

CHAPTER 46

ZONING

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SEC. 46.01 INTRODUCTION. (1) **PURPOSE.** The purpose of this chapter is to promote the health, safety, prosperity, aesthetics and general welfare of this community.

(2) **INTENT.** It is the general intent of this chapter to regulate and restrict the use of all structures, lands and waters; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to: lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding panic and other dangers; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community and implement the community's development plan or plan components. It is further intended to provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

(3) **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to laws. However, wherever this chapter imposes greater restrictions, the provisions of this ordinance shall govern.

(4) **INTERPRETATION.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. All reference to state statutes or administrative codes is intended to include any subsequent revisions or amendments.

(5) **SEVERABILITY.** If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(6) **REPEAL.** All other ordinances, parts of ordinances and other sections of this Code inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are hereby repealed.

(7) **TITLE.** This chapter shall be known as, referred to or cited as the "ZONING ORDINANCE," VILLAGE OF ELLSWORTH, WISCONSIN.

46.02 GENERAL PROVISIONS. (1) **JURISDICTION.** The provisions of this ordinance shall extend to the uses of all lands, waters and adjoining vertical air space located within the limits of the Village.

(2) **COMPLIANCE.** No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit, and a building permit issued under chapter 14 if applicable, and without full compliance with the provisions of this ordinance and all other applicable local, county, state and federal regulations; except, however, no zoning permit shall be required where a remodeling permit for an alteration has been issued under Section 14.06, there will be no changes affecting side, front or rear yards and the remodeling is completed within 24 months of issuance of the building permit.

(3) ZONING PERMITS.

(A) Applications for zoning permits shall be made in duplicate to the Village Clerk on forms furnished by the Village Zoning Administrator and shall include the following where applicable:

- (1) Names and Addresses of the applicant, owner of the site, architect, professional engineer or contractor.
- (2) Description of the Subject Site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type and present use of structures currently on the site; present zoning district of the site; proposed operation or use of the structure or site; number of employees and the zoning district or Conditional Use which the subject site is desired to be transferred or used.
- (3) Plat Plan or Survey showing the location, boundaries, dimensions, slope of terrain, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards. In addition, the plat of survey shall show the location, slope or terrain and use of any abutting lands and their structures within forty (40) feet of the subject site. The plat plan or survey shall be prepared by a licensed surveyor in all instances where approval of the proposed use will involve measurement of the distance from a structure to adjoining lot lines. By way of example the following would require a plat plan or survey prepared by a licensed surveyor: new principal structure. The plat plan or survey costs shall be paid by the applicant. The plat plan submitted shall include a "lot envelope", the lot envelope being an area within the plat plan marked by a dotted line on the interior of the lot, which dotted line must be located at the minimum distance of the required setbacks of each adjacent lot line and within which a principal or accessory structure may be erected. See Appendix A for example of dotted line denoting a lot envelope.
- (4) Proposed Sewage Disposal Plan if municipal sewerage service is not available. This plan shall be approved by an appropriate competent authority who shall certify in writing that satisfactory, adequate and safe sewage disposal is possible on the site as proposed by the plan in accordance with applicable local, county and state health regulations.
- (5) Proposed Water Supply Plan if municipal water service is not available. This plan shall be approved by an appropriate competent authority who shall certify in writing that an adequate and safe supply of water will be provided in accordance with applicable local, county and state health regulations.

- (6) Additional information as may be required by the Village.
- (B) If the proposed use of the site requires a zoning district change, or a Conditional Use determination by the Plan Commission or Village Board, the Zoning Administrator shall arrange the necessary public hearings and presentation of a recommendation to the Village Board within 60 days.
- (C) A zoning or use permit shall be granted or denied in writing by the Zoning Administrator not less than 3 nor more than 10 days after application is made. The permit shall expire within twelve (12) months after issuance of the permit, unless substantial work has commenced. Any permit issued in conflict with the provisions of this ordinance shall null and void.
- (4) **SITE SUITABILITY.**
- (A) No land shall be used, or structure erected, where the land is held to be unsuitable for such use or structure by the Village Board, upon the recommendation of the Plan Commission, by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of the Village. In applying the provisions of this section, the Plan Commission shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/she so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability when making its recommendation to the Village Board. [Ord. 554 06/2005]
- (B) Preservation of topography. In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1 ½ horizontal to one vertical, within a distance of 20 feet from the property line, except with the written consent of the owner of the abutting property, and with the approval of the Plan Commission, or which would alter the existing drainage or topography in such a way as to adversely affect the adjoining property. No slope shall exceed the normal angle of slippage of the material involved (in other words, the angle at which the material on the slope would be more likely than not to slip), and all slopes shall be protected against erosion. [Ord. 554 06/2005]
- (C) All lots or parcels upon which a building is to be constructed shall abut upon a public street and each fan-shaped lot shall have a minimum street frontage of sixty (60) feet, measured diagonally from the corners abutting the street. [Ord. 554 06/2005]

- (D) No Zoning Permit for a primary residence shall be issued for a lot which abuts a public street that has not been dedicated to its required width. [Ord. 554 06/2005]
- (E) Private sewer and water. In any district where a public water supply or public sewerage service is not available, the minimum lot area shall be determined in accordance with COMM 85 of the Wisconsin Administrative Code. [Ord. 554 06/2005]

(5) **USE RESTRICTIONS.** The following use restrictions and regulations shall apply in all districts:

- (A) **Principal Uses.** Only those principal uses specified for a district, their essential services and the following uses shall be permitted in that district.
- (B) **Accessory Uses and structures** are permitted on a lot or parcel in any district but not until a principal structure is located or under construction thereon.
- (C) **Conditional Uses and their accessory uses** are deemed special uses requiring review and approval by the Plan Commission.
- (D) **Unclassified or Unspecified Uses** may be permitted by the Board of Appeals after the Plan Commission has made a review and recommendation, provided such uses are similar in character to the principal uses permitted in the district.
- (E) **Temporary Uses** such as real estate sales field offices or shelters for materials and equipment may be used in connection with the construction of a permanent structure. Temporary structures may be used only in connection with construction of a new principal use. A temporary structure may be used only pursuant to permit issued by the Zoning Administrator, which permit shall terminate at the sooner of 12 months from date of issue or substantial completion of the principal use structure. [Ord. 566 10/2006]
- (F) **No distribution, warehousing, wholesaling, packaging, assembly, processing or manufacture of fireworks** designated as 1.3G (formerly Class “B” fireworks) under the Wisconsin Enrolled Commercial Building Code, shall be permitted in any district [Ord. 546 01/2005]

(6) **REDUCTION or JOINT USE.** No lot, yard, parking area, building area or other provisions of this ordinance. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

(7) **SITE PLAN APPROVAL REQUIREMENTS.** (A) **Purpose and Intent.** For purposes of promoting compatible development and ensuring adequate public facilities, no person shall obtain a building permit or commence a use of land without first obtaining site plan approval from the Plan Commission; however, no approval is required for construction in R-1 and R-2 districts or for any building remodeling that does not substantially change the character or use of the structure or add substantial floor area. [Ord. 549 04/2005]

- (B) **PRELIMINARY CONSULTATION.** Prior to the preparation and official submittal of the site plan and supporting data, the applicant shall meet with the Zoning Administrator for a preliminary consultation. The purpose of this preliminary consultation is to have an informal discussion of the proposed project, a review of the regulations and policies applicable to the project and discussion of the land use implications of the project. [Ord. 549 04/2005]
- (C) **REQUIRED SITE PLAN INFORMATION.** The site plan shall be drawn to a scale not smaller than 30 feet to the inch, certified by a registered land surveyor, professional engineer, planner, architect or landscape architect and shall show the following:
- (1) The dimensions of the land area and lot line included in the project and the area of the site or lots included in the project.
 - (2) Existing and proposed grades based on Village datum (U.S.C.G.S.), drainage systems and structure, and topographic contours at intervals not to exceed 2 feet.
 - (3) The shape, size, location, height, floor area and the finished ground and basement floor grades of all proposed buildings and structures.
 - (4) Natural features such as wood lots, streams and lakes or ponds, and manmade features such as existing roads and structures, with indication as to which are to be retained and which are to be removed or altered.
 - (5) Adjacent properties and their building locations and their uses, and zoning classification shall be identified.
 - (6) Existing and proposed sidewalks, paths, streets, driveways, parking spaces and loading spaces showing direction of travel for one-way drives.
 - (7) The width of existing and proposed streets, driveways, parking spaces and loading spaces showing direction of travel for one-way drives.
 - (8) Architectural renderings and general floor plans shall be provided for all new buildings. These drawings and plans should show sufficient detail to indicate the architectural design of the proposed building, but all design details are not required at this stage.
 - (9) An exterior lighting plan describing fixtures and designating placement.
 - (10) The site and locating of all existing and proposed public and private utilities.
 - (11) A vicinity sketch showing the location of the site in relation to the surrounding street system.

- (12) The name, address and telephone number of the owner, developer and designer.
- (13) The anticipated resident population contained within the project or the number of employees anticipated to determine the impact on public utilities, including estimates of average daily quantities of waste consumption and wastewater discharge and strengths and cooling water volume, if any.
- (14) A description of and the plan for the exterior of the structure to be erected including, size and types of window and door openings, styles of windows and doors, type and color of proposed siding, type, color design of proposed roof. The purpose of this requirement shall be to assure compatibility of the proposed structure with existing structures in the district. For example, warehousing is not permitted in the commercial district. Therefore, a pole type structure, and generally a steel sided type structure, would not be found compatible in the commercial district, particularly where the commercial lot fronts on a major traveled street or highway or is located in a business corridor.
- (15) Any other information requested by the Zoning Administrator or Plan Commission and deemed necessary to establish compliance with this Chapter and to assure the proposed development is compatible with existing uses in the neighborhood, and elsewhere in the district, and assuring adequate public facilities exist, or will exist, to service the proposed use and structure.
- (16) A deposit, as determined by the Zoning Administrator, in an amount sufficient to cover the application fee, anticipated special meeting and publication fees and an advance toward anticipated engineering review or legal fees where any are anticipated. [Ord. 549 04/2005]

(D) SITE PLAN REVIEW PROCEDURE.

- (1) Upon receipt of the completed application the Zoning Administrator shall review the site plan information and assemble a report for the Plan Commission. The report to the Plan Commission shall be submitted within 14 days of the date the application is filed with the Zoning Administrator.
- (2) The Plan Commission shall schedule a public hearing to review the site plan information. Such hearing shall be held within 31 days of the date the Zoning Administrator files his report in the office of the Village Clerk.
- (3) The Plan Commission shall make recommendation for approval, approval with proposed modifications or rejection of the site plan application. This recommendation shall be made to the Village Board with copy, in writing,

furnished the applicant. The Village Board shall consider the application at its next regularly scheduled Village Board meeting unless arrangements are made by the applicant for a special meeting.

- (4) The cost of a site plan review application shall be established by the Village Board pursuant to resolution adopted, from time to time, for that purpose. In addition to any such fee imposed the applicant shall pay the cost of any newspaper publication charges associated with the review and the cost of any special meetings. Furthermore, the applicant shall pay the cost of all engineering and review and legal fees incurred by the Village in connection with the site plan review.
- (5) The Village Board shall grant or deny the application or grant it with modification. The Village Board shall take into account the recommendations made by the Plan Commission but shall not be bound by the recommendations. Any building or use permit issued shall be contingent upon full compliance by the applicant with the site plan approval authorization given by the Village Board. [Ord. 549 04/2005]

(8) **FRONT YARD TO REMAIN VACANT.** All unattached garages may protrude not more than 6 feet from the front wall (i.e., the side of the house facing the street, or streets in the case of a corner lot) of the principal structure (dwelling) provided all setbacks are met. All other accessory structures/buildings must be located 6 feet back (i.e., away from the street, or streets in the case of a corner lot) from the front wall of the principal structure/dwelling. [Ord. 549 04/2005]

(9) **TEMPORARY STORAGE CONTAINERS/COMMERCIAL TRAILERS.** No temporary storage container or commercial trailer moved by mechanical means shall remain on a premises longer than thirty (30) days in a twelve (12) month period. Any such containers or trailers shall not be placed within the required setback area. [Ord. 549 04/2005]

(10) **NO POLE BARN TYPE CONSTRUCTION OR CONTAINER HOUSES IN RESIDENTIAL DISTRICT.** No structures in any Residential District shall be of pole barn, or shed type construction. This type construction includes galvanized or corrugated steel exterior siding as is customarily found on sheds and grain bins. All exterior siding shall be brick, stucco, or lap style siding consisting of wood, vinyl, steel or composite materials customarily used in residential dwellings. No container houses may be placed in Residential District.

(14) **VIOLATIONS.**

- (A) It shall be unlawful to construct or use any structure, land, water or adjoining vertical air space in violation of any of the provisions of this ordinance. In case of any violation, the Plan Commission, Board of Appeals or Zoning Administrator, on behalf of the Village, or any other person damaged by such violation, may institute appropriate action or proceeding to enjoin a violation of this ordinance.
- (B) Any person found in violation of this chapter may be issued a warning by

ZONING 46.02 (14) (B)

the Zoning Administrator setting forth the alleged violation, the corrective action to be taken and the date by which the corrective action must be completed. The date by which corrective action must be taken shall be not more than 90 days from the date of the decision of the Plan Commission, or upon specific recommendation of the Plan Commission. If corrective action is not taken within the specified time period, the Village may institute action to impose the penalties set forth in this Chapter. [Ord. 549 04/2005]

(15) PENALTIES.

- (A) In addition to the injunctive relief provided in the foregoing subsection, any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$500.00 for each violation plus costs, together with the cost of remedying or enjoining each violation. Each day a violation exists or continues shall constitute a separate offense.
- (B) As an alternative to prosecution hereunder the Zoning Administrator is authorized in appropriate cases to enter an agreement with the violator where under the violator forthwith makes application for permit, pays the standard permit application fee and pays a surcharge application fee (to be determined by the Zoning Administrator) in lieu of such prosecution. [Ord. 549 04/2005]

(16) **FEES.** Fees charged for permit, applications and appeals under this Chapter are as set forth in this Ordinance. However, effective January 1, 2001, said fees may be amended from time to time by resolution of the Village Board. [Ord. 549 04/2005]

SEC. 46.025 ADULT ESTABLISHMENTS.

(1) **PURPOSE.** To create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments sufficient area and opportunity to operate within the Village so as not to suppress their existence.

(2) DEFINITIONS.

- (A) Adult Establishment. Shall include, adult book stores, adult motion picture theaters, adult novelty stores, and further means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display or specified sexual activities or specified anatomical areas.
- (B) Adult Bookstore. Means an establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, video cassettes,

ZONING 46.025 (2) (B)

magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas of specified sexual activities.

