

## Chapter 273

### ZONING

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**[HISTORY: Adopted by the Village Board of the Village of Albany 5-11-1992 as Title 13, Ch.1 of the 1992 Code. Amendments noted where applicable.]**

GENERAL REFERENCES

Zoning Board of Appeals -- See Ch. 16, § 16-2.

Plan Commission -- See Ch. 16, § 16-3.

Building construction -- See Ch. 86.

Erosion control -- See Ch. 122.

Nuisances -- See Ch. 194.

Utilities -- See Ch. 249.

Floodplain zoning -- See Ch. 270.

Shoreland-wetland zoning -- See Ch. 271.

Subdivision of land -- See Ch. 272.

ARTICLE I  
General Provisions

**§ 273-1. Statutory authority.**

This chapter is adopted under the authority granted by W.S.A. ss. 62.23(7) and 87.30, and amendments thereto.

**§ 273-2. Title.**

This chapter shall be known as, referred to and cited as the "Zoning Code, Village of Albany, Wisconsin" and is hereinafter referred to as this "code" or "chapter."

**§ 273-3. General purpose.**

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

**§ 273-4. Intent and purposes in view.**

The general intent and purposes in view of this chapter are to regulate and restrict the use of all structures, lands and waters and to:

A. Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people.

B. Divide the village into zones or districts, restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses.

C. Protect the character and the stability of the residential, business, manufacturing and other districts within the village and to promote the orderly and beneficial development thereof.

D. Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage.

E. Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements.

F. Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways.

G. Secure safety from fire, panic, flooding, pollution, contamination and other dangers.

H. Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the village.

I. Preserve and protect the beauty of the Village of Albany.

J. Prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts.

K. Provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district.

L. Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters.

M. Further the maintenance of safe and healthful water conditions.

N. Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects.

O. Provide for and protect a variety of suitable commercial and industrial sites.

P. Protect the traffic-carrying capacity of existing and proposed arterial streets and highways.

Q. Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Village of Albany.

R. Provide for the administration and enforcement of this chapter.

S. Provide penalties for the violation of this chapter.

**§ 273-5. 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, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

**§ 273-6. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the village and shall not be construed to be a limitation or repeal of any other power now possessed by the Village of Albany.

**§ 273-7. Nonliability.**

A. If any application of this chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

B. The village does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the Village Board, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this chapter.

ARTICLE II  
Use and Site Regulations

**§ 273-8. Jurisdiction and general provisions.**

A. Jurisdiction. The jurisdiction of this chapter shall apply to all structures, lands, water and air within the corporate limits of the Village of Albany.

B. Compliance. No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted, and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without full compliance with the provisions of this chapter and all other applicable local, county and state regulations.

C. District regulations to be complied with. Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.

D. Yard reduction or joint use.

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

use. Lots existing and of record prior to adoption of this chapter, but of substandard size, may be devoted to uses permitted in the district in which located.

(2) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this code shall be included as a part of a yard or other open space required for another building, except that if two or more substandard lots with continuous frontage have the same ownership as of the effective date of this chapter, the lots involved shall be considered to be an individual parcel for the purpose of this chapter.

E. One main building per lot. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot, and in no case shall there be more than one main building on one lot.

F. Lots abutting more restrictive district. Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

### **§ 273-9. Use regulations.**

Only the following uses and their essential services may be allowed in any district:

A. Permitted uses. Permitted uses, being the principal uses, specified for a district.

B. Accessory uses. Accessory uses and structures as specified are permitted in any district, but not until their principal structure is present or under construction. Any permanent, roofed structure serving as an accessory use, if attached to the principal building or located within five feet of the principal building, shall be considered a part of the principal building. If such structure is a building and is not attached to the principal building, it shall conform to the setback and other dimensional requirements of the district within which it is located. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; servant's, owner's, itinerant agricultural laborer's and watchman's quarters not for rent; private swimming pools; and private emergency shelters. There shall be no more than two accessory uses per lot unless an applicant has received permission from the Plan Commission to have more than two accessory uses.<sup>1</sup>

C. Conditional uses.

(1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Village Board in accordance with Article IV, Conditional Uses, of this chapter, excepting those existent at time of adoption of this chapter.

(2) Those existing uses which are classified as conditional uses for the district(s) in which they are located at the time of adoption of this code require no action by the Village Board for them to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.

