. §68.11. The Board of Appeals shall have no jurisdiction with respect to appeals of variance requests related to this section.

17.17 FENCES, SCREENS AND BUSHES. (Cr. 6/7/89)

- (1) Zoning Permit.
 - (a) No fence shall be constructed in the Village without first obtaining a permit from the Village. The application for such permit shall be on a form prescribed by the Village and shall be accompanied by a plot plan showing the lot, the proposed location and height of the fence, and a description of the materials to be used.
 - (b) A permit fee in an amount as established by and as may be modified from time to time by resolution of the Village Board of the Village of Sturtevant shall be paid at the time of the filing of the application for a permit hereunder.
 - (c) A permit issued pursuant to this chapter shall be valid and permit construction of the fence for a period of one (1) year from date of issuance. If the fence is not completed within such period, a new permit shall be required. The construction of a fence shall impose a continuing obligation on the owner to perform all work necessary to maintain the fence, structurally and aesthetically, as initially constructed.
 - (d) The Village Engineer or his representative shall have a right to enter upon the premises to inspect the fence and its construction to ensure compliance with the permit and the provisions of this chapter.

- (e) As a condition of receiving a permit under this section, the owner agrees to defend, indemnify and hold the Village of Sturtevant harmless from and against all claims, including boundary disputes, for injury or damage received or sustained by any person or entity in connection with the installation or construction of a permitted fence.

(2) DESIGN.

- (a) Height. All heights shall be as measured from ground level.

- 1. Residential properties.

- a. A fence within the front yard may not exceed three (3) feet in height, and may not exceed any visual clearance requirements established by any applicable ordinance.
- b. A fence within a rear or side yard may not exceed six (6) feet in height and may not exceed any visual clearance requirements established by any applicable ordinance.
- c. A supporting fence post that is set into the ground may exceed the heights specified above by six (6) inches.
- d. In no event shall any provision of this chapter be construed to permit a spite fence in violation of Section 844.10, Wisconsin Statutes.

- 2. Commercial and industrial properties.

- a. Fences on commercial and industrial properties shall not exceed eight (8) feet in height, unless provided otherwise in a Conditional Use Permit/Site Plan Review applicable to the property.
- b. A fence located within a street yard setback, as defined by the applicable zoning ordinance, may not exceed four (4) feet in height, unless provided otherwise by a Conditional Use Permit/Site Plan Review.
- c. A supporting fence post that is set into the ground may exceed the heights specified above by six (6) inches.

(b) Prohibited Materials.

1. No person shall construct or cause to be constructed, in whole or in part, a fence with barbed wire, creosote-covered materials, electrified wire, or other injurious materials within a residentially zoned district.
2. No person shall construct or cause to be constructed, in whole or in part, a fence with barbed wire, creosote-covered materials or electrified wire or other injurious materials in a commercially or industrially zoned district unless so provided in a Conditional Use Permit/Site Plan Review under the applicable zoning ordinance.

(c) Maintenance. A fence shall be maintained in a structurally sound condition. Posts, supports, rails, boards, panels, etc. shall be repaired or replaced as reasonably required toward that purpose.

(d) Aesthetics.

1. The “good” side of a fence shall face toward the adjoining property and toward the public road right-of-way. Fence posts shall be placed on the inner side of the fence. Metal fence posts shall be set in concrete bases.
2. The Village Engineer, or designee, shall determine which side of a fence is the “good” side and shall provide property owners with such determination upon request. The Village Engineer, or designee, may require the property owner to provide sufficient evidence to make said determination. The determination of the Village Engineer, or designee, may be appealed to the Plan Commission, whose determination shall be final.

(e) Location.

1. A fence or other significant landscaping may not be located within a public right-of-way. A fence or other landscaping may be located within a public drainage, sanitary sewer, or water main easement only as allowed by and subject to such reasonable restrictions as are imposed by the Village Engineer. A fence must be completely within the installing property owner’s lot lines.
2. A fence may be located within street, side, rear, and shore yard setbacks as permitted by applicable zoning ordinances, unless

otherwise prohibited or restricted herein or unless prohibited or restricted by a Conditional Use Permit/Site Plan Review.

3. Fences abutting alleys shall be set back a minimum of two (2) feet from the lot line extending along the alley.
4. CLEAR VISION AREA FOR CORNER LOTS. Notwithstanding the foregoing provisions, to provide adequate vision clearance for persons using the public roads, no fence, screening, structure, bush, tree, branches or mound shall be erected, grown, placed or maintained on a corner lot in the Village which shall obstruct the vision between 3' and 6' above the curb level or, if none, the street grade at the location, within a triangle formed by the intersecting right-of-way lines and a line connecting such street lines from points 15' from the intersection of the right-of-way lines.

(3) GENERAL PROVISIONS.

- (a) Fences or other significant landscaping located within a public right-of-way shall not be permitted and shall be removed.
- (b) A fence or other landscaping currently located within a public drainage, sanitary sewer or water easement in the Village of Sturtevant shall be permitted to remain unless in the opinion of the Village Engineer, or his designee, the fence or other landscaping is determined to obstruct the purpose for which the easement was obtained or the maintenance of the easement, including underground lines. The determination of the Village Engineer as to the existence of an obstruction may be appealed as set forth in (d) below.
- (c) The Village Engineer may order any fence or other landscaping located within the Village of Sturtevant contrary to the provisions of this chapter to be removed, repaired or otherwise corrected, as the case may be. Such notice shall be in writing and delivered in person or by mail to the last known address of the owner of the property where the fence or other landscaping is located. The work or action shall be completed within thirty (30) days after mailing or personal delivery of the notice. Upon written request of the Owner, and for good cause shown, the Village Board may extend the time for compliance with the Order provided the Owner waives any appeal rights set forth below.
- (d) Any person shall have a right to request a review of the determination of the Village Engineer by filing a request for review in accordance with

Chapter 68 of the Wisconsin Statutes. Failure to comply with the notice of required action shall permit the Village of Sturtevant to enter upon the premises and complete such action. Any cost to the Village of Sturtevant shall be charged as a special charge against the property as provided in Wis. Stat. Section 66.0627.

- (e) Fences existing in any residential district prior to the effective date of this chapter which do not meet the regulations of this chapter are permitted to be repaired for ordinary maintenance, including painting, staining, and cleaning. No permit shall be required for such work. The replacement of 50% or more of the fence, or 50% or more of the component parts thereof, shall require a new permit and compliance with the regulations of this chapter.
- (f) As an exception to any notice requirements set forth above, the Zoning Administrator may order the emergency removal of a fence, or a portion thereof, or other landscaping where there is an immediate danger to persons or property, or a significant maintenance concern. This determination shall be made by the Zoning Administrator, upon the recommendation of the Village Engineer.

ZONING DISTRICTS

17.18 SINGLE-FAMILY RESIDENCE DISTRICT.

- (1) USES. In the Single-family Residence District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses, provided, however, that the uses specified below in subsection 17.18(1)(b) shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this Chapter.
 - (a) Single-family dwellings.
 - (b) Churches, philanthropic and charitable institutions, public and parochial schools, public libraries and museums. Municipal buildings, including public recreational and community center buildings and grounds, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards and penal or correctional institutions.

- (c) Roadside stands; provided that no such roadside stand shall be more than 300 sq. ft. in ground area and there shall be not more than one roadside stand on any one premises.
- (d) Accessory buildings.
- (e) Railroad right-of-way and passenger depots, not including switching, storage, freight yards or siding.
- (f) Uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business.
- (g) Home occupations, if in accordance with Section 17.18(2)
- (h) Home occupation signage shall be allowed only as otherwise permitted by Village ordinance.
- (i) Licensed family child care homes, as required by Wis. Stat. § 66.1017.

(2) HOME OCCUPATIONS.

- (a) Purpose and findings. This Section:
 1. Establishes criteria for operation of home occupations in dwelling units within residential districts.
 2. Permits and regulates the conduct of home occupations as an accessory use in a dwelling unit, whether owner- or renter-occupied.
 3. Ensures that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses.
 4. Ensures that public and private services, such as streets, sewers, or water or utility systems, are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use.
 5. Allows residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions, and criteria.

6. Enables the fair and consistent enforcement of these home occupation regulations.
7. Promotes and protects the public health, safety, and general welfare.

(b) Applicability.

1. This section applies to any occupation, profession, or business activity customarily conducted entirely within a dwelling unit and carried on by a member of the family residing in the dwelling unit, and which occupation or profession is clearly incidental and subordinate to the use of the dwelling unit for dwelling purposes and does not change the character of the dwelling unit. A home occupation is an accessory use to a dwelling unit.
2. No home occupation, except as otherwise provided in this section, may be initiated, established, or maintained in the unit except in conformance with the regulations and performance standards set forth in this section. A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes.

(c) Exempt Home Occupations. The activities listed in subsections (1) through (4), below, are not subject to this section, provided that all persons engaged in such activities reside on the premises, and provided that there are no nonresident employees working on the premises.

1. Artists, sculptors, and composers not selling their artistic product to the public on the premises.
2. Craft work, such as jewelry-making and pottery, with no sales permitted on the premises.
3. Home offices with no client visits to the home permitted.
4. Telephone answering and message services.

(d) Permitted Home Occupations.

1. The home occupations permitted in subsection (d)(2), below, are allowed in a residential setting provided they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.

2. The following home occupations, without limitation due to enumeration, are permitted subject to the standards established in this section. Home occupation uses in addition to those listed below may be permitted pursuant to Section 17.03(1)(c):
 - a. Accounting, tax preparation, bookkeeping, and payroll services.
 - b. Baking and cooking.
 - c. Catering.
 - d. Child care.
 - e. Computer systems design and related services, computer training, information and data processing services, computer processing and data preparation and processing services, and computer-related services.
 - f. Drafting services.
 - g. Engineering, architecture, and landscape architecture.
 - h. Financial planning and investment services.
 - i. Fine arts studio.
 - j. Hair salon, barbering, hairdressing, and other personal care services.
 - k. Insurance sales.
 - l. Interior decoration.
 - m. Legal services.
 - n. Mail order business.
 - o. Musical instruction, voice, or instrument.
 - p. Musical instrument tuning and repair.

- q. Offices for professional, scientific, or technical services or administrative services.
- r. Photographic services.
- s. Professional services, including the practice of law.
- t. Real estate services and appraisal.
- u. Tailoring (e.g., dressmaking and alterations) services.
- v. Teaching of crafts and incidental sale of supplies to students.
- w. Tutoring.
- x. Exempt home occupations listed above, but with no more than one nonresident employee.

(e) Prohibited Home Occupations. The following uses, without limitation due to enumeration, are not permitted as home occupations in residential zoning districts.

- 1. Medical/dental office.
- 2. Motor vehicle and engine repair.
- 3. Outdoor recreation activities.
- 4. Medical/cosmetic facilities for animals, including animal care or boarding facilities.
- 5. Machine shop/metal working.
- 6. Retail sales.
- 7. Commercial food preparation.
- 8. Contractors shops.
- 9. Mortuaries.
- 10. Medical procedures.