- (C) Adult Entertainment. Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or exhibition and viewing of specified anatomical areas.
- (D) Adult Motion Picture Theatre. Any establishment for the presentation of motion pictures that 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 for observations by patrons therein.
- (E) Adult Novelty Store. Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities.
- (F) Specified Anatomical Areas. Means simulated or actual:
 - 1. Less than completely and opaquely covered human genitals pubic region.
 - 2. Human male genitals in a discernible turgid state, even if opaquely covered.
 - 3. Less than completely and opaquely covered nipples or areolas of the human female breast.
- (G) Specified Sexual Activities. Means simulated or actual:
 - 1. Showing of human genital in a state of sexual stimulation or arousal: or
 - 2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
 - 3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (H) Substantial. Forty percent (40%) or more of a business stock in trade, display space, floor space or retail sales in any one month. Upon

ZONING 46.025 (2) (H)

reasonable belief that an entity is in excess of the forty percent (40%) threshold, that entity shall provide all necessary records, receipts and documentation to the Village upon request. Failure to do so shall result in a presumption that the entity is operating in excess of the threshold.

(3) LOCATION.

(A) No adult establishment shall be located:

1. Within any zoning district other than the commercial, light industrial and heavy industrial district.
2. Within __750__ (plus) feet of an existing adult establishment.
3. Within __750__ feet of any dwelling as defined in subsection 46.10 (16).
4. Within __750__ feet of any pre-existing school, school owned lands, church, daycare, public park or County Fairground.
5. Within __750__ feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.

(B) For purposes of this section, distances are to be measured in straight line, without regard to intervening structures or objects, from the property line of the adult establishment, to the nearest property line of another adult establishment, dwelling, school, church, daycare, establishment selling or dispensing fermented malt beverages or intoxicating liquor or public park.

(4) HOURS OF OPERATION.

- (A) No adult establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m., Monday through Friday, between the hours of 2:30 a.m. and 8:00 a.m. on Saturdays, or between the hours of 2:30 a.m. and 12:00 noon on Sundays.**
- (B) All adult establishments shall be open to inspection at all reasonable times by the police department and the code enforcement officer.**

SEC. 46.03 ZONING DISTRICTS. (1) DISTRICTS. The following zoning Districts are established:

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|---------------------------------|-------|
| Residential-One Family Dwelling | (R-1) |
| Residential-Two Family Dwelling | (R-2) |
| Multiple Family Dwelling | (R-3) |
| Residential Mobile Home | (RM) |
| Commercial | (C) |
| Commercial II | (C-2) |
| Business Park District | (BP) |
| Light Industrial | (LI) |
| Heavy Industrial | (HI) |

| | |
|-------------|-----|
| Agriculture | (A) |
| Conservancy | (E) |

(2) **BOUNDARIES.**

(A) District boundaries are as shown on the most current map entitled "Ellsworth Zoning District Map." Such boundaries shall be construed to follow: corporate limits; U.S. Public Land Survey Lines; lot or property lines; centerlines of streets, highways, alleys, easements and railroad right-of-way or such lines extended unless otherwise noted on the zoning map.

(B) Vacated portions of public streets and alleys shall have the same zoning district classification as the land immediately abutting the side to which the vacated land reverts.

(3) **ZONING MAP.**

(A) A zoning map adopted and approved with the text as part of this chapter shall bear upon its face the attestation of the Village President and Village Clerk and shall be available to the public in the office of the Village Clerk. Certified copies of the map may be obtained from the Village Clerk.

(B) Changes thereafter made to the district boundaries shall be entered and attested on the zoning map.

(4) **INTERPRETATION.** Where uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(C) Boundaries indicated as approximately following municipal boundaries shall be construed as following municipal boundaries.

(D) Boundaries indicated as following railroad right-of-way lines shall be construed as following railroad right-of-way lines.

(E) Boundaries indicated as parallel to, or extensions of, features indicated in the preceding shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

(5) **NUMBER OF BUILDINGS.** On each lot there shall be not more than one principal dwelling and one accessory building except as otherwise provided herein.

(6) **HOUSEHOLDS.** Neither a family nor a household shall exceed more than four

(4) unrelated adult persons, except where permitted as a Conditional Use. The purpose of this prohibition is to reduce the use of R-1 District buildings as rental property and thus to control congestion of persons, automobiles and traffic in residential areas.

(7) **DISTRICT USES AND PROHIBITIONS.** Only those uses identified as permitted uses for a District are permitted in the District. All uses not specifically permitted are prohibited.

(a) **RESIDENTIAL DISTRICT (R-1).**

(1) **PURPOSE.** The R-1 Residential District is intended to provide a quiet, pleasant living area for single family homes, protected from traffic, congestion, and incompatible land uses. This District is designed to maintain compact residential development near existing residential areas presently served or readily serviceable by public sewer or in areas that comply with minimum lot sizes for private sewage systems as specified by COMM 85 of the Wisconsin Administrative Code.

(2) **PRINCIPAL PERMITTED USES.**

- (a) Single family dwellings constructed on site or manufactured homes.
- (b) Home occupations conducted in the principal dwelling and no more than one accessory building. [Ord. 586 07/2008]
- (c) Neighborhood park or playground.

(3) **PERMITTED ACCESSORY USES.**

- (a) One unattached private garage not to exceed eight hundred sixty four (864) square feet in floor area provided there is no garage attached to the principal dwelling. The garage height shall not exceed the height of the principal structure. The height of the principal structure shall be determined by the horizontal line intersecting the highest point of the principal structure, excluding antennas, chimneys, vents or the like, and no garage should be erected on the lot so as to be above said horizontal line. An unattached garage must resemble the residential structure to-wit, it must have the same type of siding, color, roof type and roof color as the principal residential structure. [Ord 591 06/01/2009, Ord 655 08/2016]
- (b) Ornamental structures, accessory structures, and one accessory building not to exceed fifteen (15) feet in height and having a floor area of not more than 200 square feet. [Ord. 459 05/1997]
- (c) Essential services.

(4) **PERMITTED CONDITIONAL USES.**

- (a) Home occupations conducted entirely in accessory buildings upon an affirmative finding and subject to such conditions as may assure, among

ZONING 46.03 (a) (4) (a)

other things, that no noise, light or odor shall be emitted from or generated by the Conditional Use other than such noise, light or odor as customarily emanates from a permitted use in a principal residential dwelling and does not violate, nor is likely to violate, any other Village Municipal Code provisions, including those relating to nuisance; and further, upon an affirmative finding that the use will not more than nominally and then only occasionally, increase traffic or parking in the neighborhood.

- (b) Municipal office buildings.
 - (c) Accessory structures and accessory buildings exceeding 200 square feet where features unique to the lot justify the larger structure or building.
 - (d) A second garage, attached or unattached. An unattached private garage where the principal dwelling already has an attached garage. Where an affirmative finding is made that the structure or building is both incidental and reasonably necessary for one of the Principal Permitted Uses. Any such second garage must resemble the residential structure to-wit, it must have the same type of siding, color, roof type and roof color as the principal residential structure. It shall not exceed 864 square feet in floor area. [Ord.586 07/2008,Ord. 675 04/2019]
 - (e) Plant crop agriculture.
 - (f) R-2 - Two Family Dwellings, provided the owner of the premises has his/her primary place of residence (i.e., more than 6 months per calendar year) at the premises and the premises otherwise comply with all R-2 Zoning District requirements. [Ord.622 06/2012]
- (5) MINIMUM LOT AREA. 8,400 square feet per dwelling unit.
 - (6) MINIMUM LOT WIDTH. Each lot shall have a minimum width of 66 feet.
 - (7) MINIMUM YARDS.
 - (a) Front. Twenty Five (25) feet from the street line or lot line of all local and county highways or streets, whichever results in the greater setback, and thirty five (35) feet from the street line or lot line of all State or Federal i.e. highways.
 - (b) Rear. There shall be a rear yard having a depth of not less than fifty (50) feet for the principal structure, and eight (8) feet for accessory structures, except, however, the setback in the following areas shall be thirty-five (35) feet:.
 - (1) Twin-home lots numbered 31-40 and 44-55 in Phase II of Southgate Addition to the Village of Ellsworth. These lots shall be used only for twin homes. The two-halves of a twin home shall

ZONING 46.03 (a) (7) (b) (1)

have a common wall which meets at the common lot line shared by the twin home. No deck or other appurtenance or extension of the structure (except roof overhang) shall extend into the required rear yard setback. The only permitted structure in the rear yard setback area shall be a detached accessory storage shed.

- (c) Side. The required side yards shall be not less than twenty (20) feet total, and no single side yard shall be less than eight (8) feet in width. For structures of two (2) or two and one half (2½) stories the sum of the widths of required side yards shall be not less than twenty five (25) feet and no single side yard shall be less than ten (10) feet in width.

(8) **CORNER LOT**. On a corner lot, bounded by two or more public street rights-of-way, there shall be a minimum of at least twenty five (25) feet from each street line or lot line, using that line that results in the largest setback. A corner lot shall not be less than eighty (80) feet in width.

(9) **VARIANCE**. Where, because the lot is odd sized or its width on this effective date of this ordinance is less than sixty six (66) feet, the width of any single side yard where a variance is obtained shall be not less than forty (40) percent of the total required side yard width, but in no case less than four (4) feet.

(10) **HEIGHT**. The maximum height of any structure shall be thirty-five (35) feet or two and one-half (2½) stories, whichever is less.

(11) **MAXIMUM LOT COVERAGE**. No more than fifty (50) percent of the lot may be covered by structures or impervious surface.

(12) **MINIMUM BUILDING SIZE**. The minimum ground floor area shall be not less than 960 square feet for a 1-story dwelling and not less than 720 square feet for a dwelling having more than 1-story. [Ord. 682 2/3/2020]

(b) **RESIDENTIAL DISTRICT (R-2)**.

(1) **PURPOSE**. The R-2 Residential District is intended to provide a quiet, pleasant living area for two dwelling unit buildings, and low density two dwelling unit buildings, protected from traffic, congestion, and incompatible land uses. This district is located in areas presently served or readily serviceable by public sewer or in areas that comply with minimum lot sizes for private sewage systems as specified in COMM 85 of the Wisconsin Administrative Code.

(2) **PRINCIPAL PERMITTED USES**.

- (a) One or two unit dwellings.
- (b) Home occupations. [Ord. 586 07/2008]
- (c) Neighborhood park or playground.

- (d) Parking and Loading areas - See Section 46.05 (d) & (e)
- (3) **PERMITTED ACCESSORY USES.**
 - (a) One private garage attached to each residential unit. [Ord 655 08/2016]
 - (b) Essential services.
- (4) **PERMITTED CONDITIONAL USES.**
 - (a) Home occupations conducted entirely in accessory buildings upon an affirmative finding and subject to such conditions as may as sure, among other things, that no noise, light or odor shall be emitted from or generated by the Conditional Use other than such noise, light or odor as customarily emanates from a permitted use in a principal dwelling and does not violate, nor is likely to violate, any other Village Municipal Code provisions, including those relating to nuisance; and further, upon an affirmative finding that the use will not more than nominally and then only occasionally, increase traffic or parking in the neighborhood.
 - (b) A second garage unattached not to exceed eight hundred sixty four (864) square feet in floor area, where the principal dwelling already has an attached garage and where an affirmative finding is made that the structure or building is both incidental and reasonably necessary for one of the Principal Permitted Uses. Any such second garage must resemble the residential structure, to-wit, it must have the same type of siding, color, roof type and roof color as the principal residential structure. It shall not exceed 864 square feet in floor. [Ord 655 08/2016, Ord. 675 04/2019]
- (5) **MINIMUM LOT AREA.**
 - (a) All single dwelling unit and two family "over/under" duplex or twin home two story dwelling units shall have a minimum lot area of 8,400 square feet.
 - (b) Two unit side-by-side and twin home dwellings shall each have a minimum lot area of 4,650 square feet; that is, each half of such twin home or unit shall be located on a lot which is not less than 4,650 square feet.
- (6) **MINIMUM LOT WIDTH.** Each lot shall have a minimum width of sixty six (66) feet. Each two unit side-by-side or twin home lot shall have a minimum width of 33 feet; that is, each half of such twin home or unit shall be located on a lot which is not less than 33 feet wide.
- (7) **MINIMUM YARDS.**
 - (a) Front. Twenty Five (25) feet from the street line or lot line, which ever results in the greatest setback, from all local and county highways or

ZONING 46.03 (b) (7) (a)

streets, and thirty five (35) feet from the street line or lot line of all State System (Federal or State numbered) highways. (Main Street and Maple Street north of Main St).

- (b) Rear. There shall be a rear yard having a depth of not less than fifty (50) feet for the principal structure, and eight (8) feet for accessory structures; except, however, the setback in the following areas shall be thirty-five (35) feet:

- (1) Twin-home lots numbered 31-40 and 44-55 in Phase II of Southgate Addition to the Village of Ellsworth. These lots shall be used only for twin homes. The two-halves of a twin home shall have a common wall which meets at the common lot line shared by the twin home. No deck or other appurtenance or extension of the structure (except roof overhang) shall extend into the required rear yard setback. The only permitted structure in the rear yard setback area shall be a detached accessory storage shed.

- (c) Side. The required side yards shall be not less than twenty (20) feet total, and no single side yard shall be less than eight (8) feet in width. For structures of two (2) or two and one half (2 1/2) stories of the sum of widths of required side yards shall be not less than twenty five (25) feet and no single side yard shall be less than ten (10) feet in width. [Ord 655 08/2016]

(8) **CORNER LOT**. On a corner lot, bounded by two or more public street rights-of-way, there shall be a minimum of at least twenty five (25) feet from each street line or lot line, using that line that results in the largest setback. A corner lot shall not be less than eighty (80) feet in width.

(9) **VARIANCE**. Where, because the lot is odd sized or its width on this effective date of this ordinance is less than sixty six (66) feet, the width of any single side yard where a variance is obtained shall be not less than forty (40) percent of the total required side yard width, but in no case less than four (4) feet.

(10) **HEIGHT**. The maximum height of any structure shall be thirty-five (35) feet or two and one-half (2½) stories, whichever is less.

(11) **MAXIMUM LOT COVERAGE**. No more than fifty (50) percent of the lot may be covered by structures or impervious surface.

(12) **MINIMUM BUILDING SIZE**. The minimum ground floor area for each dwelling unit shall not be less than 960 square feet for the 1-story dwelling and not less than 720 square feet for a dwelling having more than 1-story.[Ord. 682 2/3/2020]

- (c) **MULTIPLE FAMILY (R-3)**.

- (1) **PURPOSE**. The R-3 Multiple Family Dwelling District is designed to provide a

location for higher density buildings and people than is typically found in single or two family home districts. The same concern for quiet surroundings, minimal traffic congestion, and compatible surrounding land use applies to the R-3 district as it does to the R-1 and R-2 districts. This district, because of the expected population density, shall only be located in areas served by public sewer systems.

(2) **PRINCIPAL PERMITTED USES.**

- (a) Buildings with three or more dwelling units.
- (b) Home occupations. [Ord. 586 07/2008]
- (c) Neighborhood park or playground.
- (d) Parking or loading areas.