(3) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Village Board in accordance with Article IV, Conditional Uses.

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<sup>1</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(4) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s) or establishment of new conditional use(s) shall require review, public hearing and approval by the Village Board in accordance with Article IV, Conditional Uses.

(5) Conditional uses authorized by Village Board resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.

D. Uses not specified in code.

(1) Uses not specified in this chapter which are found by the Village Board to be sufficiently similar to specified permitted uses for a district shall be allowed by the Zoning Administrator.

(2) Uses not specified in this chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Village Board after consideration and recommendation by the Plan Commission, public hearing and approval in accordance with Article IV, Conditional Uses.

E. Temporary uses. Temporary uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Board of Appeals.

#### **§ 273-10. Site regulations.**

A. Site suitability. No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography or low bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community.

B. Street frontage. All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of 60 feet; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.

C. Principal structures. All principal structures shall be located on a lot. Only one principal structure shall be located, erected or moved onto a lot. The Village Board may permit as a conditional use more than one principal structure per lot in any district where more than one such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Village Board, subject to the recommendation of the Plan Commission, may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.

D. Dedicated street. No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

E. Lots abutting more restrictive districts. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a

distance of not less than 60 feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.

F. Site suitability. No land shall be used or structure erected where the land is held 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 this community. The Plan Commission, in applying the provisions of this section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability when making its recommendation to the Village Board.

G. 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 1/2 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 Village Board, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.

H. Decks. For purposes of this chapter, decks and porches shall be considered a part of a building or structure.

I. Average street yards. The required street yards may be decreased in any residential district to the average of the existing street yards of the abutting structures on each side, but in no case less than 15 feet.

### **§ 273-11. Height and area exceptions.**

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

(1) Architectural projections. Spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this chapter.

(2) Special structures. Radio and television receiving antennas are exempt from the height limitations of this chapter.

(3) Essential services. Utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this chapter.

(4) Communications structures. Radio and television transmission and relay towers, aerials and observation towers shall not exceed in height three times their distance from the nearest lot line.

(5) Agricultural structures. Barns, silos and windmills shall not exceed in height twice their distance from the nearest lot line.



(6) Public or semipublic facilities. Schools, churches, hospitals, governmental offices and stations may be erected to a height of 60 feet, provided that all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.

B. Yards. The yard requirements stipulated elsewhere in this chapter may be modified as follows:

(1) Uncovered stairs. Uncovered stairs, landings and fire escapes may project up to six feet into any yard, but shall not be closer than three feet to any lot line.

(2) Architectural projections. Chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard, but such projection shall not exceed two feet.

(3) Essential services. Essential service, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.

(4) Landscaping. Landscaping and vegetation are exempt from the yard requirements of this chapter.

(5) Additions. Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

#### **§ 273-12. Reduction or joint use.**

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

#### **§ 273-13. Screening and fencing.**

Screening or fencing, as required by this chapter, shall be subject to the following provisions:

A. Approval required. Any use or conditional use listed in this chapter requiring screening or fencing shall be permitted only when authorized by the Village Board and Plan Commission and subject to its approval of a screening or fencing plan for that particular use.

B. Objective. Planting or other suitable screening, including fences or freestanding walls, shall be required where deemed necessary for screening or enclosure purposes by the Village Board, upon the recommendation of the Plan Commission, such as around outdoor storage yards and industrial property lines, salvage yards, refuse disposal sites, quarries and mines, mobile home parks and trailer camps. Such provisions shall be required to the extent needed to provide for:

(1) Screening of objectionable views.

(2) Adequate shade.

(3) Enclosure of storage materials.

- (4) Public health and safety.
- (5) A suitable setting for the particular use and other facilities.

C. Extent.

(1) Screen planting. Adequate to screen objectionable views effectively within a reasonable time; in some cases temporary screening devices may be required until suitable screen planting can be achieved.

(2) Other planting. For mobile home parks and trailer camps, other planting should be adequate in size, quantity and character to other improvements, to provide adequate privacy and pleasant outlook for living units, to minimize reflected glare and to afford summer shade.

(3) Existing planting. Acceptable as required planting to the extent that it is equivalent, suitable and preserved in good condition.

(4) Fences and walls. Appropriately designed for the function intended and shall be substantially constructed to withstand conditions of soil, weather and use.