11. Body piercing and/or painting tattoos, or any type of physical therapy or psychotherapy.
- (f) Performance Standards. Home occupations shall comply with the performance standards set forth below.
1. The use shall be clearly incidental and secondary to residential occupancy.
 2. The use shall be conducted entirely within the interior of the residence.
 3. No more than one nonresident employee shall be permitted.
 4. Not more than twelve client visits per day, allowed only between the hours of 8:00 a.m. and 8:00 p.m.
 5. Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation.
 6. Child care (maximum of three children who are unrelated to or not legal wards of the caregiver) is permitted.
 7. Public facilities and utilities shall be adequate to safely accommodate equipment used by home occupation.
 8. Storage of goods and materials shall be inside and shall not include flammable, combustible, explosive, or otherwise hazardous materials.
 9. Parking shall be provided only in the driveway.
 10. Outside storage of heavy equipment or material shall be prohibited.
 11. No truck or van with a payload rating of more than 1 ton shall be parked on the site or in front of the site on a regular basis.
 12. Mechanized equipment shall be used only in a completely enclosed building.
 13. Electronically amplified sounds shall not be audible from adjacent properties or public streets.

14. No generation of dust, odors, noise, vibration, or electrical interference or fluctuation shall be perceptible beyond the property line.
 15. Deliveries and pickups shall not block traffic circulation, and shall occur only between 8:00 a.m. and 8:00 p.m., Monday through Saturday.
 16. Accessory buildings shall not be used for home occupation purposes, unless such use is approved by the Plan Commission.
- (g) Unsafe Home Occupations. If any home occupation has become dangerous or unsafe; presents a safety hazard to the public, pedestrians on public sidewalks, or motorists on a public right-of-way; or presents a safety hazard to adjacent or nearby properties, residents, or businesses, the Zoning Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken, directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall take the necessary corrective steps or measures but, in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Zoning Administrator may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Zoning Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation.
- (3) ACCESSORY DWELLING UNITS. Accessory dwelling units shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this chapter, and subject to the following restrictions:
- (a) Limitation on occupancy. An accessory dwelling unit shall only be occupied by people who are related by blood or marriage to the family occupying the primary portion of the single-family dwelling. Not more than 2 such persons shall occupy an accessory dwelling unit. An accessory dwelling unit shall not be allowed unless there is adequate off-street parking on the property to accommodate one additional vehicle per bedroom in the accessory dwelling unit.
 - (b) Limitation on floor area and bedrooms. The floor area of an accessory dwelling unit shall not exceed 900 square feet, and may not contain more than 2 bedrooms.

- (c) Exterior appearance. The architecture of the accessory dwelling unit shall be compatible with the existing single-family dwelling and adjacent residences. The building shall appear to be a single-family residence. No accessory dwelling unit may have a separate mailing address or separate utility connections from the main residence.
- (d) Doorways. An accessory dwelling unit shall not have a primary exterior door. A patio-type door is allowed as a secondary exterior door if it opens onto a deck or patio and does not face the front of the lot. There shall be an interior door or opening between the accessory dwelling unit and the primary portion of the single-family dwelling.
- (e) Compliance with building codes. Prior to establishment of an accessory dwelling unit, the building inspector shall certify that the single-family dwelling meets all applicable building codes.
- (f) Required actions following termination of use. At such time as the accessory dwelling unit is no longer occupied by a person that is related by blood or marriage to the family occupying the primary portion of the single-family dwelling, the property owner shall remove the stove and/or oven in the accessory dwelling unit or in the other dwelling unit and the interior door separating the two units shall be removed.
- (g) Deed restriction. Prior to the establishment of an accessory dwelling unit, the property owner shall file a deed restriction in the Racine County Register of Deeds office, acceptable to the Zoning Administrator, that includes the following provisions:
 - 1. the accessory dwelling unit is to be occupied by not more than 2 people who are related by blood or marriage to the family occupying the primary portion of the single-family dwelling; and,
 - 2. the approval of an accessory dwelling unit is not transferable to another property owner without formal approval of the Plan Commission; and,
 - 3. a prohibition on the establishment of a separate mailing address or separate utility connections for the accessory dwelling unit; and,
 - 4. such other provisions deemed appropriate by the reviewing authority.

(4) **HEIGHT AND AREA.** In the Single-family Residence District the height of buildings, the minimum dimensions of yards and the minimum lot areas per family shall be as follows:

(a) Height. Buildings hereafter erected or structurally altered shall not exceed 35' in height above the average grade established for the street in front of the building or the average ground level at the front building line.

(b) Side yard. There shall be a side yard on each side of a building as follows:

1. For houses not over one story high, the sum of the widths of the required side yards shall not be less than 18' and no single side yard shall be less than 8' in width, provided, however, that if a single-story house has a garage, whether attached or detached, each side yard may be not less than 6'.

2. For houses more than one story high, the sum of the widths of the required side yards shall be no less than 23' and no single side yard shall be less than 8' in width. Garages, whether attached or detached, shall not change the minimum side yard requirements applicable to houses taller than one story.

3. With respect to corner lots, one side yard shall be not less than 8' and the other side yard shall be not less than 15'.

(c) Setback.

1. Unless otherwise provided, there shall be no setback less than 25' wide and of record at the time of the passage of this chapter. Corner lots shall have street yard setbacks of not less than 25' each, provided, however, that in no case shall the buildable width of such corner lot be reduced to less than 24'.

2. Notwithstanding the above or any other setback requirements or prohibitions of this Chapter, any deck or porch, as defined in Section 14.30: (1) may not, if constructed in the front yard, be higher than three feet above the average grade level of the adjoining ground; (2) may not extend more than 33% or 8 feet (whichever distance is less) into the front yard (excluding steps allowing access between the deck or porch and front yard); (3) may not obstruct lighting or ventilation of principal structure; and, (4) may not compromise the aesthetic or architectural appeal of principal structure.

- (d) Rear Yard. There shall be a rear yard having a minimum depth of 25’.
- (e) Lot Area.
 - 1. Every building hereafter erected or structurally altered for use as a one family dwelling shall provide a lot area of not less than 9,000 sq. ft. and no such lot shall be less than 75’ wide.
 - 2. No corner lot laid out or divided after July 19, 1977, shall be less than 85’ in width.
 - 3. No one-family building hereafter erected, altered structurally or moved on to a lot for residential purposes shall have a floor area of less than 1,200 sq. ft.
 - 4. The provisions of subpars. 1. through 3. above shall not apply with respect to lots of a lesser size which are a part of a subdivision plat within the Village which has been approved as a preliminary or final plat by the Village Board prior to July 19, 1977. Such lots shall meet the size and lot area requirements for Single-family Residence Districts as existed prior to adoption of Ord. #077-11.
 - 5. Auto Parking. See Section 17.15 of this chapter.

(4) HEIGHT AND AREA EXCEPTIONS

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (a) Chimneys, television reception towers, masts or aerials, telephone and power transmission poles and lines, air conditioning units, boilers, antennas, and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and maybe erected to a height not to exceed 60 feet. Notwithstanding the above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.
- (b) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120’ from the line of the higher average established grade.
- (c) Where a lot has an area less than the minimum number of square feet required but was of record at the time of the passage of this chapter, such lot may be occupied by a single-family dwelling.

- (d) Churches, schools, hospitals, and other public and quasi-public buildings may be erected to a height not exceeding 60 feet, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the district's maximum height limit.

17.19 TWO AND MULTIPLE FAMILY RESIDENCE DISTRICT.

- (1) USES. [Am. #090-22] In the Two and Multiple Family Residence District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:

- (a) Any use permitted in the Single-family Residence District. Single-family residences in the Two and Multiple Family Residence District shall comply with the height and area requirements applicable to the Single-Family Residence District.
- (b) Two and multiple-family dwellings.
- (c) Private clubs, fraternities, lodges, except those whose chief activity is a service customarily carried on as a business.
- (d) The following uses shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this Chapter:
 - 1. Boardinghouses.
 - 2. Lodging houses.

- (2) HEIGHT AND AREA.

- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 35' in height above the average grade established for the street in front of the building or the average ground level at the front building line.
- (b) Side Yard. There shall be a side yard on each side of a building hereafter erected or structurally altered. In all cases and regardless of the number of

stories in any building, the sum of the widths of required side yards shall be not less than 25' and no single side yard shall be less than 10' in width. In cases where the lots are a part of a subdivision recorded at the time of the adoption of this chapter, the Board of Appeals shall have the power to award such variances in side yard requirements as are necessary to prevent an unnecessary hardship.

- (c) Setback. The setback requirements for the Two and Multiple-Family Residence District shall be the same as those for the Single-family Residence District, Section 17.18(4)(c).
- (d) Rear Yard. The rear yard requirements for the Two and Multiple-Family Residence District shall be the same as those for the Single-family Residence District. See Section 17.18(4)(d).
- (e) Lot Area Per Family.
 - 1. No two-family dwelling hereafter erected, altered structurally or moved on to a lot for residential purposes shall have a floor area of less than 2400 sq. ft.
 - 2. Every building hereafter erected or structurally altered for use as a two-family dwelling shall provide a lot area of not less than 6,000 sq. ft. per family and no such lot shall be less than 100' wide.
 - 3. For a multiple-family dwelling, the floor area per family shall be exclusive of hallways and stairways in common areas. A multiple-family dwelling shall have no less than the following:
 - a. A studio or efficiency apartment with no bedroom shall have no less than 375 square feet of floor area.
 - b. A one-bedroom apartment shall have no less than 600 square feet of floor area.
 - c. A two-bedroom apartment shall have no less than 750 square feet of floor area.
 - d. A three-bedroom apartment shall have no less than 900 square feet of floor area.
- (f) Auto Parking. There shall be a minimum of 2 off-street parking spaces for each family unit in each multiple-family dwelling.

- (g) Plan Commission Approval Required. The Building Inspector shall not issue a permit for the construction of a multiple-family dwelling unless the plans and specifications are first approved by the Plan Commission as being in compliance therewith.

(3) HEIGHT AND AREA EXCEPTIONS

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (a) Chimneys, television reception towers, masts or aerials, telephone and power transmission poles and lines, air conditioning units, boilers, antennas, and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and maybe erected to a height not to exceed 60 feet. Notwithstanding the above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.
- (b) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120' from the line of the higher average established grade.
- (c) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this chapter, such lot may be occupied by one family.
- (d) Churches, schools, hospitals, and other public and quasi-public buildings may be erected to a height not exceeding 60 feet, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the district's maximum height limit.

17.20 COMMERCIAL DISTRICT

- (1) USES. (Am. #090-22) In the Commercial District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses, provided, however, that all such uses specified under 17.20(1)(e) shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this chapter:

- (a) Any use permitted in more restrictive districts except Single-family Residence and Two and Multiple Family Residence Districts.
- (b) Any of the following specified uses:
 - 1. Art shop, antique shop, gift shop.
 - 2. Bakery (retail).
 - 3. Bank, financial institution.
 - 4. Barber shop, beauty parlor, salon.
 - 5. Book and stationery store, newsstand.
 - 6. Business and professional offices, public utility offices.
 - 7. Candy store, confectionery store.
 - 8. Clothing store, department store, dress shop, dry goods store, hosiery shop, millinery shop, shoe store, shoe repair shop.
 - 9. Drug store, ice cream shop, pharmacy, soda fountain, soft drink stand.
 - 10. Electronics retail store.
 - 11. Florist shop.
 - 12. Furniture store, office equipment store, upholsterer's shop.
 - 13. Hardware store, home appliance store, paint store, sporting goods store.
 - 14. Jewelry store, watch repair shop.
 - 15. Optical store.
 - 16. Photographer and photographer's supplies.
 - 17. Police and fire station, post office.
 - 18. Retail delicatessen, grocery store and meat market.