(3) **PERMITTED ACCESSORY USES.**

- (a) One service building, such as a storage shed or yard maintenance structure, not to exceed 200 square feet in horizontal (floor) area, provided it is associated with operation of the principal structure. Such shed must resemble the residential structure, to-wit, it must have the same type of siding, color, roof type and roof color as the principal residential structure. [Ord 655 08/2016]

(4) **PERMITTED CONDITIONAL USES.**

- (a) One unattached private garage with a maximum space to shelter not more than one full-size automobile or mid-size pick-up truck per dwelling unit. Each space must be assigned to a corresponding residential dwelling unit, and not more than one (1) such space shall be assigned to a corresponding residential dwelling unit. There shall be no more garage units or spaces than there are residential dwelling units in the residential dwelling Structure (principal structure). The garage height shall not exceed the height of the principal structure. The height of the principal structure shall be determined by the horizontal line intersecting the highest point of the principal structure, excluding antennas, chimneys, vents or the like, and no garage should be erected on the lot so as to be above said horizontal line. An unattached garage must have the same type of siding, color, roof type and roof color as the principal residential structure. [Ord 655 08/2016, Ord. 675 04/2019]

(5) **MINIMUM LOT AREA.**

- (a) Buildings containing 3 or more, but less than 9, dwelling units shall have a minimum lot area of 3,500 square feet per unit.
- (b) Buildings with nine (9) dwelling units or more shall have 2,000 square feet of additional lot area for every one (1) bedroom dwelling unit, 2,500

ZONING 46.03 (c) (5) (b)

square feet of additional lot area for every additional two (2) bedroom dwelling unit and 2,800 square feet of additional lot area for every additional three (3) bedroom dwelling unit.

(6) **MINIMUM LOT WIDTH.** The minimum lot width for buildings containing 3 dwelling units shall be 100 feet; the minimum lot width for buildings containing more than 9 dwelling units shall be 120 feet.

(7) **MINIMUM YARDS.**

- (a) Front. Twenty Five (25) feet from the street line or lot line, which ever results in the greater setback, from all local and county highways or streets, and thirty five (35) feet from the street or lot line of all State System (Federal or State numbered) highways. (Main St. and Maple St. north of Main St.)
- (b) Side. The side yard requirements of the R-1 and R-2 Districts shall apply to the buildings and structures in the R-3 District when they adjoin property of such districts. If multiple buildings are part of a development with common fee ownership the side yard requirements between individual buildings within the complex may be modified as a Conditional Use in order to develop a more land-efficient higher density development.
- (c) Rear. There shall be a rear yard having a depth of not less than twenty-five (25) feet for the principal structure and eight (8) feet for accessory structures.

(8) **CORNER LOT.** On a corner lot bounded by two or more public street rights-of-way there shall be a minimum setback of at least twenty-five (25) feet from each street line or lot line using that line that results in the greater setback. A corner lot in the R-3 District shall be not less than one hundred (100) feet in width

(9) **MAXIMUM BUILDING HEIGHT.** The maximum building height of a structure shall be three stories or forty five (45) feet, whichever is less.

(10) **MAXIMUM LOT COVERAGE.** No more than sixty (60) percent of the multi-family dwelling lot area shall be covered with buildings or impervious surfaces without Conditional Use approval of an on-site storm water management plan.

(d) **RESIDENTIAL MOBILE HOME (RM).**

(1) **PURPOSE.** The RM district is intended to be protected from traffic congestion and well buffered from other land uses by use of landscaping techniques and spatial distances. All mobile homes shall be located in a mobile home park or subdivision to prevent this less compatible form of housing from interspersal with other traditional housing. Mobile homes in this district shall be served or readily serviceable by public sewer and water or shall meet the specifications of COMM 85 of the Wisconsin Administrative Code.

(2) **PRINCIPAL PERMITTED USES.** Mobile homes on individual lots within a mobile home subdivision or mobile home park. Any reference herein to a mobile home park shall also apply to a mobile home subdivision unless otherwise expressly stated.

(3) **ACCESSORY USES.**

- (a) Private garage and one accessory building.
- (b) Essential services.
- (c) Mobile home park office.
- (d) Laundries, washrooms, recreation rooms and maintenance and equipment storage structures serving only the residents of the mobile home park.
- (e) Public buildings.
- (f) Utility structures provided they are enclosed by a protection fence at least eight (8) feet high.

(4) **MOBILE HOME DEVELOPMENT STANDARDS.** In designating lands as RM district, the following development standards shall apply:

- (a) All mobile homes and mobile home parks shall comply with §66.058, Wis. Stats., and any applicable Wisconsin State Administrative Codes provisions.
- (b) The minimum parcel size for a mobile home park shall be 6 acres.
- (c) The minimum lot size for a single mobile home shall be forty (40) feet wide by one hundred twenty (120) feet deep.
- (d) The minimum lot area for a mobile home shall be 4,800 square feet if public sewer is available otherwise the lot area shall conform with COMM 85 of the Wisconsin Administrative Code.
- (e) The minimum distance between mobile homes, including additions and accessory structures, shall be twenty (20) feet.
- (f) The minimum front yard setback for a mobile home from any service road shall be 15 feet from the road right of way.
- (g) There shall be two 8 ft. x 20 ft. off-street gravel or paved auto parking spaces on each mobile home lot.
- (h) All service roads and driveways shall be surfaced with blacktop, seal coat, concrete, or gravel

- (i) All service roads in a mobile home park shall be at least 20 ft. wide.
- (j) Mobile homes shall be setback a minimum of 10 feet from all front, side and rear lot lines of the mobile home park.
- (k) Each mobile home shall be placed upon a gravel or breaker run rock or hard surfaced pad or foundation.
- (l) All mobile homes shall have tie downs which distribute the load and are attached to ground anchors so as to resist wind overturning and sliding. Each tie down shall be designed to resist an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a 50 percent overload without failure. Unless the specific tie down system is designed by a registered professional engineer or architect, tie downs shall be designed, placed, and secured in accordance with the specifications set forth by the manufacturer of the specific mobile home model, or in accordance with the specifications of American National Standards Institute (ANSI) A225.1. Not more than 6 feet open end spacing shall be permitted at the rear wall of the mobile home. Each mobile home will be skirted with an opaque surface non-flammable material. This tie-down and skirting shall be provided by the mobile home owner within 30 days of locating on the site.
- (m) The mobile home park owner shall set aside 5% of the total mobile home park area for recreation and be maintained by the mobile home park owner.
- (n) The maximum height of a mobile home (excluding the chimney) shall be not more than 16 feet from the ground.
- (o) Each mobile home park shall be well drained, properly graded and free from stagnant pools of water. The drainage and grade of said parks shall be established by the Village Board.
- (p) Each mobile home park or subdivision shall provide public water and sewerage system hook-up for the mobile homes located therein.
- (q) Except for permitted entrances and exits, each mobile home park shall be enclosed by a permanent planting, or acceptable privacy fencing not less than eight feet in height along roadways.
- (r) All developers of a mobile home park shall present for review and approval by the Village Board a site plan showing street design, lot layout, water and sewer system needs and a timetable for developing the mobile home park.
- (s) The RM-District shall be considered a Planned Unit Development (PUD) with location of commercial/service uses within a mobile home park to be

determined by conditional use standards.

(e) COMMERCIAL DISTRICT (C).

(1) **PURPOSE.** The Commercial District provides an area for commercial, business and professional service uses in the Central Business District and other areas of compact development served by public sewer or in areas that comply with the minimum lot sizes for private sewage systems as specified in COMM 85 of the Wisconsin Administrative Codes.

(2) **PRINCIPAL PERMITTED USES.** By way of illustration, and not exclusion, the following and like business services are permitted: appliance dealers; art, gift, jewelry and notions shops; bakeries, insurance and real estate offices; barber shops; beauty parlors; banks and financial institutions; clinics; clothing stores; drug stores and pharmacies; eating and drinking establishments; florists; food lockers; fruit, vegetable, meat, fish, grocery, supermarkets, and other retail food stores; furniture, department, and hardware stores; funeral homes, hotels, motels, motor lodges, and inns; laundries and dry cleaners; liquor stores; music, radio and television stores; news-stands; offices; optical stores; parking lots; places of entertainment; retail stores; sporting goods stores; clubs, fraternal organizations, and lodges operated for profit; vehicular sales and service; gasoline stations; funeral homes; municipal buildings; state licensed daycare. Any land or building use which utilizes a 'drive through' for conducting business, such as a bank or fast food restaurant, or any business which is primarily motor vehicle oriented such as an auto body repair shop, gasoline service station, auto repair, auto sales or machinery and equipment sales and service.[Ord. 466 10/1997, Ord. 546 01/2005, Ord. 608 01/2011, Ord. 610 03/2011, Ord. 675 04/2019].

(3) **ACCESSORY USES.**

(a) Residential uses as part of a principal business structure on other than the main floor. Every residential dwelling unit shall comply with height, set-back, corner lot, yard dimension, lot area, dwelling size, parking, home occupation, sign, private garage, accessory building and ornamental and accessory structure restrictions and requirements of Section 46.03 (7)(a). [Ord. 459 05/1997, Ord. 596 09/09]

(b) Essential services.

(4) **CONDITIONAL USES.**

(a) A building in which a ground floor residential dwelling unit is located provided the dwelling unit is not located on the street side of the ground floor and does not occupy more than the rear one-half (1/2) of the ground floor. The street side of the ground floor shall be used for a Commercial purpose.

(b) Light industrial uses provided such uses are specifically found to be consistent with neighboring uses in the District and provided there is an affirmative finding that no excessive odor, noise or light shall emanate

from the permitted structure or use.

(5) **MINIMUM LOT AREA.** There shall be no minimum lot area.

(6) **MINIMUM YARDS.**

- (a) **Front.** There shall be a minimum setback of at least eight (8) feet from the property line.
- (b) **Side.** There shall be a minimum side yard of fifteen (15) feet where adjacent to a Residential District. The minimum side yard shall be eight (8) feet if the structure or the adjoining structure is not of fireproof construction; otherwise, there shall be no side yard required if the structure is in compliance with State Fire Code and Regulations.
- (c) **Rear.** There shall be a rear yard of at least twenty (20) feet for buildings of two (2) stories or less in height. For each additional story the required rear yard shall be increased by three (3) feet.
- (d) **Height.** The maximum height of a structure shall be forty-five (45) feet or 3 stories, whichever is less.
- (e) **Corner Lots.** The minimum setback from the lot line on each street side of a corner lot shall be 8 feet from the lot line. [Ord.549 04/2005]

(e-1) **COMMERCIAL DISTRICT II (C-2)** [Ord. 546 01/2005]

(1) **PURPOSE.** The Commercial District II (C-2) provides an area for all commercial uses which are permitted in the Commercial District and, in addition, provides and permits location therein of uses associated with warehousing.

(2) **PRINCIPAL USES.** All uses permitted in the Commercial District are permitted in the Commercial District II. In addition, warehousing is permitted in Commercial District II.

(3) **OTHER.** The rules pertaining to accessory uses, conditional uses, minimum lot area and minimum yards set forth in §46.03 (7)(e), pertaining to the Commercial District, shall also apply to the Commercial District II.

(f) **INDUSTRIAL DISTRICTS (LI, HI).**

(1) **PURPOSE.** These districts are intended to provide an area for manufacturing and industrial activities. They are also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas; or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions; of which for these or other reasons may require special safeguards, equipment, processes, barriers or other forms of protection, including spatial distance, in order to reduce, or shield the public from such conditions.

(2) **PRINCIPAL PERMITTED USES.**

- (a) Light Industrial (LI) District. Permitted uses in the Light Industrial district are as follows: Cleaning, pressing, and dyeing establishments; commercial bakeries; commercial greenhouses; distributors; fire stations; food locker plants; laboratories; machine shops; manufacture and bottling of non-alcoholic beverages; painting; printing; publishing; warehousing and wholesaling; mini-storage or self-storage facilities; fabrication, packing, assembly, and packaging of products from processed furs, glass, tanned leather, metals, paper, plaster, plastics, textiles, or wood; manufacture, fabrication, processing, packaging and packing of confections, cosmetics, electrical appliances, electronic devices, food (except cabbage, fish and fish products, meat and meat products, and pea vining), instruments, jewelry, pharmaceuticals, tobacco, toiletries; automobile, RV, truck and trailer dealerships.
- (b) Heavy Industrial (HI) District. All the uses of the Light Industrial District are permitted in the HI- Heavy Industrial District. All other uses are Conditional, and include, but are not limited to: Manufacture and processing of abrasives, asphalt, batteries, bone, cabbage, carpeting, cement, cereals, charcoal, chemicals, fish, kiln drying, lime and lime products, meat, paint, paper, peas, pickles, plaster of paris, pulp, rubber, sausage, sizing, starch, varnish; processing or storage of building materials, explosives, fat, fertilizers, flammable material, grains, grease, radioactive material, vinegar, yeasts; and the manufacture and bottling of alcoholic beverages.

(3) PERMITTED ACCESSORY USES. Essential Services.

(4) MINIMUM LOT AREA. The minimum lot area shall be 10,000 square feet when serviced by a public sewerage system, and where not so serviced the lot area shall comply with COMM 85 of the Wisconsin Administrative Code.

(5) MINIMUM LOT WIDTH. The minimum lot width shall be one hundred (100) feet.

(6) MINIMUM YARDS.

- (a) Front. The front yard setback shall be a minimum of twenty-five (25) feet from the street right of way. The minimum setback shall be seventy-five (75) feet if parking is permitted in the front yard.
- (b) Rear Setback. The rear yard setback shall be a minimum of twenty (20) feet.
- (c) Side Setback. The side yard setback shall be a minimum of twenty (20) feet.
- (d) Activity Setback. When the LI or HI District is adjacent to any residential

ZONING 46.03 (f) (6) (d)

(R-1, R-2, R-3 District, no manufacture, repair, painting or storage of material may be performed within twenty (20) feet of the property line adjacent to the "R" District.

(e) Corner Lots. The minimum setback from the lot line on each street side of a corner lot shall be 25 feet from the lot line. [Ord. 549 04/2005]

(7) **HEIGHT.** The maximum height of a structure shall be forty-five (45) feet or three stories, whichever is less.

(8) **ENCLOSURE.** All activities involving the manufacturing, fabricating, repairing, storing, cleaning, servicing, and testing of materials, goods, or products shall be within completely enclosed buildings, except they may be outdoors if completely screened by a solid wall or uniformly painted solid fence or suitable substitute at least eight (8) feet high, and if there is no open storage at a greater height than that of the element to be screened. Where the element to be screened requires a fence over eight (8) feet in height, a conditional use permit shall first be obtained for such fence or screening wall. In addition to, but not in place of, the fence or screen enclosure required herein, any other fence may be constructed in accordance with Sec. 46.06 (f). Provided the element to be screened is screened thereby, the highest two (2) feet of the eight (8) foot high (or higher as the case may be) fence or screening wall may utilize barbed wire type construction in a vertical or angular position.

(9) **SERVICE FACILITIES.** Service facilities such as restaurants and fueling stations are permitted provided all such services are oriented physically, and in sales marketing, toward industrial users and employees, and other users are only infrequent, irregular and incidental customers.