D. Maintenance. All screenings, fences and walls required by this chapter shall be maintained so as not to prove an objectionable view by themselves.

### ARTICLE III Zoning Districts

#### **§ 273-14. Establishment; annexations; Zoning Map.**

A. Establishment.

(1) For the purpose of this chapter, the village is hereby divided into the following seven zoning districts:

- (a) R-1 Single-Family Residential District.
- (b) R-2 Multifamily Residential District.
- (c) R-3 Mobile Home Residential District.
- (d) C-1 General Commercial District.
- (e) M-1 Industrial District.
- (f) A-1 Agricultural District.
- (g) CON Conservancy District.

(2) Boundaries of these districts are hereby established as shown on a map entitled "Zoning Map, Village of Albany, Wisconsin," which is retained in the office of the Village Clerk-Treasurer and is hereby adopted by reference. Such boundaries shall be construed to

follow: corporate limits; United States public land survey lines; lot or property lines; center lines of streets, highways, alleys, easements and railroad rights-of-way, or such lines extended, unless otherwise noted on the Zoning Map.

(3) Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

B. Annexations. Annexations to or consolidations with the village subsequent to the effective date of this chapter shall be placed in the A-1 Agricultural District, unless an annexation ordinance temporarily places the land in another district. Definite boundaries and regulations will be recommended by the Plan Commission and adopted by the Village Board, such adoption to be completed within 90 days of the annexation.

C. Zoning Map. A certified copy of the Zoning Map shall be adopted and approved with the text as part of this chapter and shall bear upon its face the attestation of the Village President and Clerk-Treasurer and shall be available to the public in the office of the Village Clerk-Treasurer. Changes thereafter to the districts shall not be effective until entered and attested to on this certified copy.

### **§ 273-15. R-1 Single-Family Residential District.**

A. Purpose. The R-1 Single-Family Residential District is intended to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses.

B. Permitted uses. The following uses are permitted in this District:

- (1) Single-family dwellings.
- (2) Horticulture and gardening, but not including commercial greenhouses.
- (3) Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, equipment housings and other necessary appurtenant equipment and structures (excludes service garages and storage yards).
- (4) Water storage facilities and their accessory structures.
- (5) Private garages, carports and paved parking areas when located on the same lot and not involving the conduct of a business, except as a permitted household occupation or conditional use, provided that no such garages shall be erected prior to the erection of the principal building to which it is accessory.

C. Conditional uses. The following uses are permitted as conditional uses within this District:

- (1) Two-family dwellings.
- (2) Farm buildings on an existing farm, provided that the buildings in which farm animals are kept shall be at least 100 feet from the nearest residence on a nonfarm lot.

(3) Permitted home occupations and professional offices when incidental to the principal residential use, situated in the same building, and carried on by the residential occupant, subject to the following conditions:

(a) Such use shall not occupy more than 20% of the classified floor area of the principal building in which it is located.

(b) Such use shall not employ more than one person not a resident on the premises.

(c) Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjoining residential properties.

(d) Such use shall not include the conduct of any retail or wholesale business on the premises, nor the removal of sand, gravel, stone, topsoil or peat moss for commercial purposes.

(e) Such use shall not include the operation of any machinery, tools or other appliances or the outside storage of materials or other operational activity, any of which would create a nuisance or be otherwise incompatible to the surrounding residential area.

(4) Public park and recreation areas, cemeteries, churches, schools, historic sites, public museum and municipal buildings (except sewage plants, incinerators, warehouses, garages, shops and storage yards).

(5) Rooms for up to four paying guests or boarders.

(6) Restricted commercial use under certain stipulations and at the discretion of the Albany Plan Commission and Albany Village Board. Stipulations for permit include, but are not restricted to, the following: type of business to be established, type of building, area, size, noise levels, traffic, parking availability, health and safety, utilities and neighbor concerns. When property is sold, the conditional use is null and void to the new owner. [Added 12-12-1994 by Ord. No. 03-94]

D. District requirements. Within the R-1 District, the following standards shall apply:

(1) Maximum building height: 35 feet.

(2) Minimum front yard setback from highway or street right-of-way: 25 feet.  
(Note: More restrictive standards may be imposed by state and county regulations in certain circumstances where lots abut on state or county highways.)

(3) Minimum rear yard setback:

(a) Principal buildings: 25 feet.

(b) Accessory buildings: three feet.