19. Tailor shop, clothes pressing shop.
- (c) Any other uses similar in character to those listed in subsection (b), and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises. (Rnb. #099-05)
 - (d) Such accessory uses as are customary in connection with the foregoing uses listed in subsection (b) and are incidental thereto. (Rnb. # 099-05)
 - (e) Conditional uses shall be as follows:
 1. Animal hospital, pet shop.
 2. Automotive parts sales and service.
 3. Bars and taverns.
 4. Body-piercing establishments which are licensed under § DHS 173.04, Wis. Admin. Code. (Am. #099-05)
 5. Bowling alley, pool and billiard room, drive-in food or beverage stand.
 6. Building supply stores.
 7. Bus depot.
 8. Cemeteries.
 9. Clinic.
 10. Clubs.
 11. Construction services, including general building contractors, carpentry, wood flooring, concrete services, masonry, stonework, tile setting, plastering services, roofing, sheet metal services, and water well drilling services.
 12. Convenient-cash businesses, provided that no other convenient cash business is located within 2,500 feet and the business is located at least 250 feet from a residential district.

13. Dance halls.
14. Fitness, recreational and athletic facility.
15. Fraternities.
16. Freight forwarding services, packing and crating services, and petroleum bulk stations.
17. Fuel oil, bottled gas, and ice dealers.
18. Funeral Homes.
19. Garden center, supply and landscaping store.
20. Gasoline service stations, automobile and truck rental services, and automobile washing.
21. Group daycare.
22. Hotel, motel.
23. Laundromat, dry cleaning and dyeing establishment.
24. Lawn, garden and recreational vehicle sales and service.
25. Lodges.
26. Motor vehicle sales and service establishments and auto body repair.
27. New and used automobile, aircraft, and marine craft sales and the sale of tires, batteries, and other automotive, marine, and aircraft accessories.
28. Printing shop.
29. Printing.
30. Public garage, parking lot, storage garage.
31. Radio and television transmitting and receiving stations.
32. Restaurant, barbecue stand, cafe, cafeteria, caterer and lunchroom.

33. Retail tobacco and liquor store.
34. Roadside stands and farmers markets.
35. Self-Storage Facility, Climate-Controlled.
36. Tattoo establishments licensed under § DHS 173.04, Wis. Admin. Code. (Am. #099-05)
37. Theaters and places of amusement, except drive-in theaters.
38. Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities, or studios.
39. Veterinary clinics, provided that no service, including the boarding of animals, is offered outside of an enclosed building.
40. Warehousing and retail/wholesale sales of electrical apparatus and equipment, wiring supplies and construction materials; hides, skins and raw furs; outdoor storage as permitted by the Plan Commission.

(2) **HEIGHT AND AREA.** In the Commercial District the height of buildings, the minimum dimensions of yards and the minimum lot area per development site shall be as follows:

- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 45' in height above the average grade established for the street in front of the building or the average ground level at the front building line.
- (b) Side Yard. A side yard, if provided, shall not be less than 6' in width. See Section 17.13.
- (c) Setback. (Am. #089-04) The setback shall be 4' from the right-of-way line of the street.
- (d) Rear Yard. There shall be a rear yard having a minimum depth of 20' for a building 20 feet or less in height. For each additional 10 feet in height, the depth of such rear yard shall be increased 5'. See Section 17.13.
- (e) Clear-Vision Area. No building erected at the intersection of 2 or more streets, where a setback of less than 10' exists or is provided, shall hereafter be erected or structurally altered for any purpose unless a vision clearance

triangle, free of visual obstruction of any kind, is provided at the corner of the building nearest such intersection. Such vision clearance triangle shall extend not less than 10' horizontally along each street line from their intersection and shall extend vertically from the curb line to the ceiling line of the ground floor, but in no case shall such vision clearance triangle be less than 10' high.

(f) Auto Parking. See Section 17.15.

(3) HEIGHT AND AREA EXCEPTIONS.

- (a) Architectural projections, such as spires, belfries, cupolas, domes, flues and chimneys, are limited to a height of 100 feet.
- (b) Special structures, such as elevator penthouses, gas tanks, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are limited to a height not to exceed 30 feet higher than the highest point of the roof.
- (c) Essential services, utilities, water towers, electric power and communication transmission lines are limited to a height of 200 feet.
- (d) Communication structures, such as radio and television transmission, receiving, and relay towers and aerial towers shall not exceed 350 feet in height, provided, however that any such structure, aerial or tower, if located within three (3) miles of a boundary line of an airport and landing strips, may not exceed the height limitations of the district in which it is located without prior proof of written notification of the public hearing to the owner of the said airport or landing strip, and prior written approval from the F.A.A. and Wisconsin Bureau of Aeronautics, if applicable. Notwithstanding the above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.
- (e) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control for a distance of 120' measured perpendicular to the street line of the street with the higher average established grade.
- (f) Churches, schools, hospitals, and other public and quasi-public buildings may be erected to a height not exceeding 60 feet, provided the front, side and rear yards required in the district in which such building is to be located

are each increased at least one foot for each foot of additional building height above the district's maximum height limit.

17.21 MIXED-USE COMMERCIAL AND SINGLE-FAMILY RESIDENCE DISTRICT

The "Recommended Land Use Plan for the Village of Sturtevant: 2035" designates a corridor for "Mixed Use – Commercial and Residential." This section is reserved for future zoning regulations pertaining to mixed-use developments.

17.22 INDUSTRIAL/BUSINESS PARK DISTRICT.

- (1) USE. (Am. #090-22) In the Industrial/Business Park District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses provided, however, that all uses set forth below in Section 17.22(1)(b) shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this chapter:
 - (a) Any use permitted in the Commercial District, except churches, schools, hospitals and charitable institutions.
 - (b) Any of the following specified uses:
 1. Automotive body repairs; automotive upholstery; cleaning, pressing and dyeing establishments; commercial greenhouses; food locker plants; laboratories; machine shops; manufacturing and bottling of beverages; painting; printing; publishing; trade and contractor's offices and yards. Manufacture, fabrication, packing, packaging and assembly of products from furs, glass, leather, metals, paper, plaster, plastics, textiles and wood. Manufacture, fabrication, processing, packaging and packing of confections, cosmetics, electric appliances, electronic devices, foods, meats, instruments, jewelry, pharmaceuticals, tobacco and toiletries. Freight yards, terminals and transportation depots. Gas powered electrical generating power plants. Self-storage facilities, including cold storage and climate-controlled. Quarters for the accommodation of a watchperson whose presence on the premises of the industrial use is required continuously during the hours when the premises are not open for business.

2. Self-storage facilities, cold storage. In addition to satisfying the requirements of Section 11.15 (“Storage of Hazardous Materials in Mini-Storage Units”) and any conditions imposed on self-storage facilities through the conditional use process in Section 17.29, such facilities shall comply with the following requirements;
 - a. The lot size shall be between a minimum of 2 acres and a maximum of 5 acres.
 - b. The total area covered by buildings shall not exceed 50 percent of the site.
 - c. The maximum height of the building or buildings permitted is 20 feet.
 - d. No outside storage is permitted.
 - e. No business activity other than the rental of storage units shall be conducted on the premises.
 - f. A landscaped buffer, as approved by the Village, shall be provided along the front property line and along any property line that abuts a residential zoning district.
 - g. No self-storage facility shall be located within one (1) mile of another facility or within 300 feet of Highway 11 or Highway 20.
3. Any other similar type of use which is not in conflict with any of the laws of the State or any ordinance of the Village governing nuisances.

(2) **HEIGHT AND AREA.** In the Industrial/Business Park District, the height of buildings and the minimum dimensions of yards should be as follows:

- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 80 ft. in height.
- (b) Side Yard. A side yard, if provided, shall be not less than 12’ in width.
- (c) Setback. Where parts of the frontage on the same side of the same block are designated on the district map as Residence District and Industrial/Business Park District, the setback regulations of the Residence

District shall apply to the Industrial/Business Park District; otherwise no setback shall be required.

(d) Rear Yard.

1. There shall be a rear yard having a minimum depth of 20' for a building 2 stories or less in height.
2. For each additional story or fractional story in height the depth of such rear yard shall be increased 3'.

- (e) Vision Clearance. No building erected at the intersection of 2 or more streets, where a setback of less than 10' exists or is provided, shall hereafter be erected or structurally altered for any purpose unless a vision clearance triangle, free of visual obstruction of any kind, is provided at the corner of the building nearest such intersection. Such vision clearance triangle shall extend not less than 10' horizontally along each street line from the intersection of their rights-of-way and shall extend vertically from the curb line to the ceiling line of the ground floor, but in no case shall such vision clearance triangle be less than 10' high.

(3) HEIGHT AND AREA EXCEPTIONS

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (a) Architectural projections, such as spires, belfries, cupolas, domes, flues and chimneys, are limited to a height 200 feet.
- (b) Special structures, such as elevator penthouses, gas tanks, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are limited to a height of 350 feet.
- (c) Essential services, utilities, water towers, electric power and communication transmission lines are limited to a height of 350 feet.
- (d) Communication structures, such as radio and television transmission, receiving, and relay towers and aerial towers, shall not in any event exceed in height of 350 feet, provided, however that any such structure, aerial or tower, if located within three (3) miles of a boundary line of an airport and landing strips, may not exceed the height limitations of the district in which it is located without prior proof of written notification of the public hearing

to the owner of the said airport or landing strip, and prior written approval from the F.A.A. and Wisconsin Bureau of Aeronautics, if applicable. Notwithstanding the above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.

- (e) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control for a distance of 120' measured perpendicular to the street line of the street with the higher average established grade.

17.23 PLANNED DEVELOPMENT DISTRICT. [Cr. #094-6]

- (1) **INTENT AND PURPOSE.** The intent of this section is to encourage and promote improved environmental design in the development of land by allowing greater freedom and flexibility than is possible under the precise and rigid requirements of conventional zoning districts through the use of objective standards establishing goals and criteria for judgment rather than the application of fixed formula. It will permit diversification in the uses permitted and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and cohesive unified projects, while still requiring substantial compliance to the general plan of development and the underlying zoning classification or classifications. Its purpose is to encourage more imaginative site planning, to assist in achieving more rational and economic development with relationship to public services, to permit optimum development of land and to encourage and facilitate the conservation of open land and other natural features such as woods, streams, wetlands, etc., as integral components of a balanced ecology.
- (2) **MINIMUM PLANNED DEVELOPMENT AREA.** To qualify for consideration as a planned development, the site shall be of sufficient size in relation to the proposed uses to justify the application of the special regulations as in this section and shall be under a single or unified ownership.
- (3) **PERMITTED USES.** In a planned development, any use permitted by right in any residential, commercial, mixed use, or industrial/business park district in this chapter may be permitted, subject to the standards below. However, no use shall be permitted except in conformity with a specific and precise development plan approved under the procedural and regulatory provisions in this section and only uses permitted in the underlying zoning classification or classifications which is or are overlaid by the planned development district shall be permitted.
- (4) **STANDARDS.**

- (a) General. As a basis for determining the acceptability of a planned development proposal, specific consideration shall be given to whether or not it is consistent with the spirit and intent of the purposes of this section; has been prepared with competent professional advice and guidance in terms of planning, architecture and engineering; and produces significant benefits in terms of improved environmental design. However, the minimum standards of the underlying district or districts shall be met in any event.
- (b) Height and Area. Specific lot size, density, open space, building location, height, size, floor area, yard, parking and other such requirements shall be based upon determinations as to their appropriateness to the uses or structures as they relate to the total environmental concept of the planned development and consistent with the criteria in this chapter and with generally accepted basic standards necessary to protect the public health, safety and welfare.
- (c) Parking. Off street parking facilities shall be provided in accordance with the applicable regulations in Section 17.15(3).
- (d) Design Standards. Engineering and subdivision design standards relative to street type, location and width, sidewalks, street lighting, storm drainage, lot arrangement or other elements of site design shall be based upon determinations as to the appropriate standards necessary to effectively implement the specific function in the specific situation, as it relates to the total plan concept; and consistent with the need for compatibility with existing patterns in areas peripheral to the development. In no case shall minimal construction standards be less than those reasonably required to protect the public health, safety and welfare, taking into account both short-term and long-term considerations for the public and the Village. To this intent, the specific provisions of the Village Subdivision Code, Ch. 18 of this Municipal Code, may be waived where deemed appropriate in the case of a planned development. Notwithstanding the above, however, all streets shall be built to public road standards, including minimum construction standards and right-of-way widths.
- (e) Intensity and Character of Land Use. In a planned development, the suitability of the type and character of uses proposed and their intensity and arrangement on the site shall be based upon the following standards:
 - 1. Compatibility to the physical nature of the site, with particular concern for conservation of natural features such as tree growth,

streams, wetlands, geological features, natural resources, etc.; for suitability of soils for the uses proposed for preservation of open space, for careful shaping of terrain to minimize scarring and insure suitable drainage and for preservation of natural terrain wherever appropriate.