(10) **SITE PLAN.** When an application for a use permit is submitted, the owner or developer shall also submit a site plan of the proposed development showing the location of the building, required setback lines, internal streets and parking areas, landscaping, screening, adequate street lighting, and other information as may be required by the Plan Commission. No use permit shall be issued unless the site plan has been approved by the Plan Commission. The applicant shall comply with all of the requirements of §46.02(7). [Ord. 549 04/2005]

(11) **SANITARY CRITERIA.** Where the property is not serviced by the public sewerage system no more than 75 percent of the minimum lot area shall have a slope greater than 12 percent. The soil shall be suitable for septic tanks.

(g) **BUSINESS PARK DISTRICT (BP).**

(1) **PURPOSE.** This district is a planned development with a minimum area of 5 acres in which commercial and light industrial uses shall be blended. When establishing a Business Park District the Village Board may impose minimum lot sizes for the commercial and light industrial uses, and may limit the uses of specified lots to commercial or light industrial uses.

(2) **ACCESSORY USES.** Essential services.

(3) **MINIMUM LOT AREA, WIDTH, YARDS.** The minimum lot area, lot width

and setbacks shall be as set forth in the Commercial District regulations for lots having a commercial use, and as set forth in the Industrial District regulations for lots having a light industrial use.

(4) **HEIGHT.** The maximum height of a structure shall be as specified in the Commercial District regulations for a commercial use and as specified in the Light Industrial District for a light industrial use.

(5) **SITE PLAN AND ENCLOSURE.** Light industrial uses shall be enclosed as provided in Sec. 46.03(7)(f)(8). Applications shall be submitted with a site plan as specified in Sec. 46.03 (7)(f)(10), and no permit for an LI use shall be permitted unless the site plan has been approved by the Plan Commission. [Ord. 549 04/2005]

(h) **AGRICULTURE DISTRICT (A).**

(1) **PURPOSE.** The Agriculture District is intended to preserve productive farmlands and to protect farming operations from conflicting land uses. Further, this District is designed to prevent the inefficient spread of urban development into agricultural areas that are inadequately served by public facilities.

(2) **PRINCIPAL PERMITTED USES.**

- (a) Farming operations which do not cause extraordinary noxious odors, noise or other health and sanitation hazards.
- (b) Forestry, nurseries, orchards, specialty cropping and similar agricultural production operations.
- (c) In season removable roadside stands for the sale of farm products produced on the premises, and up to two (2) signs not larger than ten (10) square feet each for advertising the permitted roadside stand.
- (d) Farm dwellings which serve as the principal residence for the owner, operators and employees of the agricultural enterprise.
- (e) Home occupations. [Ord. 586 07/2008]

(3) **PERMITTED ACCESSORY USES.**

- (a) Essential services.
- (b) Private garages.
- (c) Accessory structures customarily incidental to the operations of the agricultural enterprise.

(4) **CONDITIONAL USES.**

- (a) Single-family dwellings occupied by the parents, children or farm

employees of the principal farm operator.

- (b) Enterprises engaged in the sale and service of machinery used in agricultural production.
- (c) Facilities for the centralized bulk collection, storage, and distribution of agricultural products to wholesale and retail markets.
- (d) Storage and sale of seeds, feeds, and similar products essential to agricultural production.
- (e) Bed and Breakfast Inns.
- (f) Other uses essential for the support of agricultural production, provided such uses do not conflict with the purposes of the Agriculture District.
- (g) Raising and caring for livestock.
- (h) Structures exceeding forty-five (45) feet in height.

(5) **MINIMUM LOT AREAS.** The minimum lot area shall be 5 acres. All residential lot sizes shall comply with COMM 85 of the Wisconsin Administrative Code.

(6) **MINIMUM YARDS.**

- (a) **Front.** The front yard shall be not less than sixty-three (63) feet as measured from the centerline of the street or thirty (30) feet from the street right-of-way line, whichever is the greater.
- (b) **Side & Rear.** The minimum side and rear yard shall be fifty (50) feet for all buildings.

(7) **HEIGHT.** The maximum height of a structure shall be forty-five (45) feet.

(8) **MINIMUM DWELLING SIZE.** The minimum ground floor area shall be not less than 960 square feet for a 1-story dwelling and not less than 720 square feet for a dwelling having more than 1-story. [Ord. 682 2/3/2020]

(i) **CONSERVANCY DISTRICT (E).**

(1) **PURPOSE.** The Conservancy District delineates those areas where substantial development of the land in the form of buildings or structures is prohibited due to:

- (a) Special or unusual conditions of topography, drainage, shorelands, wetlands, flood plain or other natural conditions, and/or in areas where considerable damage to buildings or structures and possible loss of life may occur due to the processes of nature.
- (b) The lack of proper facilities or improvements resulting in the land not

being suitable for improvement at the present time.

- (c) Potential future public use such as a recreational trail following abandonment of a railroad line.
- (d) A need for a buffer or spatial distance between a wastewater treatment plant and developing areas.

This District also provides for the preservation and protection of scenic, historic, scientific and biologically important areas, abandoned railroad right-of-ways and ground water source.

(2) **PRINCIPAL PERMITTED USES.** Erosion control practices involving planting vegetative cover, water and water course diversion and control via municipal culverts and other systems, forestry under professional guidance, woodlands, flood plain areas, wildlife habitat, orchards, and wild crop harvesting, and village open park land, and conversion of an abandoned railroad to a hiking or biking trail.

(3) **PERMITTED ACCESSORY USES.** Essential services.

(4) **CONDITIONAL USES.** The following conditional uses are permitted: Dumping, filling, cultivation, mineral extraction, soil or peat removal, drainage areas, water measurement and control facilities and grazing under professional guidance.

(5) **PROHIBITED USES.** No structures are permitted except those housing essential services accessory to the principal or permitted uses.

SEC. 46.04 CONDITIONAL USES. (1) **APPLICATION.** Application for conditional use permits shall be submitted to the Zoning Administrator on forms provided and shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, and the existing and proposed use of each structure and lot. The cost of conditional use permits shall be established from time to time by the Village Board.

(2) **REVIEW AND RECOMMENDATION.** Following review the Plan Commission shall make its recommendation concerning issuance, issuance with recommended conditions, or non-issuance to the Village Board. In all cases where a conditional use is proposed, the Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and other aspects of the proposed use. [Ord 659 2/2017]

(3) **STANDARDS.** No permit for a conditional use shall be granted unless it shall be found that, in addition to all other requirements set forth applicable to the proposed use in the District, all of the following conditions are present:

- (a) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

- (b) That the uses, values and enjoyment of other property in the neighborhood, used for purposes permitted in that portion of the neighborhood located in the District, shall be in no reasonably foreseeable manner substantially impaired, diminished or adversely affected by the establishment, maintenance or operation of the Conditional Use. The Applicant must affirmatively show that the proposed Conditional Use will be consistent with other uses, structures or accessory uses or structures in the neighborhood. The fact a similar proposed Conditional Use already exists in the neighborhood is only one factor to be considered, and the weight given to it shall be negligible if the other existing Conditional Use is not visible from the Lot upon which the Applicant proposes the new Conditional Use. Restrictions may be imposed as a condition of issuing the Conditional Use to reasonably assure that excessive odors, noise and light, shall not be generated by the reasonably anticipated uses of the Conditional Use. Excessive odors, noise and light are those which do not, and which reasonable persons would not expect to, normally emanate from a residential structure or use.
- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the neighborhood for uses permitted in the District.
- (d) That adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided.
- (e) That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion and traffic hazards in the public streets. [Ord 659 2/2017]
- (f) The Conditional Use must be affirmatively determined to be consistent with the Purpose of the District in which it is proposed to be located and used. The fact that the use is designated as a Permitted Conditional Use in a District does not mean, nor shall it be so interpreted, that such use shall be automatically permitted unless this affirmative finding is so made by the Village Board.

(4) **REVIEW AND RECOMMENDATION.** Prior to recommending a permit for a conditional use, the Village Board may propose such conditions and restrictions upon the establishment, maintenance and operation of the conditional use as it may find necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards specified in 46.04(3) above. Establishment, maintenance and operation shall be construed to include, but shall not be limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restrictions, access restrictions, yard and parking requirements, insofar as the Village Board shall find same are necessary or desirable to fulfill the purpose and intent of this chapter. The Plan Commission, after Public Hearing, shall make recommendation to the Village Board concerning issuance or

non-issuance of the Conditional Use Permit. In all cases where a permit for conditional use is granted, the Village Board shall require such evidence and guarantees as it may deem necessary to ensure the conditions stipulated in connection therewith are being and will be complied with. [Ord 659 2/2017] The Village Board can impose stricter front yard or rear yard requirements as a condition of issuing the Conditional Use Permit, having in mind reasonably foreseeable or expressed concerns of neighbors whose views from their respective properties may be adversely affected by such proposed use.

(5) **COMPLIANCE.** Conditional uses shall comply with all other provisions of this chapter including lot width and area, yards, height, parking and loading.

(6) **PERMIT ISSUANCE.** The Village Board may authorize the Zoning Administrator to issue a conditional use permit after review and public hearing, provided such uses are in accordance with the purpose and intent of this chapter. Such permit shall be issued to a specific person, partnership or corporation for a specific property, and only for those uses stated in the permit. The conditional use permit shall terminate upon sale of the property or business for which it was issued, and may not be transferred to another person or location without a new application, review, and public hearing. [Ord 659 2/2017]

(7) **TIME PERIOD.** A conditional use permit shall allow the permittee to use the subject premises or structure in the manner conditionally permitted as long as the conditions upon which the permit was issued are followed. If the permittee desires to continue the use, the permittee shall apply for a permit review. Upon receipt of an application for a permit review the Village Board may extend the conditional use indefinitely, subject to such periodic review as the Village Board may in its discretion deem appropriate.

(8) **REVIEW OF CONDITIONAL USES.** The Zoning Administrator shall from time to time conduct a review of the conditional use to ensure all conditions set by the conditional use permit are being met. Failure at any time by the permittee to adhere to the conditions set forth in the permit may result in a public hearing to determine whether the conditional use permit should be modified or cancelled.

(9) **RESUBMISSION.** No application for a conditional use which has been denied wholly or in part by the Village Board shall be resubmitted for a period of one year from the date of said denial, except where substantial new evidence or proof of compliance with the applicable conditions is demonstrated. [Ord 659 2/2017]

SEC. 46.045 SPECIAL USE PERMITS. The Village Board, after investigation and public hearing by the Plan Commission, may authorize the location of the uses specified herein in the districts specified, from which they would otherwise be excluded, provided the Village Board shall find the proposed location is appropriate or necessary in order to serve the public health, safety, convenience or general welfare, and provided each such structure or use shall comply with all other regulations for the District in which it is proposed to be located. The Village Board may attach reasonable conditions and safeguards to the Special Use Permit in order to protect the value of neighboring buildings or uses. The conditions set forth at 46.04(3) concerning Conditional Uses shall be used as the minimum standards to be considered by the Village Board in determining the appropriateness of a Special Use Permit. The uses permitted herein are not Conditional Uses. They are Special Uses permitted by the Village Board. Except as otherwise specified herein, they are intended to be permanent permitted uses and therefore all

requirements shall be strictly construed against the applicant.

(1) **PUBLIC AND SEMIPUBLIC USES.** The following uses may be permitted:

- (a) Airports, airstrips and landing fields in the A district provided these facilities meet the regulations contained in Sections 114.135 and 114.136, of the Wisconsin Statutes.
- (b) Government and cultural uses such as administrative offices, fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in all residential and business districts.
- (c) Utilities in all districts provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line, and all utility structures are enclosed by a protection fence at least 8 feet high.
- (d) Public, parochial, private, preschool, elementary and secondary schools and churches in all residential, commercial and agricultural districts.
- (e) Hospitals and cemeteries in the R-1, R-2, and R-3 districts provided all principal structures are not less than twenty-five (25) feet from any lot line. Cemeteries in the A district.

(2) **RESIDENTIAL USES.** The following residential and quasi-residential uses may be permitted:

- (a) Planned residential developments provided the proper preservation, care and maintenance of the exterior, all common structures, facilities, utilities and access and open spaces shall be assured by deed restrictions enforceable by the community. All Planned Unit Developments (PUD) shall have at least a twenty (20) foot yard space between any principal structures and the external lot lines.
 - (1) **Building Area.** The structure and impervious surface of the lot shall not be more than 40 percent of the lot area.
 - (2) **Yards.**
 - (a) **Front.** There shall be a minimum front yard of 20 feet.
 - (b) **Rear.** There shall be a minimum rear yard of 50 feet.
 - (c) **Side.** There shall be a minimum side yard of 20 feet as measured from street right-of-way.
 - (3) **Donation of Public Park.** The owner or developer shall donate land for public park at the ratio of one (1) of every ten (10) acres or one (1) acre for every twenty-five (25) dwelling units, whichever provides the largest amount of such park lands.

- (b) Nursing homes, convalescent homes and homes for the aged in the ~~R-2~~ and R-3 and Commercial Districts provided all principal structures are not less than twenty-five (25) feet from any lot line.
- (c) A foster home, adult family home or community living arrangement in any Residential District provided all principal structures are not less than ten (10) feet from any lot line.
- (d) Town Houses in the R-2 and R-3 Districts. Where permitted, the following standards shall apply to the construction of town houses:
 - (1) The overall density shall not exceed 25 dwelling units per acre.
 - (2) The lot width shall be not less than 20 feet.
 - (3) The maximum lot area occupied by principal and accessory buildings shall not exceed 50 % of the total lot area.
 - (4) The front yard setback shall be not less than 20 feet.
 - (5) Side yards of not less than 20 feet in width shall be provided at least every 160 feet and for every corner lot.
 - (6) The rear yard shall be not less than 20 percent of the depth of the lot.
 - (7) No structure shall be higher than 3 stories or 35 feet, whichever is less.
 - (8) Two off-street parking spaces totaling not less than 360 square feet in area, exclusive of access drive or aisle, shall be provided for each dwelling unit.
- (e) Planned Development Groups.
 - (1) The application shall show the proposed use or uses, dimensions and locations of proposed structures and of areas to be reserved for vehicular and pedestrian traffic, parking, public uses such as schools and playgrounds, landscaping and other open spaces, architectural drawings and sketches showing design structures and their relationships, and such other information as may be requested for a determination that it is desirable to deviate from certain other provisions of this chapter.
 - (2) The following standards shall apply to the construction of planned development groups:

- (a) Exterior walls of opposite buildings shall be located no closer than a distance equal to the height of the taller building.
- (b) A building group shall not be so arranged that any permanently or temporarily occupied building is inaccessible to emergency vehicles.
- (c) There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
- (d) There shall be an adequate amount, in a suitable location, of pedestrian walks, malls and landscaped spaces to prevent pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks, malls and public transportation loading places from general vehicular circulation facilities.
- (e) Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- (f) There shall be adequate design of grades, paving, gutters, drainage and treatment of turf to handle storm waters and prevent erosion and formation of dust.
- (g) Signs and lighting devices shall be properly arranged with respect to traffic control devices and adjacent residential

(3) **COMMERCIAL AND INDUSTRIAL USES.** The following commercial or industrial uses may be permitted as conditional uses:

- (a) **Bed and Breakfast Inns.** B&B's may be permitted in the R1, R2, R3, and A districts. Meals and beverages shall not be provided to non-overnight guests. In addition to all other review criteria, review of a B & B's permit application shall include parking, signs, and maximum number of guests.
- (b) **Mini-Storage Facilities.** Commercially operated mini-storage or self-storage units may be permitted in the Commercial and Business Park Districts. Consideration shall be given to the type of storage, size of vehicles typically used to move the goods to and from the units and the frequency that any given unit may be visited with large vehicles. Adequate loading must be provided at each individual unit to accommodate a pick-up truck or automobile with trailer, enabling same to park perpendicular to the unit's door opening.
- (c) **Mineral Extraction.** Mineral extraction operations including washing,

crushing or other processing are conditional uses and may be permitted in the Agricultural District provided:

- (1) The application for the conditional use permit shall include an adequate description of the operation; a list of equipment, machinery and structures to be used; the source, quantity and disposition of water to be used; a topographic map of the site showing existing contours with minimum vertical contour interval of five (5) feet, trees, proposed and existing access roads, the depth of all existing and proposed excavations and a restoration plan.
- (2) The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the inspection and administrative costs and the necessary sureties which will enable the village to perform the planned restoration of the site in event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the Engineer and the form and type of such sureties shall be approved by legal counsel.
- (3) The permit shall be in effect for a period not to exceed two (2) years and may be renewed upon application for succeeding periods not to exceed two (2) years each. Modifications or additional conditions may be imposed upon application for renewal.
- (4) The Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and value of the land in the neighborhood and in adjoining Districts and shall also consider the practicality and suitability of the proposed restoration plan for the site.