(4) Minimum side yard setback:

(a) Principal buildings: nine feet on each side.

(b) Accessory buildings: three feet on each side.

(5) Minimum lot width: 60 feet. In no case shall a lot be less than 90 feet in width at the building setback line.<sup>2</sup>

(6) Minimum lot area for single-family: 7,200 square feet.

(7) Minimum lot area for two-family: 10,500 square feet.

(8) Minimum floor area for single-family: 900 square feet.

(9) Minimum floor area per family for two-family: 600 square feet.

### **§ 273-16. R-2 Multifamily Residential District.**

A. Purpose. The R-2 Multifamily Residential District is intended to provide a living area that is pleasant but not so spacious as the R-1 District.

B. Permitted uses. The following uses are permitted in this District:

(1) Multiple family residential units.

(2) Single- and two-family dwellings.

(3) Public park and recreation areas, churches, schools, historic sites and public museums.

(4) Horticulture and gardening, but not including commercial greenhouses.

(5) Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, equipment housings and other necessary appurtenant equipment and structures (excludes service garages and storage yards).

(6) Water storage facilities and their accessory structures.

(7) Private garages, carports and paved parking areas when located on the same lot and not involving the conduct of a business, except as a permitted household occupation or conditional use, provided that no such garages shall be erected prior to the erection of the principal building to which it is necessary.

C. Conditional uses. The following uses are permitted as conditional uses within the R-2 District:

(1) Rooming and boarding houses.

(2) Public buildings, except sewage plants, garbage incinerators, warehouses, garages, shops and storage yards.

(3) Cemeteries.

(4) Libraries, museums and art galleries.

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<sup>2</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (5) Hospitals and clinics.
- (6) Funeral homes.
- (7) Uses customarily incidental to any of the above uses, provided that no such use generates traffic or noise that would create a public or private nuisance.
- (8) Permitted home occupations and professional offices when incidental to the principal residential use, situated in the same building and carried on by the residential occupant, subject to the conditions set forth under § 272-15C(3).

D. District requirements. Within the R-2 District, the following standards shall apply:

- (1) Maximum building height: 35 feet.
- (2) Minimum front yard setback: 25 feet from street right-of-way line. (Note: More restrictive standards may be imposed by county and state regulations in certain circumstances where lots front on county and state highways.)
- (3) Minimum rear yard setback:
  - (a) Principal building: 25 feet.
  - (b) Accessory buildings: three feet.
- (4) Minimum side yard setback:
  - (a) Single- or two-family building: nine feet on each side.
  - (b) Multifamily building: 15 feet on each side.
  - (c) Accessory buildings: five feet on each side.
- (5) Minimum lot width: 65 feet. In no case shall a lot be less than 90 feet in width at the building setback line.<sup>3</sup>
- (6) Minimum lot area for single-family unit: 7,000 square feet.
- (7) Minimum lot area for two-family unit: 10,000 square feet.
- (8)<sup>4</sup> Minimum lot area for multifamily unit: 15,000 square feet.
  - (a) Efficiency: 2,000 square feet per unit.
  - (b) One-bedroom unit: 2,500 square feet.
  - (c) Two-bedroom unit: 3,000 square feet.
- (9) Minimum floor area for single-family home: 900 square feet.
- (10) Minimum floor area per family for multifamily unit: 600 square feet.

<sup>3</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>4</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 273-17. R-3 Mobile Home Residential District.**

A. Purpose. The R-3 Mobile Home Residential District is intended to provide a living area for mobile homes in the village.

B. Permitted uses.

(1) Mobile home parks are permitted in this District.

(2) Refer to other provisions of this chapter for regulations regarding location of mobile homes.<sup>5</sup>

**§ 273-18. C-1 General Commercial District.**

A. Purpose. The C-1 General Commercial District is intended to provide for the orderly and attractive grouping, at convenient locations, of retail stores, shops, offices and establishments serving the daily needs of the area.

B. Permitted uses. Community service facilities, such as but not limited to the following, are permitted in this District:

(1) Art and school supply stores, automotive sales, servicing and repairs.

(2) Automotive parts sales, including incidental service and repair; provided, however, that all vehicles are in operative condition.

(3) Antique shops.

(4) Apartment hotels.

(5) Appliance stores.

(6) Barbershops and beauty parlors.

(7) Banks and other financial institutions, including loan and finance companies.