2. Achievement of an attractive environment appropriate to the uses proposed and compatible with existing development in the surrounding area and with official development plans for the area, with particular concern for preservation of ecologic and economic balance.
3. Capacity to be effectively serviced without creating a demand for schools, sanitary sewer, water, storm water drainage, recreational areas, highways or other public services substantially in conflict with the appropriate jurisdictional plans for such services.
4. Adequate provision for the practical functioning of the development in terms of circulation, parking, emergency services, mail and delivery services, street maintenance and utility services.
5. Adequate provision for appropriate sites for schools, parks, highways and other public facilities serving the proposed development.

(f) Provision for Common Open Space, Park or Other Amenity Area.

1. In a planned development consideration shall be given to the preservation of open space and other natural features such as woods, streams, wetlands, etc., as common open space, park land or other amenity area serving the recreational and aesthetic needs of the people in the development, the need created for such area by the development and the suitability or potential of the area for such use.
2. Such areas may include landscaped or naturalistic grounds, water bodies or specific recreational activity facilities and shall be of such size, shape, character and location as makes them a practical recreational amenity to the residents of the development or a contribution to the environmental quality of the development.
3. Adequate provision shall be made for the establishment, preservation and maintenance of common "open space," park land or amenity areas, either by private reservation or dedication to the public:

- a. Dedication shall not be mandatory, but where public ownership is desired by the Village, reservation for such purpose may be required by the Village.
 - b. In the case of a private open space reservation, the open area to be reserved shall be protected against building development by conveying to the Village as part of the conditions for project approval an open space easement over such open areas restricting the area against any future building or use except as is consistent with that of providing landscaped open space for the aesthetic and recreational benefit of the development.
 - c. The care and maintenance of a private open space reservation or amenity area shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be determined prior to the approval of the final project plans and shall be included in the conditions of approval and in the title to each property.
- (g) Economic Feasibility and Impact. To minimize the possibility of adverse effect resulting from failure to implement an approved project or from the economic impact of its development upon the community, the proponents of a planned development shall provide satisfactory evidence of their economic feasibility to finance the project and that the economic prosperity of the area or the values of surrounding properties would not be adversely affected as compared to the impact of development which might reasonably have been anticipated under the zoning in effect at the time the planned development was proposed.
- (h) Implementation Schedule. Proponents of a planned development district shall submit a reasonable schedule for implementation of the development to the satisfaction of the Village Board, including suitable provisions for assurance each phase shall be brought to completion in a manner which would not result in an adverse effect upon the community.
- (i) Enforceability. Such requirements as are made a part of an approved development plan shall be, along with the plan itself, construed to be enforced as a part of this chapter.

- (5) **PROCEDURE.** The procedure for rezoning to a planned development district shall be as required for any other zoning district change under 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:
- (a) Pre-application Conference. Prior to submittal of a formal application for approval of a planned development, the applicant shall meet with the Plan Commission for an informal discussion of the proposed development in order to provide the basis for proper submittal and processing.
 - (b) Application.
 - 1. Submittal for approval of a planned development shall be in the form of a general development plan and a precise implementation plan. The application may be for preliminary approval of a general development plan, followed by the submittal, in whole or part, of final detail plans for approval as a precise implementation plan or for a combined general development and precise implementation plan for all or part of the general development plan.
 - 2. The application for a general development plan, a general development plan with a precise implementation plan or a precise implementation plan shall be submitted in triplicate to the Clerk/Treasurer who shall transmit it directly to the Plan Commission for processing.
 - (c) General Development Plan. The application for approval of a general development plan is intended to provide sufficient definition of the proposed development to make possible a determination as to its basic acceptability in terms of character; use pattern; intensity of use; economic, environmental and service impact and such other factors as would be pertinent to such basic decision prior to the preparation of detailed engineering, architectural and landscape architectural plans. Specifically, such submittal shall include the following:
 - 1. A statement describing the general character of the intended development.
 - 2. A legal description and an accurate map of the project area including its relationship to surrounding properties and existing topography and key features.

3. A site plan of the proposed development prepared by a competent professional site planner at a minimum scale of 1" = 200' showing at least the following information in sufficient detail to make possible the evaluation of the criteria for approval:
 - a. The pattern of proposed land use including shape, size and arrangement of proposed use areas density and environmental character and the relationship to surrounding uses.
 - b. The pattern of public and private streets, pedestrian ways and parking areas proposed and the relationship to existing streets.
 - c. The location, size and character of recreational and open space areas designated for private reservation or reserved or dedicated for public uses such as school, park, greenway, etc., or any other special amenity to be provided.
 - d. A utility feasibility study including the general system of sewer, water and storm drainage.
 - e. A general analysis of the impact of the development upon traffic facilities.
4. Appropriate statistical data on the size of the development, ratio of various land uses, percentages of multiple-family units by number of bedrooms, economic analysis of the development, expected staging and any other plans or data pertinent to proper evaluation of the proposal.
5. General outline of intended organizational structure related to property owner's association, deed restrictions and private provision of common services.
6. Any additional information requested by the Plan Commission as being necessary for adequate evaluation of the concept plan, including completion of any required application forms or checklists.

(d) Referral and Hearing.

1. Within 60 days after the filing of the petition for approval of a general development plan is complete, as determined by the Zoning Administrator, the Plan Commission shall forward the petition to the Village Board with a recommendation that the plan be approved as submitted, approved with modifications or disapproved. Such report

shall include findings of fact specifying the reasons for the Plan Commission's recommendation.

2. Upon receipt of the Plan Commission's recommendation the Village Board shall determine whether or not to initiate a proposed zoning change to permit the proposed planned development district and to schedule the required public hearing. If the Board fails to initiate such a change within 30 days, the petitioner may file a petition directly with the Clerk/Treasurer as provided by law.
- (e) Village Board Action. Within 30 days following receipt of the report of the Plan Commission, the Village Board shall approve the recommendation, approve the recommendation with modifications, disapprove the recommendation or refer the matter back to the Plan Commission for further consideration. In the case of approval or approval with modification, the Village Board shall adopt an ordinance establishing the planned development district and approving the general development plan and therein may impose such conditions as it deems necessary to insure that the development conforms to such plan. Such approval of a general development plan shall establish the basic right of use for the area in conformity with the plan as approved, but shall be conditioned upon approval of a precise implementation plan, and shall not make permissible any of the uses as proposed until a precise implementation plan is submitted and approved for all or a portion of the general development plan.
- (f) Precise Implementation Plan. A precise plan for implementation of all or a part of a proposed planned development district may be submitted concurrently with a general development plan or within a reasonable period of time as determined by the Village Board. If a precise implementation plan, which the Village Board determines to be a reasonable phase of the total plan, has not been submitted within such time, the Village Board may revoke the approval of the general development plan. The precise implementation plan shall present in greater detail the information given approximately in the general development plan and include sufficient detail to show substantial conformity to the general development plan. The precise implementation plan shall include the following detailed construction and engineering plans and related detailed documents and schedules:
1. An accurate map of the area covered by the plan, including the relationship to the total general development plan, at scale of 1" = 100' with contour lines at 2' intervals.

2. The pattern of public and private roads, driveways, walkways and parking facilities and proposed design and construction standards.
3. Detailed lot layout and subdivision plat where required.
4. The arrangement of building groups, other than single-family dwellings.
5. Floor plans and elevations or perspectives showing the architectural treatment of all buildings other than single-family dwellings.
6. Statistical tabulations showing the apportionment of land uses, the density of residential use, the ratio of apartments by bedroom count, the percentage of ground cover by buildings, the floor area ratio and the parking ratio.
7. Grading plan and storm drainage system.
8. Engineering plans for sanitary sewer, water system and other utilities.
9. The location, type and design detail of all recreational or other special amenities.
10. Location and description of any areas to be dedicated to the public.
11. Landscape plans including plant materials list.
12. Proposed development schedule showing the overall phasing anticipated, the relationship of the proposed precise plan to the total schedule the starting and anticipated completion time for the phase covered by the precise plan and the area of open space to be provided with each phase.
13. Proposed financing plan, including any change in ownership interest involved.
14. If the plan contemplates any portion of the project to be implemented or subsequently owned by other than the petitioner, sufficient information concerning such arrangements shall be submitted to enable the Village to be assured that the development will be carried out in complete compliance with the spirit and intent of the approval granted.

15. Analysis of the economic impact of the development upon the community.
 16. Agreements, bylaws, provisions or covenants which govern the organizational structure, use, maintenance and continued protection of the planned development and any of its common services, common open areas or other facilities.
 17. Any other plans, documents or schedules deemed necessary by the Village for proper evaluation of the proposal, including completion of any required application forms or checklists.
- (g) Public Hearing. If the precise implementation plan conforms substantially to the general development plan as approved, no additional public hearing shall be required, though the Plan Commission may hold informal hearings if it so desires. A precise implementation plan submitted for approval shall be deemed to conform substantially to the general development plan approved provided any modification therein, including any modification in location, design and number of buildings, roadways and utilities, does not change the concept or intent of the preliminary plan approved; increase the gross residential density or intensity of use by more than 10%; reduce the area set aside for common open space by more than 10%, or in any case below that required for a minimum; increase by more than 10% the floor area for nonresidential use, or increase by more than 5% the total ground area covered by buildings or structures.
- (h) Plan Commission Action. Within 30 days following the submittal of a completed petition, as determined by the Zoning Administrator, the Plan Commission shall take action to approve the precise implementation plan as submitted, approve subject to specified modifications or conditions or deny approval.
- (i) Record. If the precise implementation plan, building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements which the Village offered or required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans are approved, they shall be recorded by the developer within a reasonable period of time as determined by the Village Board in the Racine County Register of Deeds' office. This shall be accomplished prior to the issuance of any building permit.