SEC. 46.05 TRAFFIC, PARKING AND ACCESS. (1) **TRAFFIC VISIBILITY.** A vision triangle shall be required at the intersection of any two existing or proposed highways, streets or alleys. Within such vision triangle, no obstructions including but not limited to structures, mail boxes, fences, parking or vegetation shall be permitted between the heights of two (2) feet and ten (10) feet above the plane through the mean pavement grade. The triangle area required shall consist of the area from the corner of the street intersection (at the curb line, and if no curb line then at the street line) then (50) fifty feet along the lot lines, then diagonally along a line connecting the end points of these lines.

(2) **ACCESS REQUIREMENTS.** (a) Adequate access to a public street shall be provided for each lot or parcel. In R1 and R2 districts driveways shall be between 10 and 24 feet wide, except where such driveways enter onto a state system highway, in which case the minimum width shall be 16 feet. Shared driveways, between two or more lots, shall not be

permitted unless the proposed lots are part of a Planned Unit Development in which case a conditional use permit must be obtained.

- (b) In the RM District, the required driveways may be built straddling the line between two lots in the same mobile home subdivision, and may be shared by two lot occupants for residential purposes. The R1 and R2 district width standards will apply.
- (c) All other driveways shall have a minimum width of 16 feet. In no case will driveways be wider than 24 feet, except in Agricultural District where a 30 foot wide driveway to serve a farmstead or field will be permitted.
- (d) In all districts, all driveway openings shall be located a minimum of five (5) feet from the edge of the driveway to the lot line. On adjacent lots, other than specific conditional use Planned Unit Development, or RM-Mobile Home subdivisions, the driveways on two adjoining lots shall be separated by at least ten (10) feet, edge to edge. Multiple driveways serving the same parcel shall be separated by islands with a minimum of ten (10) feet between openings, edge to adjacent edge. No more than one-half the frontage of any lot or parcel shall be occupied by a driveway, access openings or vehicular entrances.

(3) **HIGHWAY ACCESS AND SETBACK REQUIREMENTS.** (a) No direct private access shall be permitted to the existing or proposed right-of-way of any street, highway or road without permission of the highway agency that controls the right-of-way. Prior to the development of the access verification of access approval by the highway agency shall be provided to the Zoning Administrator.

- (b) No direct public or private access shall be permitted within one hundred thirty (130) feet of the intersection of the centerline of intersecting arterial highways or within eighty (80) feet of the intersection of the centerline of any intersecting collector or local road with an arterial road.
- (c) The minimum setback from State or Federal highways in all districts shall be as follows: 50 feet from the right-of-way or 110 feet from the center line of said highway, whichever is more restrictive.

(4) **LOADING REQUIREMENTS.** (a) In all districts adequate loading areas shall be provided so all vehicles loading, maneuvering or unloading are completely off the public right of way and such that no vehicle need back onto any public right-of-way. Each loading space shall be not less than twelve (12) feet in width, thirty-five (35) feet in length, have a minimum vertical clearance of fourteen (14) feet and may occupy all or any part of any required yard.

(b) **REQUIRED NUMBER OF OFF-STREET LOADING SPACES**

| <u>Uses</u> | <u>Square Feet of Gross Floor Area</u> | <u>Required Off Street Loading Spaces</u> |
|-------------|--|---|
| School | ---- Under 10,000 | 1 None |

ZONING 46.05 (4) (b)

| | | |
|--------------------------|----------------------------|--------------|
| Hospital | From 10,000 – 30,000 | 1 |
| | For each additional 30,000 | |
| | Or major fraction thereof | 1 Additional |
| Funeral Home | ---- | 1 |
| Office, hotel, retail | Under 10,000 | None |
| Service, wholesale, | From 10,000 – 25,000 | 1 |
| Warehouse, manufacturing | From 25,001 – 40,000 | 2 |
| Processing, repairing | From 40,001 – 60,000 | 3 |
| Uses and other | From 60,001 – 100,000 | 4 |
| | For each additional 50,000 | |
| | Or major fraction thereof | 1 Additional |

(5) **PARKING REQUIREMENTS.** In all districts, and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the following:

- (a) Adequate access to a public street shall be provided for each parking space.
- (b) The size of each parking space shall be not less than one hundred eighty (180) square feet exclusive of the space required for ingress and egress. A single stall in a garage may replace any single required parking space.
- (c) Location of parking stalls shall be on the same lot as, or within two hundred (200) feet of the principal use.
- (d) Screening. Fences or shrubs erected as screening shall conform with the provisions of Sec. 46.06 (5)(f).
- (e) Lighting. If parking lots are lighted, the lights shall be shielded to prevent undesirable glare or illumination of adjoining residential property.
- (f) Surfacing. All off-street parking areas shall be graded and surfaced so as to be dust-free and
- (g) Curbs or Barriers shall be installed so as to prevent parked vehicles from extending over any lot lines.
- (h) **Parking Stalls.** The number of parking stalls required are as follows:

| <u>Use</u> | <u>Minimum Parking Required</u> |
|--------------------------------------|---|
| Single and duplex family dwellings | 2 stalls for each dwelling unit |
| Multi-family dwellings | 2 stalls for each dwelling unit |
| Motels and hotels | 1 stall for each guest room plus 1 stall for every 3 persons at maximum occupancy allowed in public meeting rooms 1 stall for each 3 employees |
| Clubs, lodges, dormitories, lodging, | 1 stall for each 2 beds plus 1 stall for |

ZONING 46.05 (5) (h)

| | |
|--|---|
| and boarding houses | every 3 persons at maximum occupancy allowed in public meeting rooms 1 stall for each 3 employees |
| Group homes, institutions, rest homes And nursing homes | 1 stall for each 5 beds plus 1 stall for each 3 employees of largest work shift |
| Medical and dental clinics | 3 stalls for each doctor plus 1 space for each employee at largest work shift |
| Theater, auditoriums, churches, community center, vocational and | 1 stall for each 4 permanent seats or 1 stall for each 3 persons of public spaces at maximum capacity |
| Colleges, secondary and elementary schools | 1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or more |
| Restaurants, bars, places of Entertainment | 1 stall for each 3 persons at maximum capacity of public spaces plus 1 stall for each 3 employees on largest shift |
| Retail and service stores, repair shops | 1 stall for each 500 sq. ft. of patron area plus 1 space for each 3 employees |
| Manufacturing and processing plants, laboratories, and warehouses | 1 stall for each 3 employees on largest shift |
| Financial institutions, business, government, and professional | 1 stall for each 500 sq. ft. of public floor area plus 1 stall for each 3 employees |
| Funeral home | 1 stall for each 5 seats |
| Bowling alleys | 3 stalls for each alley plus 1 stall for each 3 employees on largest shift |

- (i) Uses Not Listed. In the case of structures or uses not mentioned, the parking provisions for a use which is similar shall apply.
- (j) Where any of the above uses are combined there shall be provided a total number of stalls equal to the sum required for each individual use.

SEC. 46.06 GENERAL REGULATIONS. Except as specifically provided otherwise in this chapter, the following regulations shall apply to all districts:

(1) **NUISANCE.** No provision of this section shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as a nuisance under the appropriate laws of the State of Wisconsin or this Village.

(2) **LOCATION ON LOT.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot. There shall be no more than one (1) primary building on a lot, except however, a lot may have more than one (1) primary building where it is demonstrated by metes and bounds description that each primary building, and its accessory

buildings, is located on a separate and distinctly identifiable part or portion of said lot, each of which individually satisfies all of the requirements of this chapter without utilizing the land on any other such adjoining or abutting separate part or portion of said lot.

(3) **HEIGHT REGULATIONS.** (a) Communication Structures such as radio and television broadcasting and receiving towers, microwave radio relay structures, aerials, observation towers, and the necessary mechanical appurtenances and accessory structures essential to the use and protection of these structures shall not exceed in height three (3) times their distance from the nearest lot, right-of-way or easement line.

- (b) Agricultural Structures such as silos, windmills and grain handling towers and conveyors shall not exceed in height twice (2x) their distance from the nearest lot line of the property upon which they are located.
- (c) Ornamental Accessory Type Structures or towers, tanks or conveyors necessary for the manufacture, processing or handling of material at an industrial or commercial location shall not exceed a height of thirty (30) feet, or twice their distance from the nearest lot line upon which they are located, whichever is less.
- (d) Measurement, Different Grades where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades shall control for a distance of 120 feet from the line of the higher average established grade
- (e) Measurement, Through Lots. On through lots, which extend from street to street, the height of the main building shall be measured from the mean elevation of the finished grade along the end of the building facing the street with the lowest elevation above sea level.

(4) **FRONT, SIDE, AND REAR YARD REGULATION.**

- (a) Through Lots. Structures on through lots which extend from street to street may satisfy the rear yard requirements by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided the setback requirements on both streets are met.
- (b) Architectural Projections such as chimneys, flues, sills, eaves, overhangs, roofs, belt courses and ornaments may project into any required yard but such projection shall not exceed two (2) feet. [Ord. 577 07/07]
- (e) Off-Street Parking is permitted in all yards of the business and industrial districts but no part of a parked vehicle shall extend over any public right-of-way.
- (f) Essential Services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.

(5) FENCES.

- (a) Fences in all Residential and Commercial Districts shall not exceed a height of eight (8) feet in the side or rear yard, and a height of four (4) feet in the front yard, or any yard abutting a street, and shall not be located on any public right-of-way. The post side shall be located on the side of the fence owner's property.
- (b) Fences in the Industrial Districts shall not exceed (10) feet in height.
- (c) Material. Fences and walls may be wood, clay, stone, brick or chain-link, with the finished side facing out. Except in the Agricultural District, barbed wire, electric single strand, "chicken wire," and similar fences are not permitted. All such fences and walls shall be kept in good repair, painted if wood and well maintained. Solitary posts or poles demarcating or establishing boundaries or lines are prohibited, except that the Zoning Administrator may issue a special use permit authorizing the placement of posts, poles, or other barriers to protect lots, parcels or the general public from damage or injury by motor vehicles. [Ord. 459 05/1997]
- (d) Agricultural. Barbed wire fences may be erected and maintained in the agricultural district for the control of livestock. Single strand, "chicken wire," electric and similar fences may be erected and maintained in the agricultural district only where they are wholly within the boundaries of a lot or parcel and do not exceed six (6) feet in height.
- (e) Swimming Pools. See Section 46.06(12).
- (f) Hedges, Trees. Hedges shall not exceed a height of six (6) feet. Hedges and trees or individual shrubs not part of a row or hedge shall be well maintained and trimmed. New plantings or transplants of evergreen or pine trees shall be no closer than ten (10) feet to any lot line.
- (g) Retaining Walls. Retaining walls exceeding four (4) feet in height may be constructed only upon securing approval from the Zoning Administrator where, in his/her discretion, such wall is necessary for public health or safety, does not interfere with vision clearance triangles and does not unreasonably detract from the aesthetic character of the neighborhood given the district zoning designation and the type of neighboring properties. The decision of the Zoning Administrator regarding the issuance of such permit may be appealed to the Board of Appeals.
- (h) Access. No fence or hedge shall interfere with the free access and use of any utility easement. A gate opening for utility and emergency personnel shall be provided where no other reasonable access is provided.

(6) STORED VEHICLES. Recreational vehicles may be stored in any side yard or rear yard area not exceeding 180 consecutive days. Not more than one recreational vehicle may

be stored at one time on any lot. Automobiles and pick-up trucks may be stored as follows:

- (a) Not more than one (1) licensed automobile or pick-up truck for a period not exceeding 180 days in a rear yard.
- (b) Not more than two (2) automobiles or pick-up trucks in any front yard or side yard between November 1 and March 31 of the succeeding year provided such vehicle is not left substantially unmoved for a period of more than thirty (30) consecutive days. A vehicle is considered substantially unmoved if during a thirty day period it is not regularly used as a mode of transportation off site, and that the moving of the vehicle is not designed merely to alter the location in which the vehicle is parked so as to attempt to establish or claim that the vehicle has been “moved.”

(7) **AREA REQUIRED FOR RUBBISH CONTAINERS.** On all premises upon which there will be constructed, after the effective date of this ordinance, a new building which will house six or more dwelling units or any existing building converted to six or more dwelling units after such date, or any rooming house, fraternity or sorority house having six or more occupants, there shall be provided a sufficient area as determined by the Plan Commission for rubbish collection containers. Such areas shall not be located in the front or street side yard and shall be accessible by motorized vehicles or other motorized equipment. Such areas shall not be a required off-street parking area and shall be shown on the plot plan submitted at the time of application for a building permit.

(8) **PARKING ON LAWNS.** It shall be unlawful to park any automobile, truck or motorcycle on the lawn or any portion thereof in the front yard of premises in a single family residence district, residence district, multiple dwelling district and the special multiple dwelling district.

(9) **NUMBER OF TENANTS.** It shall be unlawful for any owner of any dwelling unit to lease or enter any lease of any one dwelling unit to more than four (4) adult persons not related by blood, marriage, adoption or legal guardianship living together as a single housekeeping unit and using common cooking facilities. The purpose of this restriction is to reduce congestion of persons, automobiles and traffic in the residential district.

(10) **SATELLITE DISH ANTENNAS.** Earth Satellite T.V. dish Antennas, including receiving or transmitting dishes, discs, bowls, plates or other similar objects, whether attached to a tower, pole or other base, are permitted as accessory uses.