(8) Business offices.

(9) Candy and ice cream stores.

(10) Caterers.

(11) Clothing repair shops.

(12) Clinics.

(13) Clubs.

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<sup>5</sup> Editor's Note: See Article XI, Mobile Homes.

- (14) Cocktail lounges and taverns.
- (15) Commercial schools.
- (16) Confectioneries.
- (17) Delicatessens.
- (18) Dental clinics.
- (19) Department stores.
- (20) Drugstores.
- (21) Electrical supply.
- (22) Florist shops.
- (23) Food lockers.
- (24) Furniture stores.
- (25) Gasoline stations.
- (26) Grocery stores.
- (27) Heating supply.
- (28) Hotels.
- (29) Ice delivery stations.
- (30) Insurance and real estate agencies.
- (31) Jails.
- (32) Jewelry stores.
- (33) Liquor stores.
- (34) Lumberyards.
- (35) Medical clinics.
- (36) Newspaper offices and light service printers.
- (37) Opticians and optical stores.
- (38) Paint stores, retail only.
- (39) Parking facilities.
- (40) Photographic studios.



- (41) Professional offices.
- (42) Restaurants.
- (43) Retail (general) stores.
- (44) Small animal hospitals.
- (45) Theaters and places of amusement.
- (46) Tourist information and hospitality centers.
- (47) Undertaking establishments.
- (48) Upholsterer's shops.
- (49) Utility company offices.
- (50) Variety stores.
- (51) Existing residences.

(52) Such accessory uses as are customary in connection with the foregoing uses and which are incidental thereto.

C. Conditional uses. Other uses similar in character with the approved uses and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises are permitted as conditional uses within the C-1 District, provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from motor-driven equipment, unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage of the public street or sidewalk or other conditions generally regarded as nuisances. These uses shall be subject to the consideration of the Village Board with regard to such matters.

D. Additional conditions. Uses permitted in the C-1 District are subject to the following conditions:

- (1) Dwelling units are not permitted below the second floor and business uses are not permitted on any floor above the ground floor, except in those buildings or structures where dwelling units are not established.
- (2) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- (3) All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

E. [Amended 5-13-1996 by Ord. No. 01-96] District requirements. All new commercial development will conform to the following standards:

- (1) Maximum building height: 45 feet.
- (2) Minimum front yard setback: 25 feet.

- (3) Minimum rear yard setback: 25 feet.
- (4) Minimum lot width: 75 feet.

**§ 273-19. M-1 Industrial District.**

A. Purpose. This District is intended to provide for any manufacturing or industrial operation which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the village as a whole by reason of noise, dirt, dust, smoke, odor, traffic, physical appearance or other similar factors, and subject to such regulatory controls as will reasonably ensure compatibility in this respect.

B. Permitted uses. The following are permitted uses in this District:

- (1) Bottling of soft drinks or milk, or distribution stations.
- (2) Building material sales and storage.
- (3) Builder's or contractor's plan or storage yard.
- (4) Lumberyard, including mill work.
- (5) Open yard for storage and sale of feed or fuel.
- (6) Automobile repair garage doing major repair, including tire retreading or recapping, battery service and repair.
- (7) The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries and food products.
- (8) The manufacture, compounding, assembling or treatment of articles or merchandise from the following material:
  - (a) Canvas.
  - (b) Cellophane.
  - (c) Cloth.
  - (d) Fiber.
  - (e) Glass.
  - (f) Leather.
  - (g) Paper.
  - (h) Plastics.
  - (i) Precious and semiprecious metals or stone.

- (j) Rubber.
- (k) Textiles.
- (l) Wood.
- (m) Yard.
- (n) Metal products.

(9) The manufacture or assembly of electric appliances, electronic instruments and devices, phonographs, radio and television sets, electric and neon signs, refrigerators and stoves.

(10) Trucking or motor freight terminals.

C. Prohibited uses. The following uses are specifically prohibited in the Industrial District:

(1) Residential, educational or institutional uses, except a dwelling for a watchman or caretaker employed on the premises and members of his family.

(2) Uses in conflict with any laws of the state or any ordinances of the village governing nuisances.

(3) Abattoirs, except for slaughter of poultry.

(4) Acid manufacture.

(5) Cement, lime, gypsum or plaster of paris manufacture.

(6) Distillation of bones.

(7) Explosives, manufacture or storage.