- (j) Changes. If the precise implementation plan submitted does not conform substantially to the general development Plan previously approved or if the applicant desires to amend substantially a development plan previously approved in general or precise form, the changes therein or amendments thereto may be approved only by following the procedure for original approval. No changes in the precise implementation plan approved hereunder shall be considered to waive any of the covenants or agreements limiting the use of land, buildings, structures and improvements within the planned development unless specifically so stated.
- (k) Extension or Revocation. If no substantial construction has begun in the planned development within 2 years after the approval by the Village Board of a precise implementation plan, the plan shall be subject to revocation upon written notice to applicant from the Village Board. The applicant may also be required to appear before the Village Board to show cause as to why the approved plan should not be revoked. The Village Board may grant extensions of the applicant's time to begin implementation of the approved plan, if circumstances warrant. In the event of revocation hereunder, an appropriate instrument of revocation shall be filed in the Racine County Register of Deeds' office. For purposes of this section, "substantial construction" shall mean that building permits for at least 30 percent of the proposed construction, or the proposed construction phase if the development is to be constructed in phases, have been obtained.
- (l) Additions. Land contiguous to an existing planned development may be added to such planned development provided such land is made a part of the original development plan in all respects prior to its incorporation into such plan by an amendment of the development plan as provided in par. (j).

17.24 GOVERNMENT AND INSTITUTIONAL DISTRICT. (Cr. #095-4)

- (1) USES. In the Government and Institutional District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
 - (a) Churches; public and private schools, colleges, universities, libraries and museums; government buildings; public parking and public storage yards, shops and storage yards; and penal or correctional institutions.
 - (b) Hospitals and clinics.
 - (c) Public parks and recreational facilities and buildings.

- (d) Community center buildings and grounds.
- (e) Any other uses similar in character to those specifically set forth above.
- (f) Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto.

All such uses shall be conditional uses under the provisions of Section 17.29 of this chapter and shall require a conditional use permit thereunder.

(2) **HEIGHT AND AREA.** In the Government and Institutional District the height of buildings, the minimum dimensions of yards and the minimum lot area shall be as follows:

- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 60 feet in height.
- (b) Yards, etc. For buildings or parts of buildings hereafter erected or structurally altered the minimum dimensions of front, side, and rear yards, vision, clearance and provisions for automobile parking shall be the same as are required by the regulations of the Commercial District.

(3) **HEIGHT AND AREA EXCEPTIONS**

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (a) Architectural projections, such as spires, belfries, cupolas, domes, flues and chimneys, are limited to a height of 200 feet.
- (b) Communication structures, such as radio and television transmission, receiving, and relay towers and aerial towers, and special structures, such as elevator penthouses, gas tanks, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, shall not in any event exceed 350 feet in height, provided, however that any such structure, aerial or tower, if located within three (3) miles of a boundary line of an airport and landing strips, may not exceed the height limitations of the district in which it is located without prior proof of written notification of the public hearing to the owner of the said airport or landing strip, and prior written approval from the F.A.A. and Wisconsin Bureau of Aeronautics, if applicable. Notwithstanding the

above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.

- (c) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control for a distance of 120' measured perpendicular to the street line of the street with the higher average established grade.

17.25 ADULT ORIENTED ESTABLISHMENTS

(1) Findings.

- (a) The board finds that adult oriented establishments as defined in this section require special zoning in order to protect and preserve the health, safety, and welfare of the village.
- (b) Based on its review of certain reports and studies, which are available for inspection at the clerk's office during normal business hours, the board finds that there is convincing evidence that the secondary effects of adult oriented establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing business and surrounding residential areas, including the risk of decreased property values.
- (c) The board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry, to protect the citizens from increased crime, to preserve the quality of life, and to preserve the property values and character of surrounding neighborhoods and areas.
- (d) To minimize and control the secondary effects of adult oriented establishments, it is the board's intent to prevent the location of adult oriented establishments within a certain distance from each other and also from other specified locations which are incompatible with and which would particularly suffer from the secondary effects of adult oriented establishments.
- (e) Based on their prominence as gateways to the village and their central importance to the continued economic well-being and growth of the village, the board finds that the State Trunk Highway 20 and State Trunk Highway 11 corridors are two areas of vital importance to the village which must be protected from the secondary effects of adult oriented establishments for the benefit of the health, safety and welfare of the community.

- (f) 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 oriented establishments while providing an outlet for First Amendment protected activities.
- (2) Definitions. As used in this section, the following words and phrases shall mean:
- (a) Adult bookstore. An establishment which has a facility or facilities, including but not limited to booths, cubicles, rooms, or stalls, for the presentation of "adult entertainment", as defined below, including adult oriented films, computer video, movies or live performances for observation by patrons therein; or an establishment having as a substantial or significant portion of its stock in trade, for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, DVDs, or magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined below.
- (b) Adult cabaret. A nightclub, bar, restaurant, or similar commercial establishment which features:
1. Live performances which are characterized or distinguished by the exposure of specified anatomical areas or the removal of articles of clothing; or,
 2. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing specified anatomical areas or specified sexual activities.
- (c) Adult entertainment. Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.
- (d) Adult mini-motion picture theater. An enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined for observation by patrons therein.

- (e) **Adult modeling studio.** 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:
1. 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
 2. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 3. where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.
- (f) **Adult motion picture theater.** An enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons therein.
- (g) **Adult novelty shop.** 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 design for specified sexual activity or stimulating such activity.
- (h) **Adult oriented establishment.** Any premises including, but not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, adult modeling studios, adult novelty shops, or adult cabarets. It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult entertainment, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. Adult oriented establishment further includes any establishment open to the public upon the premises of which is conducted an enterprise having as its dominant theme or which is distinguished or characterized by

an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.

- (i) Adult booths, cubicles, rooms, compartments or stalls. Enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business adult entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the adult entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, booth, cubicle, room, compartment or stall does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing adult entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.
- (j) Nudity. The appearance of the human bare anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or the nipple or areola of the female breast, with less than a fully opaque covering; or showing of the covered male genitals in a discernibly turgid state.
- (k) Operators. Any person, partnership, or corporation operating, conducting, maintaining or owning any adult oriented establishment.
- (l) Specified anatomical areas.
 - 1. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola.
 - 2. Human male genitals in a discernibly turgid state, even if opaquely covered.
- (m) Specified sexual activities. Simulated or actual:
 - 1. Showing of human genitals in a state of sexual stimulation or arousal.
 - 2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus.

3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(3) Uses. An adult oriented establishment shall be an allowed principal use in the Commercial District and the Industrial/Business Park District, within the restrictions contained in this section, and shall be a prohibited use in any other zoning district. The adult oriented establishment may locate in the specified districts only if an adult oriented establishment license has been granted by the village, pursuant to subsections (5) through (9) of this section, and if all other objective requirements of this section and the applicable zoning district's regulations are met.

(4) Regulations applicable to all adult oriented establishments.

(a) Hours of operation. No adult oriented 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 seeing-eye dogs required to assist the blind, shall be permitted at any time at or in any adult oriented establishment or licensed premises.

(c) Restricted access. No adult oriented establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult oriented establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of adult oriented establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the licensed 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 oriented 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 licensed premises is located. No portion of the exterior of an adult oriented 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 section 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) Sign limitations. All signs for adult oriented establishments shall be flat wall signs. The business may have only one (1) non-flashing business sign which may only indicate the name of the business and identify it as an adult oriented establishment and which shall not be larger than four (4) feet by four (4) feet. Temporary signs shall not be permitted in connection with any adult oriented establishment.
- (f) Noise. No loudspeakers or sound equipment audible beyond the adult oriented establishment shall be used at any time.
- (g) Manager's stations. Each adult oriented establishment shall have one (1) or more manager's stations. The interior of each adult oriented establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one (1) manager's station to every part of each area, except restrooms, of the adult oriented establishment to which any 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.
- (h) Adult booths prohibited. Adult booths shall be prohibited in all adult oriented establishments.
- (i) No loitering policy. The adult oriented establishment shall clearly post and strictly enforce a no loitering policy.
- (j) Age limit restrictions. The adult oriented establishment shall clearly post and strictly enforce age-limit restrictions. A one-square-foot sign shall be placed on each public entrance which shall state "Admittance to adults only."
- (k) 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 oriented establishment to the nearest point of the protected use as described below.

- (l) Adequate parking. One parking space per one hundred fifty square feet of total gross floor area shall be provided in a lighted area on the licensed premises of an adult oriented establishment.
 - (m) Disbursement requirement. No more than one adult oriented establishment may be located on any parcel, and the location of any adult oriented establishment shall be at least one thousand feet from any other adult oriented establishment. This distance shall be measured from the public entrances of each adult oriented establishment.
 - (n) Display windows prohibited. All points of access into structures containing adult oriented 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.
 - (o) Location restrictions. No adult oriented establishment may locate within one thousand (1,000) feet of a residential use, residential district, house of worship, school, day care center, playground, public park, recreation area, library, museum, or the right-of-way of State Trunk Highway 20 or State Trunk Highway 11. 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 oriented 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 oriented 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 oriented establishment to the nearest property line of the playground, public park, or recreation area. Along State Trunk Highway 20 or State Trunk Highway 11, this distance is measured from the outside highway right-of-way line, including frontage road(s).
 - (p) Residential quarters not allowed. No residential quarters shall be allowed on a premises with an adult oriented establishment.
- (5) Adult oriented establishment licenses. Operators shall obtain an adult oriented establishment license from the village by providing the village with at least the following information regarding the proposed adult oriented establishment, on such forms as are provided by the Village (if any), and by paying the requisite fee (if any):

(a) Applicant information.

1. *Individuals.* Applicant's legal name; all of the applicant's aliases, if any; the applicant's age and business address.
 2. *Corporations or limited liability companies.* Applicant corporation's or LLC's complete name and official business address; legal names, all aliases, the ages, and business addresses of all of the directors, officers, managers and members of the corporation or LLC and of every person owning or controlling more than twenty-five (25) percent of the voting shares of the corporation or LLC; applicant corporation's or LLC's date and place of incorporation and the objective for which it was formed; proof that the corporation or LLC is in good standing and authorized to conduct business in the State of Wisconsin; name of the registered corporate or LLC agent; 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 (2) or more persons share in the profits or liabilities of the organization.* Applicant organization's complete name and official business address; legal name, all aliases, the ages, and business addresses of each partner (other than limited partners) or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.
 4. *Land trusts.* Applicant land trust's complete name; legal name, all aliases, and the business address of the trustee of the land trust; legal name, all aliases, the ages, and business addresses of each beneficiary of the land trust and the specific interest of each such beneficiary in the land trust; the interest, if any, that the land trust holds in the licensed premises.
- (b) If a corporation, LLC, or partnership is an interest holder that shall be disclosed pursuant to subsections (a)(2) and (3), then such interest holders shall disclose the information required in said subsections with respect to their interest holders.
- (c) The general character and nature of the applicant's business.
- (d) The length of time that the applicant has been in the business of the character specified in response to subsection (c) above.

- (e) The location (including street address and legal description) and telephone number of the premises for which the adult oriented establishment permit is sought.
- (f) The specific name of the business that is to be operated under the adult oriented establishment permit.
- (g) The identity of each fee simple owner of the licensed premises.
- (h) A diagram showing the internal and external configuration of the licensed premises, including all doors, windows, entrances, exits, the fixed structural internal features of the licensed 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 (6) inches and sufficient to show clearly the various interior dimensions of all areas of the licensed premises and to demonstrate compliance with the provisions of this section. 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 approval otherwise required.
- (i) The specific type(s) of adult oriented establishment(s) that the applicant proposes to operate on the licensed premises.
- (j) A copy of each adult oriented establishment permit, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to subsection (a) or (b) above.
- (k) The name of the individual(s) who shall be the day-to-day, on-site manager(s) of the proposed adult oriented establishment.
- (l) The application fee, site plan review fee, and zoning permit fee in the amount as set periodically by resolution of the Village board.
- (m) Any other information the village may reasonably require to apply the requirements of this section.