- (a) The installation of an earth satellite station dish antenna shall require a use permit. The property owner, lessor, or installer of any earth satellite station dish antenna shall submit to the Zoning Administrator plans which indicate the appearance, proposed location and installation method of the dish antenna. A fee to be established from time to time by the Village Board shall accompany all applications for a permit. Earth satellite station dish antennas shall be located to minimize their visual impact on surrounding properties. Site location shall be viewed and approved by the Zoning Administrator, and the location shall be such as creates the least

ZONING 46.06(10) (a)

interference with the appearance, view from and use of neighboring premises, is most compatible with location of other structures on or off the subject premises and shall be as close as reasonably possible to the principal structure upon the subject premises.

- (b) If a property owner in the R1 and R2 zoning districts proposes a building-mounted antenna location in which the antenna would be visible from the front lot line, the property owner must demonstrate reception would not be possible from a less conspicuous location.
- (c) Ground-mounted dish antennas shall comply with the height restrictions for accessory structures in the zoning district in which they are located. Building-mounted dish antennas shall be deemed part of the building to which they are attached for purpose of determining compliance with height restrictions.
- (d) Earth satellite station dish antennas in the R1 and R2 districts shall not exceed twelve (12) feet in diameter.
- (e) Ground-mounted earth satellite station dish antennas shall meet the following setbacks: Rear portion of lot only, being 20 ft. from side and 20 ft. from rear lot lines.
- (f) Earth satellite station dish antennas shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of corrosive-resistant materials.
- (g) Earth satellite dish antennas shall be filtered and/or shielded so as to prevent the emission or reflection of electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event harmful interference is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference and shall comply with Federal Communications Commission regulations.
- (h) All electrical lines, cables or conduits running to or from the earth satellite station dish antennae shall be buried.
- (i) All earth satellite station dish antennas, and the construction and installation thereof, shall conform to applicable Village building and electrical code regulations. Prior to the issuance of a building permit for a building-mounted earth satellite station dish antenna that exceeds six (6) feet in diameter, the applicant shall submit a plan or document prepared by a registered professional engineer which certifies the proposed dish antenna installation is structurally sound.
- (j) No advertising messages are permitted on dishes or framework located in the R1 or R2 districts other than the manufacturer's identification. In other

ZONING 46.06(10) (j)

zoning districts each earth satellite station dish antenna shall comply with all applicable sign and advertising regulations.

- (k) Not more than one (1) satellite station dish antenna exceeding 3 ft. in diameter shall be permitted on a lot or parcel in the R1 and R2 districts.
- (l) The location of a mobile earth satellite dish antenna on any premises shall not be permitted longer than ten (10) days in any ninety (90) day period. All such objects shall be located in the rear yard of a parcel or lot unless practical necessity requires otherwise and the Zoning Administrator approves an alternate location.

(11) FAN SHAPED LOT. Each fan shaped lot shall have a minimum street frontage of 30 feet as measured from the farthest corner abutting the street.

(12) SWIMMING POOL REQUIREMENTS.

- (a) Permit Required. A permit shall be required for any swimming pool with a capacity of 5,000 or more gallons.
- (b) Application. An application for a building permit shall show:
 - (1) Type and size of pool.
 - (2) Site plan to include:
 - (a) Location of pool.
 - (b) Location of house, garage, fencing, locking pool cover, well, drain field, septic tank, utilities on the lot.[Ord. 577 07/07]
 - (c) Grading plan, finished elevations and final treatment (decking, landscaping, etc.) around pool.
- (c) In Single-Family and Two-Family Districts.
 - (1) Pools for which a permit is required shall not be located within 25 feet of any side or rear lot line. Pools shall not be located within any required front yard, or within 15 feet of a septic tank or 25 feet of the well.
 - (2) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
 - (3) Pools shall not be located in or on any easement of any private or public utility, walkway, drainage area or other easement.
 - (4) To the extent feasible, back flush water or water from pool drainage shall be discharged on the owner's property or into approved public drainage ways. Water shall not drain onto adjacent or nearby private land without permission of owner thereof.

- (5) The filter unit, pump, heating unit and any other noise-making mechanical equipment shall be located at least 30 feet from any adjacent or nearby residential structure or shall be enclosed in a sound restrictive enclosure, not closer than 25 feet to any lot line.
- (6) Lighting for the pool shall be directed into or onto the pool and not onto adjacent property.
- (7) A non-climbable safety fence of at least 6 feet in height from grade shall completely enclose the pool or the pool enclosure may be omitted if a swimming pool cover is installed that meets or exceeds the Underwriters Laboratories standard F1346-91 and provides enough strength to withstand 475 lbs of pressure on top of the pool cover. Said cover shall also be sealed tight with a lock and key whenever the pool is not in use.[Ord. 577 07/07]
- (8) Required safety fencing shall be installed immediately upon completion of the pool.
- (9) Water in the pool shall be maintained in a suitable manner to avoid health hazards.
- (10) Drainage of pools into public streets, public roads, or other public drainage ways shall require permission of the Village Public Works Director.

(13) NO MUNICIPAL LIABILITY. This section shall not be construed as creating or assuming any liability on the part of the Village or its officials for damages to anyone injured or any property damaged or destroyed by any defect in any building or equipment, or in any plumbing, electric wiring or equipment, or any flammable materials, equipment or devices.

SEC. 46.07 SIGNS. (1) PERMITTED LOCATIONS OF SIGNS.

| <u>Type of Development</u> | <u>Types of Signs Permitted (References are to type categories set forth in (2))</u> |
|----------------------------|--|
| Residential | 2, 3, 6 |
| Commercial | 1, 2, 3, 4, 5, 6, 7 |
| Industrial | 1, 2, 3, 4, 5, 6, 7 |
| Agricultural | 1, 2, 3, 4, 5, 6, 7 |
| Conservancy | 1, 3, 6, 7 |

All signs must meet State and local codes.

(2) TYPES OF SIGNS, MAXIMUM SIZE, NUMBER AND LOCATION.

- (a) Type 1. Directory signs advertising a business or activity conducted, an

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area of interest or a service available at a specific location. Such signs shall be not more than eighteen (18) square feet in gross area. There shall not be more than 2 such signs relating to any one such use in the approaching direction along any one street. Such signs may be placed at the right-of-way line of the street. A larger number of signs may be permitted by the Board of Appeals if the Board shall find it necessary for directing the traveling public.

- (b) Type 2. Signs advertising a customary home occupation. Such signs shall not exceed 6 square feet in gross area, shall be attached to the building and, if illuminated, shall be indirectly lighted. [Ord. 596 09/09]
- (c) Type 3. Signs advertising the sale, rent or lease of the property on which the sign is placed. Also, political campaign signs provided same are not posted for longer than 60 days, and rummage or garage sale signs provided same are not posted for longer than 5 days. Such sign shall not exceed sixteen (16) square feet in gross area and must be placed outside of the right of way line of the street.[Ord. 608 01/2011, Ord. 610 03/2011]
- (d) Type 4. Signs located off premises advertising a general brand or product, an area of interest, a business conducted or a service available. Such signs shall not be more than one hundred (100) square feet per side in area and erected outside a line parallel to and twenty-five (25) feet from the street right-of-way line.
- (e) Type 5. Signs on the premises of commercial, industrial, agricultural, and public buildings advertising a business conducted or a service available on the premises. No such sign shall exceed two hundred (200) square feet in gross area, be higher than ten (10) feet above the top of the roof line, nor be more than twenty (20) feet in height above the main centerline of the adjoining street. Signs which are free-standing or extend from buildings may extend over the public right-of-way, in accordance with applicable state regulations. Free standing or mounted building signs shall not extend to a point closer than 2 feet to the curb line (or edge of vehicular travel way where no curb is present) of the adjoining street.
- (f) Type 6. On-premise signs advertising a public or semipublic use. Such signs shall not exceed thirty-two (32) square feet in gross area. There shall be no more than one sign facing each street adjoining the property.
- (g) Type 7. Recreational directory signs indicating the direction to a cottage, resort residence or similar use. Such signs shall not be more than one (1) square foot in gross area. Where a common posting standard is provided, all such signs shall be attached to the standard recreational directory.

(3) **PROHIBITED CHARACTERISTICS OF SIGNS.** (a) No sign shall be so placed as to interfere with the visibility or effectiveness of any official traffic sign or signal or with driver vision at any access point or intersection.

- (b) No sign will be permitted that resembles the size, shape, form or color of official traffic control signs, signals or devices.
- (c) No sign shall contain or be illuminated by a flashing light without permit of the Board of Appeals.
- (d) No sign in a conspicuous state of disrepair shall be permitted to exist. The Zoning Administrator may order removal upon giving a 20 day notice except where public danger exists the removal may be ordered summarily.

(4) **EXISTING SIGNS.** Any sign which becomes a nonconforming sign at the effective date of this chapter or which becomes a nonconforming sign at any future date may be continued provided no increase in size, illumination or flashing of such sign shall be made and further provided any sign, including structures and all supporting members, shall be discontinued and removed not more than five (5) years after the date such sign becomes a nonconforming sign unless such sign shall be made to conform to all of the regulations of the district in which it is located.

(5) **BONDS AND INSURANCE.** Every applicant for a "Type 4" sign permit may be required by the Plan Commission or Board of Appeals to execute a surety bond or show evidence of liability insurance coverage in an amount to be determined by same. removal of any sign shall be the financial responsibility of the owner of the sign and/or property.

SEC. 46.08 NONCONFORMING USES, STRUCTURES AND LOTS. (1) **EXISTING NONCONFORMING USES.** The nonconforming use of a structure, land or water existing at the time of the adoption or any amendment of this chapter may be continued by the existing owner and any subsequent owner so long as the nonconforming use does not cease at any time for a period of 6 (six) consecutive months or more.

(2) **ABOLISHMENT OR REPLACEMENT.** When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity, it may not be replaced or restored except as a conforming structure and use.

(3) **EXISTING NONCONFORMING STRUCTURES.** The nonconforming structure existing at the time of the adoption or amendment of this chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking, loading and access provisions of this chapter. Residential nonconforming structures may be extended, enlarged, reconstructed, moved or structurally altered as long as such activities do not increase the extent to which the structure fails to conform to the standard of this chapter. A mobile home located in any district other than R-M, is nonconforming. Removal of any mobile home from its location in a nonconforming district shall constitute a termination of the non-conforming use.

(4) **CHANGES AND SUBSTITUTIONS.** Once a nonconforming use or structure has been changed to conform, it may not revert to a nonconforming use or structure.

(5) NONCONFORMING SIGNS. This Section shall not apply to nonconforming signs, such signs being governed by Sec. 46.07 (d).

SEC. 46.09 PERFORMANCE STANDARDS. (1) COMPLIANCE. This chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or districts. No structure, land, water or adjoining vertical air space shall hereafter be used except in compliance with the district regulations and in which it is located together with the performance standards contained in this section.

(2) SOUND. The volume of sound inherently and recurrently generated shall be controlled so as not to be a nuisance to adjacent uses.

(3) VIBRATION. An operation which creates vibrations that can be measured or readily detected without instruments, e.g., heavy drop forges and heavy hydraulic surges, shall be set back:

- (a) In the Commercial District and the Industrial District, a distance of not less than 500 feet from all lot lines.
- (b) In an Industrial District with open storage, a distance of not less than 500 feet from the district boundaries

(4) RADIOACTIVITY AND ELECTRICAL DISTURBANCES. No activity shall emit radioactivity or electrical disturbances outside its premises which are dangerous or adversely affect the use of neighboring premises.

(5) TOXIC, ODOROUS OR NOXIOUS MATTER. No discharge beyond lot lines of any toxic, odorous or noxious matter in such quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business, shall be permitted.

(6) GLARE AND HEAT. No activity shall emit glare or heat visible or measurable outside its premises; except activities in the industrial district may emit direct or sky reflected glare provided it is not visible outside the district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light generation shall be sheltered so as not to be visible outside the premises.

SEC. 46.10 DEFINITIONS. For the purposes of this chapter, the following definitions shall be used. Words used in the present tense include the future, the singular number includes the plural number and the plural number includes the singular number. The word "shall" is mandatory and not optional.

(1) Accessory building. A building or portion of a building (not including a garage) subordinate to the primary building and used for a purpose customarily incidental to the permitted use of the primary building or the use of the premises. When an accessory building is a

part of the primary building or is substantially attached thereto, the side yard and rear yard requirements of the primary building shall be applied to the accessory building.

(2) Accessory Structure. A structure, not an accessory building or ornamental structure, used for a purpose customarily incidental to the permitted use of the premises.

(3) Alley. A public right-of-way affording only secondary access to abutting properties.

(4) Arterial Street. A street which directly connects the Village with surrounding communities.

(5) Average. The numerical result obtained by dividing the sum of two (2) or more quantities by the number of quantities. Also, the approximation of the arithmetic mean or numerical result obtained as aforescribed.

(6) Basement. That portion of any structure located partly below the average adjoining lot grade.

(7) Bed and Breakfast. Establishment: A commercial establishment in a pre-existing building offering overnight lodging and meals to registered overnight guests. See Sec. 254.61, Wis. Stats.

(8) Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

(9) Building Area. The total interior area bounded by the exterior walls of a building at the floor levels but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.

(10) Building Height. The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs or to the deck line or mansard roofs.

(11) Business Park. A planned development in which commercial and light industrial uses shall be blended.

(12) Centerline. A line equidistant from the edges of the median separating the main traveled ways of an existing or planned divided road or highway or the centerline of the main traveled way of a non-divided road or highway.

(13) Collector Street. A road that collects traffic from local streets and channels traffic out to the arterial roads.

(14) Conditional Uses. Uses of a special nature as to make impractical their predetermination as a principal use in a district.

(15) Container House. A container house is a house constructed in whole or in part using converted or repurposed ISO or similar shipping containers.

(16) Corner Lot. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less measured on the lot side.

(17) Dwelling. A detached building designed or used exclusively as a residence or sleeping place for human habitation and which may include an attached garage, but not including boarding or lodging houses, motels, hotels, tents, cabins, camping trailers, or motor homes. [Ord. 577 07/07]

(18) Dwelling Unit. One (1) or more rooms designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes. Multiple family buildings may have several dwelling units within one building.

(19) End of Taper. The point of intersection between the outer edges of the ramp pavement and the main line pavement.

(20) Essential Services. Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, communication systems and accessories thereto such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

(21) Expressway. A divided principal or primary arterial highway with full or partial control of access and with or without grade separated intersections.

(22) Family. Any number of persons related as father, mother, son, daughter, brother or sister by blood, marriage, or adoption, living together in one dwelling as a single housekeeping entity.

(23) Floodplain. Land adjacent to a body of water which has been or may be hereafter covered by floodway including but not limited to the regional flood.

(24) Floodway. The channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the floodwater or flood flows of any river or stream including but not limited to flood flows associated with the regional flood.

(25) Freeway. An expressway with full control of access and with fully graded separated intersections.

(26) Front Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and line parallel thereto through the nearest point of the principal structure. Corner lots shall

have two such yards. A driveway or parking pad in the front yard, paved or unpaved, is considered part of the front yard.

(27) Frontage. The smallest dimensions of a lot abutting a public street measured along the street line.

(28) Garage. A building used in a residential district primarily for the storage of motor-driven vehicles. An attached garage shall not exceed 864 square feet. A 'private garage' is a garage primarily used by the occupant of the residential dwelling. [ord.677 8/5/19]

(29) Group Home. A residential facility, licensed by the state, to provide a family residential living environment for persons who have developmental disabilities and/or are being treated for chemical addiction or other problems. A counselor or house parent(s) shall be resident in the structure during those times residents are living in the structure. A Group Home provides overnight lodging for the residents. Variations of the traditional group home are Day-Care facilities described below. A Foster Home is the placement of children in a traditional family setting, which may include biological children of the adult family, and is not considered a Group Home.

(a) Family Day-Care Home. A family day-care home is a dwelling also licensed as a day-care center by the state Department of Health and Social Services where, for compensation or consideration, a resident of the dwelling provides group care for at least four (4) but not more than eight (8) children between the ages of infancy and seven (7) years of age at a location other than the child's own home or the home of relatives or guardians. Overnight lodging is not to be provided at a day-care center.

(a) Elderly Day-Care Home. Locations which provide day-care and food service for adults who are unable to be left alone while other family members are at work or otherwise not at home during the day. Overnight lodging is not to be provided at a day-care center.

(30) Home Occupation. Any occupation for gain or support conducted entirely within buildings by resident occupants which are customarily incidental to the principal use of the premises. It shall not involve any structural alteration to the structure or any external construction not customary in dwellings, not be conducted in more than one accessory building, no article may be sold or offered for sale on the premises except such as are incidental to such occupation, no stock in trade shall be kept or sold, no mechanical equipment shall be used other than such as is normally consistent with and permissible for domestic purposes, and no person other than a member of the immediate family living on the premises may be employed in such occupation, the occupation shall be conducted entirely within the residential dwelling or one accessory building of the resident dwelling and no storage or display of materials, goods, supplies or equipment related to the home occupation shall be visible outside any structure on the premises.

(31) Household. One person, or two or more unrelated persons, living in the same dwelling unit.

(32) Impervious Surface. The ground level area of a lot or parcel which, by virtue of the location of structures or other material such as rock, concrete, aggregate, blacktop, brick, paver stone or the like, is incapable of being penetrated by moisture to a substantial degree.

(33) Interchange. A grade-separated intersection on a state trunk highway with one or more turning roadways for travel between intersection legs.

(34) Intersecting Highway. A highway of any political jurisdiction which forms one or more legs of an interchange and to which access is not fully controlled.

(35) Junk Yard. An area consisting of buildings, structures or premises where junk, waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled including automobile wrecking yards, house wrecking, structural steel materials and equipment yards but not including the purchase or storage of used furniture and household equipment or used cars in operable conditions. At present this Chapter does not allow a junk yard as a permitted use.

(36) Living Rooms. All rooms within a dwelling except closets, foyers, storage areas, utility rooms and bathrooms.

(37) Loading Area. A complete off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley.

(38) Local Street. Roads intended to move vehicles from individual parcels to the higher order road systems and not intended or designed to carry thru traffic. Local roads carry low traffic volumes.

(39) 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, yard, parking area and other open space provisions of this ordinance.

(40) Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

(41) Lot Line, Front. The line of the lot, which adjoins the street. Where the lot abuts two streets it is a corner lot with respect to which special provisions apply. See for example §46.03(7)(a)(8). In the case of a lot fronting a curved road or cul-de-sac where the line is not straight, for purposes of measuring minimum setbacks and establishing the rear lot line on a lot with an inverted (concave) front line such as a lot in a cul-de-sac, the point of measurement shall be at that point of the inverted (concave) curve making the greatest encroachment on the lot; and on a lot with a convex curve, measurement shall be at that point on the center of an imaginary line drawn between the two ends of the front yard line; and further, the imaginary line to which the rear line must be parallel shall be a straight line extending between the ends of the curved front lot line. See Appendix A for examples.

(42) Lot Line, Rear. On a four-sided lot the line which is opposite and most distant from the front lot line. In the case of an irregular shaped lot such as a triangular lot, a hexagon

shaped lot, a fan shaped lot or other non-rectangular lots the rear lot line is a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line as measured to the center point of the said ten (10) foot line. See Appendix A for example.

(43) Lot Width. The width of a parcel of land measured at the narrowest portion of the front yard.

(44) Manufactured Home. A dwelling unit primarily assembled at an off-site location, with interior electrical wiring, plumbing, and interior finishing substantially installed before location on the final site, but which is not ready for occupancy without substantial preparation and construction at the site. Such homes are trucked to the site, but are not intended for frequent transport by highway; the wheels are for initial transport only and are removed from the structure upon its placement at the site. Such homes are to be placed on a permanent footing foundation with either a poured slab or dug basement, and foundation walls meeting the house walls beneath the entire house. The structure must have a minimum width of 18 feet.

(45) Mobile Home. Any structure which is, or as originally constructed was designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used which does not require substantial on-site fabrication and which is intended for occupancy as a year-round residence; and includes any additions, attachments, annexes, foundations and appurtenances; and includes any double-wide or modular unit.

(46) Motel. A series of attached, semi-attached or detached sleeping units, including a hotel or similar establishment, with or without cooking facilities for the accommodation of transient guests.

(47) Neighborhood. A cohesive area occupied by people living near or adjoining one another, including all lots in the block upon which a lot is located as well as all lots immediately abutting the block (but for the street(s) separating same). A block is a group of lots surrounded by streets or other geographic markers or barriers or abutting District or platted boundaries.

(48) Nonconforming Uses or Structures. Any structure, land or water lawfully used, occupied or erected at the time of the effective date of this chapter, amendments thereto or the chapters and zoning ordinances which are predecessors hereto, which does not conform to the regulations of this chapter, amendments or predecessor chapter or ordinances thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

(49) Odorous Matter. Any matter or material which yields an odor offensive in any way.

(50) Ornamental Structure. A structure whose principal use or purpose is to adorn, decorate, beautify or embellish a lot, except such structures as are architectural features attached to a building.

(51) Parking Lot. A structure or premises containing ten (10) or more parking spaces

open to the public.

(52) Parking Space or Stall. A graded and surfaced area of not less than one hundred eighty (180) square feet in an area either enclosed or open for the parking of a motor vehicle having adequate ingress and egress to a public street or alley.

(53) Parties in Interest. Includes all abutting property owners, all property owners within one hundred (100) feet and all property owners of opposite frontages.

(54) Planned Residential Developments. Residential developments including cluster homes, garden apartments, row housing and similar unit developments.

(55) Planned Unit Development. A large lot or tract of land containing two or more principal structures or uses developed as a unit where such structures or uses may be located in relation to each other rather than to a lot line or to zoning district boundaries.

(56) Principal Use or Structure. The primary use of the land or building(s) as distinguished from an incidental and/or subordinate accessory use of the land or building(s).

(57) Property Line. The exterior boundary of a lot or parcel, except where any such boundary is encroached by a street or right of way easement the property line shall follow the line of the street or right of way which most encroaches upon the said lot or parcel. [Ord. 580 10/2007]

(58) Rear Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the front yard or one of the front yards on a corner lot. A driveway or parking pad in the front yard, paved or unpaved, is considered part of the front yard.

(59) Recreational Vehicles. Canoes, kayaks, boats, pontoons, camper units affixed to or designed to be affixed to the bed of a pick-up truck, trailers, motorcycles, jet skis, ATVs, UTVs, snowmobiles and airborne machines.

(60) Side Yard. A yard extending from the front yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. A driveway or parking pad in the front yard, paved or unpaved, is considered part of the front yard.

(61) Signs. Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.

(62) Storage Shed. A structure less than 200 square feet in area. [Ord. 549 04/2005]

(63) Storage Tank. A container or enclosure, located above, on or below the surface of the ground, used for the holding or preservation of liquids, solids, chemicals or gases.

(64) Story. One story is the ceiling height of the room plus the thickness of the space between the ceiling of the room and the base of the floor above, not to exceed 10 feet.

(65) Street. A street or highway not otherwise defined lying within a recorded subdivision with a right-of-way not less than fifty (50) feet wide providing primary access to abutting properties.

(66) Street line. The edge of the paved portion of a street.

(67) Structure. Anything constructed or attached to something on, above or below the ground, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.

(68) Structural Alterations. Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.

(69) Subdivision. A division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where the act of division creates five (5) or more parcels or building sites of one and one-half acres each or less in area; or five (5) or more parcels or building sites of one and one-half acres each or less in area are created by successive divisions within a period of five (5) years.

(70) Temporary Structure. A moveable, non-permanent structure not designed for human occupancy, the use of which is restricted to 12 months or less. Temporary structures include hut design structures, carports and similar storage shelters constructed with plastic, galvanized and other materials; except where such structures are used in the Commercial District (C-1) for the sale of plants, vegetables, fruits and produce, for a collective period not exceeding 90 days in any calendar year. [Ord. 566 10/2006]

(71) Town House. An owner-occupied structure composed of two or more dwelling units, with common walls and customarily located in a cluster of such units having common grounds and shared maintenance responsibilities typically governed by an Association.

(72) Turning Lanes. An existing or proposed connecting roadway between two (2) arterial highways or between an arterial highway and any other highway. Turning lanes include grade separated interchange ramps.

(73) Trailers. A portable vehicle designed and used for temporary sleeping purposes while its occupants are engaged in the pastime of camping.

(74) Unattached Garage. A garage, not attached to the principal dwelling, not less than 200 square feet in area and not greater than 864 square feet in area. An unattached garage is an accessory structure. [Ord. 549 04/2005]

(75A) Utilities. Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave

radio relays and gas regulation stations but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

(76) Variance. An exception to the requirements of this chapter where strict application of the chapter would result in a practical difficulty or undue hardship. Such an exception may be granted by the Board of Appeals.

(77) Village. The Village of Ellsworth Village Board and any Committee, Commission, or person designated by the Village Board to administer and enforce this chapter.

(78) Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The front and rear yards extend the full width of the lot. [Ord. 580 10/2007]

SEC. 46.11 BOARD OF APPEALS. (1) A Board of Appeals shall be appointed as specified in Sections 61.35 and 62.23, Wisconsin Statutes. The members shall serve with compensation and shall be removable by the Village Board for cause upon written complaint following public hearing. In addition to the procedures specified in Sections 61.35 and 62.23, Wisconsin Statutes, the Board of Appeals may make and file in the office of the Village Clerk its own rules of procedure consistent with the Wisconsin Statutes. It shall have the following powers:

- (a) To hear and decide appeals where it is alleged the Building Inspector has made an erroneous finding or order.
- (b) To hear and decide special exceptions to the terms of this ordinance upon which the Board is required to pass.
- (c) To grant variances from the terms of this ordinance where it is shown that unique physical circumstances peculiar to a lot cause hardship to the owner and the use proposed will be in fundamental harmony with surrounding uses. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect a variance. The ground of every such determination shall be stated and recorded. A public hearing is required.
- (d) No action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such district by this ordinance.
- (e) The minutes of proceedings and hearings before the Board and all variances and special exceptions granted by it shall be filed promptly at the office of the Village Clerk and shall be open for public inspection during regular office hours.
- (f) The Board of Appeals may impose conditions granting of variances to

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ensure compliance with the variance, to protect adjacent and neighboring properties and premises, and to secure substantially the objectives of the regulations or provisions to which the variance is granted, as to the public health, safety, comfort and general welfare.

- (g) The Board of Appeals may grant a written waiver or permit authorizing reduction in the commercial district of vision clearance requirements where the lot is not large enough to accommodate a structure as well as comply with such minimum vision clearance requirements, or is in an area of the district which by custom or prior use has permitted or provided for less restrictive vision clearance requirements.
- (h) The Board of Appeals may grant a written permit for the use and location of a temporary structure in the residential district, such permit to be issued for a period of not more than one (1) year, provided the purpose of the temporary structure is incidental to development of the premises as a residential use.
- (i) The Board of Appeals shall interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan as shown on the district map accompanying and made a part of this chapter, where the street layout actually on the ground varies from the street layout on the aforesaid map.

(2) Where a variance is granted by the Board of Appeals the use authorized by the variance must be initiated and utilized by the applicant within one year from the date of issuance of the variance, and once initiated and utilized continue to be so utilized through the end of said one year period, or the variance shall be deemed void and the applicant will be required to reapply for the variance as though none had ever been granted.

SEC. 46.12 PLAN COMMISSION. (a) The Plan Commission shall have those powers, and operate in accordance with, §62.23, Wisconsin Statutes. [Ord. 553 06/2005]

- (b) In addition to the powers specifically enumerated in §62.23, Wisconsin Statutes, the Plan Commission has the power to issue conditional use permits authorizing the location of certain structures or uses in a district from which they are otherwise excluded as provided in Sec. 46.04.
- (c) The Plan Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Village Clerk and shall be a public record.
- (d) The concurring vote of four (4) members of the Plan Commission shall be necessary to reverse any order, requirement, decision or determination appealed from, or to decide in favor of the petitioner on any matter on

which it may pass, or to effect any variance or variation in the requirements of this chapter as in its opinion ought to be made.

- (e) All decisions of the Plan Commission shall be reduced to writing, and a copy thereof furnished to the petitioner. Failure to give a copy of its determination to the petitioner shall not affect the validity of the said determination of the Plan Commission. Where this section requires a variance, permit, grant or waiver be made in writing, it shall be sufficient if the decision shall be reduced to writing in the written minutes of the Plan Commission. All decisions of the Plan Commission shall be filed in the office of the Village Clerk.
- (f) In exercising the foregoing powers the Plan Commission may in appropriate cases establish suitable conditions and safeguards in harmony with the general purpose and intent of this chapter.

SEC. 46.13 ZONING ADMINISTRATOR. (1) The office of the Village Zoning Administrator is hereby created. The Zoning Administrator shall be appointed by the Village Board and shall serve such term as so designated.

(2) Every person or entity desiring to build a structure on any premises in the Village of Ellsworth, to structurally alter a structure in said Village, to change the use of a premises, to change the zoning or use designation of a premises, or obtain a special use permit shall first make application to the Zoning Administrator for a use permit. No construction, structural alteration, or change in such use shall be commenced or effected without first receiving approval and written permit therefore from the Zoning Administrator and where also necessary, from the Plan Commission or Board of Appeals.

(3) The application for a use permit shall be accompanied by a non-refundable application fee established from time to time by resolution of the Village Board.

(4) Interpretation. (a) The Zoning Administrator shall strictly interpret the provisions of this chapter in considering any application for a use permit.

- (b) Consistent with the declared purposes of this chapter, the desire for compatibility of uses within the Village and respective zoning districts, the protection of the safety, health, general welfare and comfort of the public, the Zoning Administrator shall exercise his/her discretion in issuing special use permits, unless otherwise directed by the Board of Appeals, Plan Commission or Village Board to issue same.
- (c) The Zoning Administrator is empowered with the primary responsibility to enforce the provisions of this chapter. He/she may advise applicants as to the provisions of this chapter and assist them in preparing applications for use permits. He/she shall issue use permits in connection with those applications that meet all applicable terms of this chapter. He/she may inspect any premises for which a use permit has been issued at reasonable

times and hours. He/she may direct the issuance of citations for violations of the ordinance.