- (n) The village reserves the right to require a survey from a surveyor licensed by the State of Wisconsin to determine the spacing requirements under this section, with the cost of such survey being borne by the applicant.
 - (o) 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.
- (6) Incomplete adult oriented establishment license applications returned. Any application for an adult oriented establishment license that does not include all of the information and documents required pursuant to this section, as well as the required fees, shall be deemed to be incomplete and shall not be acted on by the village, which shall give the applicant a written notification and explanation of such action pursuant to this section.
- (7) Adult oriented establishment applicant cooperation required. An applicant for an adult oriented establishment license shall cooperate fully in the inspections and investigations conducted by Village. The applicant's failure or refusal to give any information reasonably relevant to the investigation of the application, to allow the licensed premises to be inspected, to appear at any reasonable time and place for review purposes, or to otherwise cooperate with the investigation and inspection required by this section shall constitute an admission by the applicant that the applicant is ineligible for an adult oriented establishment license and shall be grounds for denial of the permit by the village.
- (8) Time for issuance or denial of adult oriented establishment licenses. The Village Board shall, within thirty 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 oriented establishment license pursuant to the provisions of this section.
- (9) Standards for issuance or denial of adult oriented establishment licenses.
- (a) Issuance. The village shall issue an adult oriented establishment license to an applicant if the Village Board finds and determines all of the following:
 - 1. All information and documents required by this section for issuance of an adult oriented establishment license has been properly provided.
 - 2. No person identified in the application has been denied an adult oriented establishment license within the twelve (12) months immediately preceding the date of the application, or has had an

adult oriented establishment license revoked within the twelve (12) months immediately preceding the date of the application, or possesses an adult oriented establishment license that is under suspension at the time of application.

3. The adult oriented establishment and the operator comply with all requirements of this section.
 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 (1) or more of the conditions set forth in this section, then the Zoning Administrator shall deny issuance of the adult oriented 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 oriented establishment permit within thirty (30) days after the properly completed application is submitted, then the adult oriented establishment permit applied for shall be deemed to have been issued.
- (10) Enforcement. A violation of any restrictions imposed by this section or by an adult oriented establishment license is a violation of this section, and notwithstanding any other remedy, a violation of any conditions or an adult oriented establishment license shall be grounds for revocation of the adult oriented establishment license.
- (11) Continued conforming status. Any adult oriented establishment lawfully operating as a conforming use as of the effective date of this ordinance is not rendered a nonconforming use hereby.

ADMINISTRATION AND ENFORCEMENT

17.26 BOARD OF APPEALS

- (1) ORGANIZATION, RULES AND PROCEDURE.
 - (a) A Board of Appeals is hereby established. The Board of Appeals shall consist of 5 members appointed by the Village President, subject to confirmation by the Village Board, for 3-year terms. The members shall

receive compensation as set by the board and shall be removable by the Village President for cause upon written charges and after public hearing. The Village President shall designate one of the members as chairman. The Village President shall also appoint, subject to confirmation by the Village Board, two alternate members for staggered terms of 3 years. Annually, the Village President shall designate one alternate as 1st alternate, who shall act with full power only when a member is absent or refuses to vote because of interest, and the other as 2nd alternate, who shall act with full power only when the 1st alternate or a member is absent or refuses to vote because of interest. Vacancies shall be filled for the unexpired terms of members and alternates whose terms become vacant. The Board of Appeals may employ a secretary and other employees.

- (b) The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- (c) The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.
- (d) Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the Zoning Administrator or Building Inspector. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the Zoning Administrator or Building Inspector and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator or Building Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest and shall decide the same within a reasonable time. A filing fee in the amount periodically as set by the Village Board must accompany a Notice of Appeal to the Board of Appeals. (Am. #096-4)

- (2) **POWERS OF THE BOARD OF APPEALS.** The Board of Appeals shall have the following powers:
- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.
 - (b) To hear and decide special exceptions to the terms of this chapter upon which the Board of Appeals is required to pass.
 - (c) To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured and substantial justice done, but no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such district. Use variances shall not be granted.
 - (d) In every case where a variance from these regulations has been granted by the Board of Appeals, the minutes of the Board shall affirmatively show that an “unnecessary hardship” or “practical difficulty” exists and the records of the Board shall clearly show in what particular or specific respects an “unnecessary hardship” or “practical difficulty” has been created by the regulations of this chapter.
 - (e) The Board of Appeals may reverse or affirm wholly or in part, or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the Building Inspector. If a quorum of members or alternates is present, the Board of Appeals may take action by majority vote. The Board of Appeals shall make the reasoning of its decisions clear, either by issuing a written decision or by including adequate detail in the meeting minutes.
 - (f) The Board of Appeals shall have the power to call on any other Village department for assistance in the performance of its duties and such other departments shall render such assistance as may be reasonably required.
 - (g) In exercising the foregoing powers the Board of Appeals may in appropriate cases establish suitable conditions and safeguards in harmony with the general purpose and intent of this chapter.

17.27 CHANGES AND AMENDMENTS.

- (1) The Village Board may from time to time on its own motion or on petition amend or change the district boundaries or the regulations herein, after first submitting the proposal to the Village Plan Commission for recommendation and report and after publishing a class 2 notice under Ch. 985, Wis. Stats., of the proposed changes and hearing thereon and an opportunity to any persons interested to be heard. At least 10 days prior written notice of changes in the district plan shall be given to the clerk of any municipality whose boundaries are within 1,000' of the land to be affected by the proposed change, but failure to give such notice shall not invalidate any such change. In the case of a property owner's petition to rezone land, the petitioner shall, along with request, supply the Village with a list of the names and addresses of all neighboring property owners within 300 feet of the land sought to be rezoned. The petitioner shall also erect a temporary sign on each parcel sought to be rezoned, no less than fourteen days before the public hearing thereon, giving notice, at least, of the parcel's current zoning, the proposed zoning, and the date, time and location of the public hearing on the requested zoning change. The temporary sign shall be of such size, and placed at such location, as the Zoning Administrator determines is necessary to make the sign reasonably visible to the public, given the subject property's particular location and features. To defray the Village's costs relating to the rezoning, a petitioner shall also pay such fee as may be set periodically by resolution of the Village Board.

- (2) In case of protest against such change, signed and acknowledged by the owners of 20% or more of the areas of land included in such proposed amendment, supplement or change or by the owners of 20% or more of the area of the land immediately adjacent extending 100' therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100' from the street frontage of such opposite land, such amendment, supplement or change shall not become effective except by the favorable vote of ¾ of the members of the Village Board.

17.28 ENFORCEMENT.

- (1) ZONING ADMINISTRATOR. The Zoning Administrator, with the aid of the Building Inspector and Police Department, shall enforce the provisions of this chapter.

- (2) ZONING PERMIT.
 - (a) No building shall hereafter be erected, moved or structurally altered until a zoning permit therefor shall have been applied for and issued. Such zoning permit shall be displayed in a prominent location on the premises, visible

from the street, until the erection, moving or altering of such building shall have been completed. Zoning permits shall be obtained from the Zoning Administrator or from the Plan Commission, if the Zoning Administrator determines that the proposed use is not clearly permitted as a matter of right under this chapter.

- (b) Applicants shall provide such information as is necessary for an evaluation of the proposed property use under this chapter, which may include location plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory buildings; the lines bounding the yards and other open spaces required by this chapter, the existing and intended use of each building or part of a building, the number of families the building is intended to accommodate and 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 chapter.
 - 1. The Zoning Administrator may waive the above requirements as to location plans with respect to signs and temporary structures in the Commercial District and roadside stands upon the presentation of satisfactory evidence that such buildings and structures will comply with the regulations of this chapter governing the district in which such buildings or structures are to be located.
 - 2. All dimensions shown relating to the location and size of the lot shall be based upon a plat of survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

(3) **CERTIFICATE OF COMPLIANCE.**

- (a) If a conditional use, site plan or architectural design is approved conditioned upon compliance with specific site or architectural restrictions, no occupancy permit may be issued for the property unless a certificate of compliance is first obtained from the Zoning Administrator confirming that the site or architectural restrictions or other approved physical conditions have been satisfied.

17.29 CONDITIONAL USES.

- (1) **APPLICATION.** An application for a conditional use permit (“CUP”) shall be made in duplicate to the Zoning Administrator on forms furnished by the Village

and providing such information as is required by the Village. Applicants shall pay such application fee as shall be set periodically by resolution of the Village Board.

(2) REVIEW AND APPROVAL.

- (a) Procedure. The Plan Commission shall review the application and shall recommend to the Village Board the approval or disapproval of the proposed conditional use and, if approval, the conditions under which it should be granted. Prior to the meeting during which the Plan Commission will review and make its recommendation as to a proposed conditional use, the Plan Commission shall cause to be published, as a Class I notice, its agenda indicating the Plan Commission's consideration of the proposed conditional use, and further indicating that the Plan Commission will entertain any public comment as to the proposed conditional use during said meeting. After reviewing the Plan Commission's final recommendation, the Village Board shall then approve or disapprove such proposed conditional use and, if approved, shall specify the conditions under which it is approved.
- (b) Conditions. In approving any conditional use permit, the Plan Commission may recommend, and the Village Board may impose, such reasonable standards, conditions, or requirements, in addition to or that supersede any standard specified in the Code, as it may deem necessary to protect the public interest and welfare. Such additional standards may include, but need not be limited to:
1. Financing and availability of adequate public facilities or services;
 2. Dedication of land;
 3. Reservation of land;
 4. Payment of exactions;
 5. Impact fees;
 6. Creation of special assessment districts;
 7. Creation of restrictive covenants or easements;
 8. Special setbacks;
 9. Yard requirements;
 10. Increased screening or landscaping requirements;
 11. Area requirements;
 12. Development phasing;
 13. Standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, and similar characteristics.

14. Provisions of sustainable features, solar or other renewable energy source, rainwater capture, storage and treatment or other sustainability requirements.
 15. Require that a performance guarantee acceptable in form, content, and amount to the Village attorney be posted by the applicant to ensure continued compliance with all conditions and requirements as may be specified; and
 16. Require that a development agreement be entered into by the applicant.
- (c) Approval Criteria. A conditional use is permitted only if the applicant demonstrates that:
1. The proposed conditional use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations and shall be consistent with the Village's comprehensive plan.
 2. The proposed conditional use shall conform to the character of the neighborhood within the same zoning district in which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety, or comfort of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to:
 - a. The location, type, and height of buildings or structures;
 - b. The type and extent of landscaping and screening on the site; and
 - c. Whether the proposed use is consistent with any policy of the comprehensive plan that encourages uses and/or densities.
 3. Adequate utilities shall be provided.
 4. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

5. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas, relative to purposes already permitted on properties in the immediate vicinity.
 6. The proposed use shall not injure the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the immediate vicinity.
 7. The proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the immediate vicinity.
 8. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
 9. The public interest and welfare supporting the proposed use shall be sufficient to outweigh the individual interests that are adversely affected by the establishment of the proposed use.
- (d) Decision. The Village Board shall decide all applications within 30 days after the Plan Commission recommendation and shall deliver a signed copy of its unsigned decision to the applicant. If a conditional use is approved, all property owners shall acknowledge the approved terms by notarized signature and return the same to the Zoning Administrator within 10 days or the decision shall become null and void without any further action by the Village. The conditional use shall only become effective when all required signatures have been obtained and the original signature copy is returned to the Zoning Administrator for execution by the Village. The Zoning Administrator shall record the fully-executed conditional use approval in the Racine County Register of Deeds Office and return a recorded copy of the conditional use approval to the property owner.
- (e) Expiration of Use. Conditional uses granted hereunder shall expire 6 months after the approved conditional use becomes effective unless substantial work has commenced during such time. If the Zoning Administrator determines that substantial work did not commence within 6 months, or if substantial work commenced but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to subsection (f). Upon written petition and with cause, the Zoning Administrator may grant a one-time extension, not to exceed 3 months, provided (1) the permit holder requests the extension prior to the

expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of substantial work and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted. If the Zoning Administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the conditional use pursuant to subsection (f).