- (d) The Zoning Administrator shall have the following power to enforce the provisions of this chapter:
- (1) Examine and approve any application pertaining to the use of land, buildings or structures to determine if the application conforms with the provisions of this chapter.
 - (2) Issue all zoning certificates and keep permanent records thereof.
 - (3) Conduct inspections of buildings, structures and uses of land to determine their compliance with this chapter.
 - (4) Receive, file and forward for action all applications for appeals, variation, special uses, and amendment to this chapter which are filed with him/her.
 - (5) Initiate, direct and review, from time to time, a study of the provisions of this ordinance, and make reports of his recommendations to the Plan Commission and the Village Board not less frequently than once a year.
 - (6) Revoke certificates of zoning compliance where provisions of this chapter are being violated.
 - (7) Maintain permanent and current records of Zoning Ordinance, including all maps, amendments, special uses, and variations.
 - (8) Provide and maintain public information relative to all matters arising out of this chapter.

(5) In all cases of new construction involving excavation, no excavation shall be commenced unless the Zoning Administrator or his/her designee has been on site to verify excavation is consistent with the stakes set on the premises. Notwithstanding, the applicant is responsible for construction consistent with the permit plan, and dimensions shown on the plan, submitted to the Zoning Administrator as part of the application for the zoning permit under §46.02(3).

SEC. 46.14 ANNEXATIONS. All territory annexed by the Village of Ellsworth shall be assigned a zoning district within ninety (90) days of its annexation. During the period between annexation and the assignment of a permanent district, the territory will be zoned as an interim district based on its predominant use at the time of annexation.

SEC. 46.15 CONFLICTING PROVISIONS REPEALED. All ordinances, parts of

ordinances or other provisions of the General Code of Ordinance of the Village of Ellsworth which conflict with any of the provisions of this chapter are hereby repealed.

SEC. 46.16 EXTRATERRITORIAL ZONING ORDINANCE.

(1) Statement of policy, purpose and intent. The Village Board does hereby adopt the following as its statement of policy, purpose and intent in connection with and in support of adoption of this ordinance.

- (a) The Board specifically finds that the adoption of an Extraterritorial Zoning Ordinance is a particular benefit to the community because the community of the Village and its adjoining Towns has vision which the County Board and County Zoning Ordinance necessarily lack in that:
 - (1) County rules and regulations take no account of the proximity of districts to villages or cities, imposing the same rules and regulations with respect to specific districts whether or not those districts lie within the ETZ boundaries of a municipality.
 - (2) The County Zoning Ordinance does not provide setbacks, or suitable setbacks, with respect to uses in or near residential communities.
- (b) The Joint Extraterritorial Zoning Committee, through its representative members from Village and Town respectively, are in better position to control application, review and processing fees with respect to zoning applications and appeals in the Extraterritorial Zoning jurisdiction.
- (c) The Extraterritorial Zoning Ordinance provides for local review.
- (d) The Joint Extraterritorial Zoning Committee ensures local control of the Extraterritorial Zoning jurisdiction area by the Village and Town in collaboration empowering each by assuring a majority, which must always include at least one member of the other body, makes decision for the public good.

(2) Extraterritorial Zoning District Limits. The Extraterritorial Zoning District is that area lying outside the Village Of Ellsworth but within 1 ½ miles of the Village limits, as shown on the map titled “Extraterritorial Zoning. Village of Ellsworth.” The purpose of the Extraterritorial Zoning District is to provide for proper zoning and control over said area and allow for the orderly growth and expansion of the area surrounding the Village of Ellsworth:

(3) Districts. Within the Extraterritorial Zoning District there shall, in addition to the districts identified in Section 46.03(7), be the following districts:

- (a) Rural Residential (RR). This district shall provide for the continuation of agricultural practices in areas of the Extraterritorial Zoning District which

ZONING 46.16(3)(a)

have historically been devoted to farm/agricultural operations, while providing location for certain recreational and other nonresidential uses as well as single family rural housing opportunities not served by public sewer or community wastewater treatment facilities. The minimum lot size in the Rural-Residential district shall be 2 ½ acres; except, however, there shall not be more than 8 single family residential units constructed per forty acre parcel. As used herein the term “forty” refers to a recognized and established forty acre parcel as determined by the rectangular survey description determined from the Fourth Principal Meridian in the Towns affected by these regulations, to wit, the Towns of Ellsworth and Trimble, an example of such of such forty (or fractional forty) acre parcel being as follows: Northwest Quarter/Northwest Quarter, Section Sixteen (16), Township Twenty Six (26) North, Range Seventeen (17) West, Town of Ellsworth. Subject to any other limitations imposed under this Sec. 46.16, except lot size limitations, uses permitted in the R-1 District shall be permitted in this district.

- (b) Rural Flexible (RF). This district is intended to achieve the same objectives as the Rural- Residential district but to allow a greater density of residential development upon approval of the Joint Extraterritorial Zoning Committee. In this district the Committee may allow a density of more than 8 single family residential units per forty provided such planned development meets the approval of the Committee and is subject to any conditions imposed thereon by the Committee. Subject to any other limitations imposed under this Sec. 46.16, except lot size limitations, uses permitted in the R-1 District shall be permitted in this district.
- (c) Residential (R-1). The uses and definitions set forth in Section 46.03(7)(a) shall apply to the R-1 district in the Extraterritorial Zoning District. No lands within the Extraterritorial Zoning District shall be zoned or classified as R-1 unless served by public sewer, a sanitary sewer district or an approved community wastewater treatment facility.

(4) Use. In the Extraterritorial District, no building or premises shall be used and no building shall hereafter be erected or structurally altered unless permitted in this §46.16 or otherwise provided in this Chapter 46.

- (a) Existing agricultural uses shall be allowed to continue regardless of Extraterritorial Zoning. In other words, it shall be within the discretion of the owner of property used for agricultural purposes whether the agricultural use of the property terminates. This Extraterritorial Zoning Ordinance is not intended to work any change with respect to premises used for agricultural purposes so long as the owner desires to continue using the premises for an agricultural use.
- (b) In the R-1 Zoning District in the Extraterritorial District, farming with livestock will be allowed on 20 acres or more.
- (c) In the Rural Residential and Rural Flexible Zoning District in the

ZONING 46.16(4)(c)

Extraterritorial District, livestock and domestic animals are allowed on lots of the size of 2 ½ acres or more, with the total population of animals not to exceed one animal unit per full acre. As used herein the term “livestock” or “domestic animal” includes cows, horses, pigs, poultry, llamas, ostriches and the like, but excludes household pets such as cats and dogs. The term “animal unit” shall have the same meaning as set forth in Chp NR 243 Wis. Admin Code and Wisconsin DNR form 3400-25A.

(d) Shelters for animals; barns, corrals, feedlots, etc., shall be located more than 100 feet from any existing non-farm residence and greater than 50 feet from any lot line. This does not include licensed kennel and houses for domestic pets.

(5) Lot Sizes. Lots not served by municipal sanitary sewer or a DNR approved wastewater treatment plant in a single family residence district shall be at least 2 ½ acres in area inclusive of road right of way.

(6) Setbacks.

(a) Building setback distances from roads or streets in any district in the Extraterritorial District shall be as follows:

- (1) Class D Highway (town road). Buildings shall have a setback of 75 feet from the center line of the highway and no closer than 42 feet to highway right-of-way.
- (2) Class C Highway (Pierce County). Buildings shall have a setback of 100 feet from the center line of the highway and no closer than 67 feet to the highway right-of-way.
- (3) Class B Highway (State of Wisconsin). Buildings shall have a setback of 110 feet from the center of the highway and no closer than 77 feet to the highway right-of-way.
- (4) All other streets and roads (Village streets or private drives). The setback distance shall be at least 75 feet from the center line of the road and no closer than 42 feet to the road right-of-way.

(b) The required side yards in the Rural Residential and Rural Flexible Districts shall be not less than 25 feet and no single side yard shall be less than 10 feet in width.

(7) Building Permits. Building permits in the Extraterritorial District will be issued by the Town but the Village Zoning Administrator shall approve such permits as to proper zoning prior to their issuance.

(8) Enforcement. Enforcement of this Extraterritorial Zoning Ordinance shall be by the Village Zoning Administrator, identical to that provided for zoning enforcement within the

Village, with penalties for violations also being the same, as provided under subdivisions (7)(e) (f), (8) and (9) of §62.23, Stats.

(9) Conditional Use Permits. Conditional uses provided for in this chapter shall also apply to the Extraterritorial District. Said conditional uses shall be referred to the Joint Extraterritorial Zoning Committee for recommendation. Prior to referral of the Conditional Use Permit to the Joint Extraterritorial Zoning Committee the permit application shall be submitted to the Town Clerk of the Town in which the premises lie for purpose of obtaining recommendation of the Town Board. The recommendation of the Town Board shall not be binding upon the Joint Extraterritorial Zoning Committee but shall be considered in their deliberation. Any recommendation made by the Town shall be made within 45 days of the date the Town Clerk is furnished a copy of the application.

(10) Amendments to Districts. The Village Board may amend the districts and regulations after first submitting the proposed amendment to the Joint Extraterritorial Zoning Committee for its recommendation and report.

(11) Nonconforming uses. The nonconforming uses provisions in this chapter shall apply to the Extraterritorial District. Any changes in nonconforming uses shall be subject to the nonconforming uses provisions in §46.08, which shall apply to the Extraterritorial District; provided, however, that said matter is referred to the Joint Extraterritorial Zoning Committee instead of the Village Plan Commission.

(12) Board of Appeals. The provisions relating to the Board of Appeals in this chapter shall also apply to the Extraterritorial District.

(13) Notice of Meetings. The Chair or Clerk of the Extraterritorial Zoning Committee shall give notice to all members of all meetings not less than seven (7) days prior to the meeting date. In addition, any meetings scheduled for the purpose of addressing a use proposed to take place in one Town only shall nonetheless be given to the Town Clerk of all other Towns subject to this Ordinance not less than seven (7) days prior to the scheduled meeting date; and, further, the Town Clerks of all Town members of the Committee shall be given a copy of the decision made regarding any proposed use brought before the Committee.

(14) Fees. Fees for applications made to amend the zoning district classification in the Extraterritorial Zoning District, or to obtain a Conditional Use Permit, shall be established from time to time by the Joint Committee. An applicant seeking a zoning change or Conditional Use Permit shall complete an application form and file it with the Village Clerk of the Village Of Ellsworth together with the fee established from time to time by the Joint Committee. The fee so established shall be intended to cover the cost of publication, ministerial duties of the Clerk and per diem expenses of the Committee members.

(15) Quorum. The quorum necessary for a meeting of the Joint Committee shall be all six (6) members. Alternates may attend in place of members unable to attend. An affirmative vote of four (4) or more votes shall be necessary to make any recommendation or take any measure. [Ord. 561 10/2006]

(16) Small Wind Energy System

(a) Purpose. The purpose of this Ordinance is to:

- (1)** Oversee the permitting of small wind energy systems
- (2)** Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system (per Wis. Stat. §66.0401).

(b) Definitions. In this Ordinance:

- (1)** “Administrator” means the Village of Ellsworth Land Use Administrator or Planning and Zoning Administrator.
- (2)** “Board” means the Village Board of the Village Of Ellsworth.
- (3)** “Meteorological tower” (met tower) is defined to include the tower, base plate, anchors, gut cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (4)** “Owner” shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.
- (5)** “Rotor diameter” means the cross sectional dimension of the circle swept by the rotating blades.
- (6)** “Small wind energy system” means a wind energy system that
 - (a)** is used to generate electricity;
 - (b)** has a nameable capacity of 100 kilowatts or less; and
 - (c)** has a total height of 170 feet or less.
- (7)** “Total height” means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- (8)** “Tower” means the monopole, freestanding, or guyed structure that supports a wind generator.

- (9) “Wind energy system” means equipment that converts and then
- (10) stores or transfers energy from the wind into usable forms of energy (as defined by Wis. Stat. § 66.0403(1)(m). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.
- (11) “Wind generator” means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(c) Standards.

- (1) Setbacks. A wind tower for a small wind system shall be set back a distance equal to its total height plus 50 feet from:
 - (a) any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
 - (b) any overhead utility lines, unless written permission is granted by the affected utility;
 - (c) all property lines, unless written permission is granted from the affected land owner or neighboring property owners whose boundaries are located within a distance of the tower height plus fifty (50) feet.
- (2) Access.
 - (a) All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
 - (b) The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
- (3) Electrical Wires. All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- (4) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

- (5) Appearance, Color & Finish. The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, as approved in the building permit.
 - (6) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
 - (7) Code Compliance. A small wind energy system including tower shall comply with all applicable state construction and applicable codes, and the National Electrical Code.
 - (8) Utility notification and interconnection. Small wind energy systems that connect to the electric utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnection Distributed Generation Facilities" and in compliance with the respective Utility Policy.
 - (9) Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.
 - (10) Noise. The noise level of the small wind system shall not exceed 3(d) BA above ambient sound when measured at the nearest property line.
- (d) Permit Requirements.
- (1) Building Permit. A building permit shall be required for the installation of a small wind energy system.
 - (2) Documents: The building permit application shall be accompanied by a plot plan which includes the following:
 - (a) Property lines and physical dimensions of the property
 - (b) Location, dimensions, and types of existing major structures on the property
 - (c) Location of the proposed wind system tower
 - (d) The right-of-way of any public road that is contiguous with the property;

- (e) Any overhead utility lines;
 - (f) Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed)
 - (g) Tower foundation blueprints or drawings
 - (h) Tower blueprint or drawing
- (3) Fees. The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for a Permitted Accessory Use.
- (4) Expiration. A permit issued pursuant to this ordinance shall expire if:
- (a) The small wind energy system is not installed and functioning within 24-months from date the permit is issued; or,
 - (b) The small wind energy system is out of service or otherwise unused for a continuous 12-month period.
- (e) Abandonment.
- (1) A small wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Administrator may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.
 - (2) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator and the generator tower at the Owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Administrator may pursue a legal action to have the wind generator removed at the Owner's expense.
- (f) Building Permit Procedure.

- (1) An Owner shall submit an application to the Administrator for a building permit for a small wind energy system. The application must be on a form approved by the Administrator and must be accompanied by two copies of the plot plan identified in 00.06(2) above.
- (2) The Administrator shall issue a permit or deny the application within one month of the date on which the application is received.
- (3) The Administrator shall issue a building permit for a small wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this ordinance.
- (4) If the application is approved, the Administrator will return one signed copy of the application with the permit and retain the other copy with the application.
- (5) If the application is rejected, the Administrator will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Administrator's decision pursuant to Chapter 68 Wis. Statutes. The applicant may reapply if the deficiencies specified by the Administrator are resolved.
- (6) The Owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete.
- (g) Violations. It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt
- (h) Severability. The provisions of this ordinance are severable, and in the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness or the remainder of the ordinance. [Ord. 581 01/2008, Ord 599 12/2009]