(3) ENFORCEMENT. (Cr. #93-6)

- (a) Responsibility. The Zoning Administrator, in conjunction with Village law enforcement personnel, shall be responsible for enforcement of compliance with conditional uses permitted hereunder. The owner of the property which is subject to a conditional use permit hereunder shall notify any purchaser, lessee or occupant of the property of the terms and conditions of such conditional use permit.
- (b) Notice of Change of Use. Prior to any substantial change in use or conditions of use of property which was subject to a conditional use permit granted hereunder or prior to any substantial change in use or conditions of use of property which predated the adoption of the ordinance providing for a conditional use permit for such property, the owner, tenant or other user of the property shall notify the Zoning Administrator in writing, on forms furnished by the Zoning Administrator, of the proposed change in use. Such notice shall sufficiently describe the proposed use so as to permit the Zoning Administrator to reasonably determine whether such proposed use is in conformity with the conditional use permit previously issued or whether the use was substantially changed from the uses in effect at the time of the adoption of the ordinance providing for a conditional use permit. Within 10 business days after receipt of such written notice, the Zoning Administrator shall notify the party in writing of his decision as to whether or not such proposed use is in conformity with the conditional use permit or such prior uses. If it is determined such proposed use is in conformity with the conditional use permit or is not substantially different from prior uses in effect at the time of the adoption of the ordinance requiring a conditional use permit, no further or amended conditional use permit shall be required. If it is determined such proposed use is not in conformity with the conditional use permit or is substantially different from prior uses in effect at the time of the adoption of the ordinance requiring a conditional use permit, such proposed use shall not be effected without first obtaining a conditional use permit or an amended permit allowing such use.

Any aggrieved person may appeal such determination to the Village Board of Appeals.

- (4) AMENDMENT. Any amendment to a conditional use permit shall only be granted upon application and review as provided above for the granting of a conditional use permit. The Village may waive requirements as to information already filed with the Village in connection with the existing conditional use permit.
- (5) TERMINATION. If, due to a lapse in use as provided in subsection (3)(e), due to a repeated or egregious failure to comply with an approval condition, or because circumstances have changed such that an approved conditional use is no longer consistent with the public health, safety or welfare, the Zoning Administrator, the property owner or any aggrieved party believes that an approved conditional use is subject to termination, such person shall file an application with the Plan Commission to terminate the subject conditional use. A request to terminate an approved conditional use shall be acted upon by the Village utilizing the procedure set forth in subsection (2)(a), provided, however, that the property owner and occupant (if different) of the subject property shall be given personal notice, via personal service or via certified and regular mail at the last known address, of the meetings during which such request shall be considered and further provided that, if requested by the property owner, the Plan Commission shall delay its consideration of the request for up to thirty days, unless the public health, safety or welfare requires more immediate consideration. Any approved use that is in compliance with its approval conditions may be terminated only if the village board determines that continuing the use would pose a substantial and imminent threat to the public health, safety or welfare, which threat could not be adequately alleviated by a modification of the approval conditions. If a conditional use is terminated for any reason, the Zoning Administrator shall send notice of such termination to the property owner and shall cause such notification to be recorded in the Racine County Register of Deeds Office, and the property owner shall bring the property into compliance with then-current zoning within such time as the Zoning Administrator determines is reasonable under the circumstances.

17.30 [RESERVED].

17.31 VILLAGE PLAN COMMISSION.

- (1) CREATION. A Plan Commission for the Village is hereby created.
 - (a) The Village Plan Commission shall consist of seven members, compromised of: (1) the Village President or, at the President's option, and

for the duration of the President's term, the Chairman of the Economic Development and Redevelopment Committee; and, (2) the Village Engineer; and, (3) the Building Inspector (if a full-time Village employee); and, (4) a village trustee; and, (5) 3 citizens. Citizen members shall be persons of recognized experience and qualifications. The Village President, or the Chairman of the Economic Development and Redevelopment Committee in his stead, shall be the presiding officer.

- (b) The trustee member of the Commission shall be elected by a majority vote of the Village Board each April.
 - (c) The 3 citizen members of the Plan Commission shall be appointed for 3 year terms by the Village President, subject to confirmation by the Village Board. If there is no engineer or building inspector, additional citizen members shall be appointed in the same manner so that the Commission has 7 members as provided by law. The additional citizen members, if any, shall be first appointed to hold office for a period ending one year from the succeeding first day of May and thereafter annually during the month of April. Whenever a village engineer is appointed or a full-time building inspector hired, such village engineer or building inspector shall succeed to a place in the Commission when the term of an additional citizen member expires.
 - (d) Vacancies other than ex officio shall be filled by appointment for the remainder of the unexpired term in the same manner as appointment for the full term.
 - (e) The official oath required by §19.01, Wis. Stats., shall be taken by citizen members and filed with the Clerk/Treasurer.
- (2) **POWERS OF PLAN COMMISSION.** The Plan Commission shall have the powers and duties set forth in §62.23, Wis. Stats., and such other powers and duties as shall be vested in it from time to time by law or by the Village Board.
 - (3) **NOTICE OF APPOINTMENT BY VILLAGE CLERK/TREASURER.** As soon as all members of the Commission have been appointed, the Clerk/Treasurer shall give each member a written notice of the appointment. The Commission shall elect a vice-chairman and a secretary and shall keep a written record of its proceedings to include all actions taken, a copy of which shall be filed with the Clerk/Treasurer. Four members shall constitute a quorum.
 - (4) **POWER TO EMPLOY EXPERTS.** The Plan Commission shall have the power to employ experts and such staff as may be necessary and to pay for their services

and such other expenses as may be necessary and proper within the limits of the budget established by the Village Board or placed at its disposal through gift and subject to any ordinance or resolution enacted by the Village Board. As far as possible the Commission shall utilize the services of existing Village officials and employees.

- (5) **ADOPTION OF RULES OF PROCEDURE.** The Plan Commission is hereby authorized to adopt rules governing its own proceedings, including recommending fees to the Village Board, subject, however, to state statutes governing the same. Such procedures shall be approved by resolution of the Village Board before they become effective.
- (6) **MAPS.** The secretary of the Plan Commission shall see that the official map and zoning map of the Village are kept current.

17.32 - 17.37 RESERVED

FEES, EXPENSES, VIOLATIONS AND PENALTIES

17.38 FEES.

- (a) Every person performing work which by this chapter requires the issuance of a permit shall pay a fee for such permit to the village clerk-treasurer to help defray the cost of administration, investigation, advertising, and processing of permits and variances. Fees pertaining to petitions for zoning amendments, zoning permits, conditional use permits, certificates of compliance, variances, and for appeals to the Board of Appeals, or to any other purpose under this chapter shall be established by action of the Village Board from time to time.
- (b) Permit fees do not include and are in addition to building code fees.
- (c) A double fee may 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. All fees shall be paid to the village clerk-treasurer, who shall give a receipt therefor, and shall be credited to the village treasury.

17.39 PAYMENT OF VILLAGE EXPENSES.

In addition to those fees established by the Village Board in accordance with section 17.38, each petitioner for any approval under this chapter shall pay an additional fee equal to all expenses incurred by the village in the consideration of his/her petition. Such expenses shall include costs of notices and hearings, legal fees, engineering fees, and fees of other consultants and any other costs which the village may reasonably incur. The Village Board may require that a bond or deposit be made by the petitioner prior to consideration of the petition, and/or the execution of a predevelopment and/or development agreement including an obligation that the petitioner reimburse the Village's costs relating to such petition. No zoning amendment, variance, or conditional use approval shall become effective nor shall any use permits, certificates of compliance, building permits, or permits of any other kind be issued until all such additional fees are paid to the village.

17.40 VIOLATIONS.

Any building or structure hereafter erected, moved or structurally altered or any use hereafter established in violation of any of the provisions of this chapter shall be deemed an unlawful building, structure or use. The Zoning Administrator shall promptly report all such violations to the Village Attorney who shall take appropriate steps, which may include bringing an action to immediately adjoin such unlawful building, structure or use, to address the unlawful erection, moving or structural alteration of such building or the establishment of such use or to cause such building, structure or use to be vacated or removed.

17.41 PENALTY.

Any person who violates, disobeys, neglects, omits or refuses to comply with or who resists the enforcement of any of the provisions of this chapter may also be subject to the penalty provided in Section 25.04 of this Municipal Code. Each day that a violation continues to exist shall constitute a separate offense.

TOWER FACILITIES

GENERALLY

17.70 INTENT.

To the maximum extent not incompatible with Wis. Stat. § 66.0404, as may be amended from time to time, or other preempting law or regulation, it is intended that conditional use permits shall be issued under this section to accommodate the expansion of wireless communication

technology while minimizing the number of towers and the visual/aesthetic/land use impacts of those towers.

17.71 AFFECTED FACILITIES: DEFINITION.

- (1) The following facilities are subject to the regulations in Sections 17.70 - 17.89 and site standards in Sections 17.90 - 17.99:
 - (a) Towers, masts, poles or other supporting buildings or structures fifty (50) feet or more in height that are used to elevate an antenna or which act as an antenna, and which are intended for transmitting or receiving radio frequency waves. Height shall be measured as the vertical distance between the highest point of the antenna or tower, whichever is higher, and the ground directly below this point. ("tower facility" or "tower")
 - (b) Accessory uses such as manned or unmanned equipment or buildings typically at the base of the tower.
- (2) Amateur and citizen band towers and antennas where the "tower facility," as defined in Section 17.71(1)(a) is fifty (50) feet or more in height are exempt from the provisions of this article except for the following:
 - (a) The installation or construction of such a tower shall require site plan review and approval by the Plan Commission in accordance with the standards and considerations set forth in Section 17.16(4). The Plan Commission may request a public hearing following site review if it is determined that such a hearing is in the public interest.
 - (b) Such "tower" shall be considered an accessory structure and permitted in the side yard or rear yard only. A minimum ten-foot side yard and rear yard setback shall be maintained.

17.72 EXISTING TOWER FACILITIES.

Any addition or change to an existing tower facility shall be in compliance with requirements for tower appearances and landscaping as set forth in this article. Existing tower facilities shall be exempt from the requirements concerning site size, setbacks and parking.

17.73 PROHIBITION.

No installation or construction of a tower facility, or change in an existing tower facility, is permitted, except as provided in Section 17.81 and Section 17.82, without conditional use approval or amendment under Section 17.29 and a zoning permit. The types of changes that

would require conditional use approval include, but are not limited to, such things as an increase in the number of towers at a site, an increase in a tower's height, a change in the type or style of tower (i.e., guyed vs. self-supporting or lattice vs. monopole), a change in the type or location of any guy wires, a change in the location of a tower, or a proposed change in the size of the tower site. Changes such as an alteration to the size of an existing service building or installation under Section 17.81 and Section 17.82 may be dealt with through the site plan review process under Section 17.71(2)(a) and a zoning permit.

17.74 LOCATION.

Tower facilities shall not be located in any residential zoning district, shoreland/wetland or floodplain.

17.75 SUBMITTAL REQUIREMENTS.

In addition to the requirements found in Section 17.29 the applicant must supply the following:

- (1) A description of the telecommunications services that the applicant offers or provides.
- (2) Name, address and telephone numbers of all proposed occupants of the tower. A letter indicating the proposed occupants commitment to place an antenna on the tower and an indication of the firmness of the commitment. The letter shall also indicate the type of service that occupant provides. The applicant shall also provide documentation showing a particularized need for each occupant to locate its antenna at the particular height indicated.
- (3) If the applicant does not own the site or the tower, the applicant shall provide a lease agreement or binding lease memorandum which shows on its face: (1) that it does not preclude the site owner from entering into leases on the site with other provider(s), (2) that it does not preclude the tower owner from entering into leases on the tower with other provider(s), and (3) the legal description and amount of property leased, and (4) in the event of abandonment, the Village reserves the right to remove the tower at the property owner's expense.
- (4) An analysis of the alternatives which identifies the reasonable, technically feasible, alternative locations and/or facilities that could provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies that could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the Village. This analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for the selection of the proposed site in view of the relative merits of any of the feasible alternatives. A pre-application meeting between the applicant and the planning and development department shall be required. At such meeting the applicant and staff will locate all known alternative

structures, and, at a minimum, five (5) alternative sites to analyze. This requirement shall not limit the Plan Commission's power to require other sites be analyzed.

- (5) A tabular and map inventory of all the applicant's and occupant's existing towers and antennas that are located within Racine County (defined to include all incorporated and unincorporated areas) and one thousand five hundred (1,500) feet of the county's border. The inventory shall specify the location, height, type, and design of each of the applicant's existing towers and the antennas located on such towers. The inventory shall also specify whether such towers are currently in operation and indicate the ability of the existing towers to accommodate additional co-location antennas.
- (6) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.
- (7) Evidence that the applicant has informed local airport owners and operators about any permit application for structures above two hundred (200) feet tall or within a three-mile radius of any existing public or private airport including all landing strips.
- (8) Such other information as the Plan Commission or Zoning Administrator may reasonably require.

17.76 MAXIMUM HEIGHT.

Towers shall not exceed in height the distance from the nearest lot line, provided, however, that if any tower is located within three (3) miles of the boundary line of an airport and landing strips, said height shall not exceed the height limitations of the underlying district without prior proof of written notification of the public hearing to the owner of the said airport or landing strip, and prior written approval from the F.A.A. and Wisconsin Bureau of Aeronautics, if applicable. 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 tower to be less than its height, the allowed set back shall be that certified distance.

17.77 REQUIREMENTS.

No conditional use permit for the placement or construction of a tower shall be issued unless the applicant presents to the Plan Commission credible evidence establishing to a reasonable degree of certainty the following:

- (1) Existing tower or structure is not available. This shall be proven by showing:
 - (a) No existing tower or structure is located within the area in which the applicant's equipment must be located;

- (b) No existing tower or structure located within the area in which the applicant's equipment must be located is of sufficient height to meet the applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost;
 - (c) No existing tower or structure within the area in which the applicant's equipment must be located has sufficient strength to support the applicant's equipment and the deficiency in structural strength cannot be remedied at a reasonable cost;
 - (d) The applicant's equipment would cause electromagnetic interference with equipment on the existing tower(s) within the area in which the applicant's equipment must be located, or the equipment on the existing tower(s) would cause interference with the applicant's equipment and the interference, from whatever source, cannot be eliminated at a reasonable cost;
 - (e) The fees, costs or contractual provisions required by an owner in order to co-locate on an existing tower or structure are unreasonable relative to industry norms; or
 - (f) The applicant demonstrates that there are other factors that render existing towers or structures unsuitable or unavailable and establishes that the public interest is best served by the placement and construction of the new communication tower.
- (2) An alternative site, as required to be analyzed under Section 17.75(4) is not reasonably available to place the proposed tower.
 - (3) The absolute need for the particular height of the proposed tower. Any proposal for a tower by an applicant to build a tower on speculation and seek tenants among telecommunication carriers shall include documentation of the commitments made by those carriers to co-locate at what particular height and the absolute need for such height.
 - (4) The proposed tower is camouflaged to the greatest extent possible in that the tower is designed to include, where appropriate, the use of compatible building materials and colors, screening, landscaping and placement within trees.
 - (5) The proposed tower shall accommodate other users in that any proposed tower shall be designed, structurally, electrically and in all respects to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s) for at least two (2) additional users. Towers shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.

17.78 TECHNICAL REVIEW.

In the event the Plan Commission determines that it is necessary to consult with a third party in considering a permit, all reasonable costs and expenses associated with such consultation shall be

borne by the applicant. Failure to pay such costs and expenses or provide information requested by the Plan Commission shall be grounds for denial or revocation of a conditional use 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.

17.79 ABANDONMENT.

- (1) Any antenna or tower that is not operated for a continuous period of twelve (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 (5) 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 ninety (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 ninety (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) The applicant shall submit a copy of a signed agreement, which may be the lease agreement, between the property owner and the owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of Section 17.79(1). Said agreement shall also identify that the agreement shall be binding on future property owner(s) and future owner(s) of the tower, antenna and all supporting equipment and building(s).
- (3) The tower and foundation shall be recorded in the register of deed's office and a copy of the deed shall be filed with the Village.

17.80 SECURITY FOR REMOVAL.

The applicant shall provide to the Village, prior to the issuance of the conditional use permit, a performance bond in the amount of twenty thousand dollars (\$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 obligee in the bond, and it must approve the bonding company. The face of the bond must reflect that the Village will be given notice if the bonding company cancels the bond. If, prior to the removal of the tower, tower removal rates exceed twenty thousand dollars (\$20,000.00), the Plan Commission reserves the right to require a corresponding increase in the bond amount.

17.81 USE OF EXISTING STRUCTURES.

A tower or antenna may locate on an alternative support structure such as clock towers, steeples, silos, light poles, buildings, water towers or similar structures provided that the placement of

antenna shall not extend more than twenty (20) feet above the top of the structure and shall not extend more than six (6) feet from the structure. Towers located on roofs shall not occupy more than fifty (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. Such installation shall not require a conditional use permit but shall require site plan approval under Section 17.71(2)(a).

17.82 CO-LOCATION.

- (1) A conditional use permit shall not be required for co-location on an existing tower permitted under this chapter, provided the co-located antenna array or equipment does not significantly alter the structural integrity of the tower, and is fully in compliance with all conditions contained in the original conditional use permit. The holder of a permit for any tower on which co-location occurs shall within thirty (30) days of such co-location provide to the Zoning Administrator written notification of the identity of the co-locator and the nature of the equipment installed. Within thirty (30) days of the date on which any co-located use ceases, the permit holder shall provide the Zoning Administrator with written notice of the cessation of such use.
- (2) The holder of a permit for a tower shall allow co-location for at least two (2) additional users and shall make access to the tower for the additional users economically feasible. If additional user(s) demonstrate that the holder of a tower permit has made access to such towers economically unfeasible, then the permit shall become null and void.

17.83 CONTINUED COMPLIANCE.

Upon written inquiry by the Plan Commission, the permit holder under this section shall have the burden of presenting credible evidence establishing to a reasonable degree of certainty the continued compliance with all conditions placed upon the conditional use permit. Failure to establish compliance with all conditions placed upon 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.

17.84 INDEMNIFICATION.

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. By acceptance of a conditional use permit, or by issuance of a zoning permit, under this article, the applicant agrees to

indemnify the Village against each and every claim, demand, or cause of action that may arise or be made against the Village by reason or in any way arising out of any defect or imperfection in the tower and/or antenna, or any failure to repair the same, and also against every claim, demand, or cause of action against the Village by reason of any liability that is or may be imposed on the Village, on account of any such defect, imperfection, or any failure to repair the same.

17.85 – 17.89 RESERVED.

SITE STANDARDS

17.90 PURPOSE.

These standards 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.

17.91 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) Provide for an adequate vegetative, topographic or other buffer, as provided in this section.
 - (b) Preserve the privacy of adjoining properties.
 - (c) 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.
 - (d) Conform to the minimum shore yard setbacks.
- (2) 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 licensed by the State of Wisconsin 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) When more than one (1) 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 (1) fails.

17.92 GUY SETBACKS.

- (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. Such setback shall be adequate to provide a vegetative, topographic or other buffer sufficient to obscure view of the anchor from adjoining properties.
- (2) A site with a guyed structure shall provide:
 - (a) A setback of at least twenty-five (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 (b), above, as to all other adjoining property lines.
- (4) Guy anchors may be located within required landscape areas.

17.93 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 (fifteen) 15 feet in height.

17.94 TOWER APPEARANCE AND ILLUMINATION.

- (1) For towers not regulated by the Wisconsin Bureau of Aeronautics or the Federal Aviation Administration, a surface paint or finish shall be used that reduces the visibility of the tower.
- (2) Towers shall not be illuminated except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.

- (3) 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.

17.95 LANDSCAPING.

Landscaping of the leased 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, shall be required, at a minimum, as follows:

- (1) For towers two hundred (200) feet in height or less, a buffer area no less than twenty-five (25) feet wide shall be provided on all sides of the facility. At least one (1) row of evergreen shrubs shall be spaced not more than five (5) feet apart. Shrubs should be of a variety which can be expected to grow to form a continuous hedge at least five (5) feet in height within two (2) years of planting. At least one (1) row of evergreen trees or shrubs, not less than four (4) feet high at the time of planting, and spaced not more than fifteen (15) feet apart, shall also be planted. Trees and shrubs in the vicinity of guy wires shall be of a type that would not exceed twenty (20) feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the guy anchor from the transmission building or security facilities and staff.
- (2) For towers more than two hundred (200) feet in height, a buffer area of not less than forty (40) feet wide shall be provided on all sides of the facility with at least one (1) row of evergreen shrubs spaced not more than five (5) feet apart, which will grow to form a contiguous hedge at least five (5) feet in height within two (2) years of planting. In addition, one (1) row of deciduous trees, not less than one and one-half (1½) inch caliper measured three (3) feet from the ground at the time of planting and spaced not more than twenty (20) feet apart, and at least one (1) row of evergreen trees not less than four (4) feet at the time of planting and spaced not more than fifteen (15) feet apart, shall also be planted. Trees and shrubs in the vicinity of guy wires shall be of a type that does not exceed twenty (20) feet in mature height or does not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.
- (3) The Plan Commission may allow use of an alternate plan or require a more restrictive plan providing for landscape and screening, including plantings, fences, walls and other features. The plan shall accomplish the same degree of screening for the tower(s) and accessory uses achieved in subsections (1) and (2) above, except when lesser requirements are desirable for security purposes and for continued operation of existing agricultural or forest uses, including produce farms, nurseries, and tree farms.
- (4) Native vegetation and natural land forms on the site shall be preserved to the greatest practical extent. The site plan shall show any existing native vegetation to be removed and shall indicate the type and location of native vegetation to be replanted.

17.96 SITE DEVELOPMENT, ROADS AND PARKING.

- (1) A minimum of one (1) 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 thirty-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.

17.97 – 17.99 RESERVED.