(8) Fat rendering.

(9) Fertilizer manufacture.

(10) Garbage, rubbish, offal or dead animal reduction or dumping.

(11) Glue manufacture.

(12) Junkyards.

(13) Petroleum refining.

(14) Smelting of tin, copper, zinc or iron ores.

(15) Stockyards.

D. District requirements. Within the M-1 District, the following standards shall apply:

(1) Maximum building height: 35 feet.

- (2) Minimum front yard setback: 30 feet from street right-of-way line.
- (3) Minimum rear yard setback: 40 feet.
- (4) Minimum side yard setback: 20 feet.
- (5) Minimum lot width: 100 feet (measured at building line).

E. Industrial Park Covenants are on file in the village office for reference.<sup>6</sup>

**§ 273-20. A-1 Agricultural District.**

A. Purpose. This District provides for the continuation of general agriculture and related uses in those areas not contiguous to existing urban development. The intent is to conserve areas with adequate soil types, drainage and topography for farming and to prevent uneconomical scattering of residential, commercial and industrial development in such areas.

B. Permitted uses. The following uses are permitted in this District:

- (1) General farming and dairying, provided that buildings in which farm animals are kept shall be at least 100 feet from the nearest residential or commercial district.
- (2) Forestry, grazing, hatcheries, orchards, paddocks, poultry raising, stables and truck farming.
- (3) In-season roadside stands for the sale of farm products produced on the premises, and up to two unlighted signs not larger than eight square feet each advertising such sale.
- (4) Farm dwellings for those resident owners and workers actually engaged in the principal permitted uses.
- (5) Uses customarily incidental to any of the above uses, including residential uses incidental to any of the above uses.
- (6) Telephone buildings (provided that there is no service garage or storage yard), telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housings and other necessary appurtenant equipment and structures.
- (7) Public park and recreation areas.

C. Conditional uses. The following uses are authorized by a conditional use permit:

- (1) Single-family residence on parcels not less than 15,000 square feet in area, provided that it is determined that this smaller lot is to provide a site for housing accommodations for a member of the family of the property owner.
- (2) Mineral extraction.
- (3) Residential uses existing at the time of the creation of this District.

D. District requirements. Within this District, the following standards shall apply:

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<sup>6</sup>Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) Maximum building height: 35 feet residential.
- (2) Minimum front yard setback: 50 feet from street right-of-way line.
- (3) Minimum rear yard setback: 50 feet.
- (4) Minimum side yard setback:
  - (a) Principal buildings: 20 feet.
  - (b) Accessory buildings: 10 feet.
  - (c) Minimum lot width: 500 feet.
  - (d) Minimum lot area: 10 acres.
  - (e) Minimum floor area, residences: 900 square feet.

**§ 273-21. CON Conservancy District.**

A. Purpose. This District is intended to preserve the natural state of scenic areas in the village and to prevent the uncontrolled, uneconomical spread of residential or other development and to help to discourage intensive development of marginal lands so as to prevent hazards to public and private property.

B. Permitted uses. The following uses of land are permitted in this District:

- (1) Forestry and the management of woodlands.
- (2) Wildlife preserves.
- (3) The management of wildlife, including waterfowl, fish and other similar lowland animals, and nonresidential buildings used solely in conjunction with such activities.
- (4) Hunting, fishing and trapping.
- (5) Park and recreation areas.
- (6) Hiking trails and bridle paths.
- (7) Preservation of areas of scenic, historic or scientific value.
- (8) Uses similar and customarily incidental to any of the above uses.

C. District requirements. There are no setback, lot size and other dimensional standards applicable in the Conservancy District.

ARTICLE IV  
Conditional Uses

**§ 273-22. Statement of purpose.**

The development and execution of this article is based upon the division of the village into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district, provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

### **§ 273-23. Authority of Plan Commission and Village Board; requirements.**

A. The Village Board may, by resolution, authorize the Village Clerk-Treasurer to issue a conditional use permit for either regular or limited conditional use after review, public hearing and advisory recommendation from the Plan Commission, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this chapter and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of limited conditional use, the Village Board in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing limited rather than regular conditional use. Such Board resolution, and the resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.<sup>7</sup>

B. Any development within 500 feet of the existing or proposed rights-of-way of freeways, expressways and within 1/2 mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission shall request such review and await the highway agency's recommendation for a period not to exceed 20 days before taking final action.

C. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board upon its finding that these are necessary to fulfill the purpose and intent of this chapter.

D. Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses.

### **§ 273-24. Initiation of conditional use.**

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession or a contractual interest which may become a freehold interest or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought, may file an application to use such land for one or more of the conditional uses provided for in this article in the zoning district in which such land is located.

### **§ 273-25. Application for conditional use.**

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<sup>7</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

An application for a conditional use shall be filed on a form prescribed by the village. The application 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, and shall include a statement, in writing, by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in § 273-28 hereinafter. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations. A nonrefundable fee of \$25, plus publication and report costs, shall be paid at the time of application.

#### **§ 273-26. Hearing on application.**

All requests for conditional uses shall be to the Plan Commission, or the Plan Commission can, on its own motion, apply conditional uses when applications for rezoning come before it. Nothing in this chapter shall prohibit the Village Board, on its own motion, from referring the request for conditional use to the Plan Commission. Upon receipt of the application and statement referred to in § 273-25 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by such Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

#### **§ 273-27. Notice of hearing on application.**

A. Hearing. Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 notice under the Wisconsin Statutes in the official village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and Plan Commission and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within 100 feet of the boundaries of the properties affected, said notice to be sent at least 10 days prior to the of date such public hearing.

B. Report of Plan Commission. The Plan Commission shall report its advisory recommendations to the Village Board within 30 days after a matter has been referred to it. If such action has not been reported by the Plan Commission within 30 days, the Village Board can act without such recommendation.

#### **§ 273-28. Standards.**

No application for a conditional use shall be recommended for approval by the Plan Commission or granted by the Village Board unless such Commission and Board shall find 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 for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use, and the proposed use is compatible with the use of adjacent land.

C. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property 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 and egress so designed as to minimize traffic congestion in the public streets.

F. That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.

G. That the proposed use does not violate floodplain regulations governing the site.<sup>8</sup>

H. That when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission and Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

I. That in addition to passing upon a conditional use permit, the Plan Commission and Board shall also evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution, including sedimentation.
- (3) Existing topographic and drainage features and vegetative cover on the site.
- (4) The location of the site with respect to floodplains and floodways of rivers and streams.
- (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (6) The location of the site with respect to existing or future access roads.
- (7) The need of the proposed use for a shoreland location.
- (8) Its compatibility with uses on adjacent land.
- (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

### **§ 273-29. Denial of application for conditional use permit.**

When an advisory recommendation of denial of a conditional use application is made, the Plan Commission shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met.

### **§ 273-30. Conditions and guaranties.**

<sup>8</sup>Editor's Note: See Ch. 270, Floodplain Zoning.



The following conditions shall apply to all conditional uses:

A. Conditions. Prior to the granting of any conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in § 273-28 above. In all cases in which conditional uses are granted, the Board shall require such evidence and guaranties as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of, specific enumeration.

- (1) Landscaping;
- (2) Type of construction;
- (3) Construction commencement and completion dates;
- (4) Sureties;
- (5) Lighting;
- (6) Fencing;
- (7) Operational control;
- (8) Hours of operation;
- (9) Traffic circulation;
- (10) Deed restrictions;
- (11) Access restrictions;
- (12) Setbacks and yards;
- (13) Type of shore cover;
- (14) Specified sewage disposal and water supply systems;
- (15) Planting screens;
- (16) Piers and docks;
- (17) Increased parking;
- (18) Duration of conditional use; or
- (19) Any other requirements necessary to fulfill the purpose and intent of this chapter.

B. Site review. In making its recommendation, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The 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 the proposed operation/use.

C. Alteration of conditional use. No alteration of a conditional use shall be permitted unless approved by the Village Board after recommendation from the Plan Commission.

D. Architectural treatment. Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Village Board may require the use of certain general types of exterior construction materials and/or architectural treatment.

E. Sloped sites; unsuitable soils. Where slopes exceed 6% and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

F. Conditional uses to comply with other requirements. Conditional uses shall comply with all other provisions of this chapter, such as lot width and area, yards, height, parking and loading.

### **§ 273-31. Validity of conditional use permit.**

Where the Village Board has approved or conditionally approved an application for a conditional use, such approval shall become null and void within 12 months of the date of the Board's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately 45 days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Board may extend such permit for a period of 90 days for justifiable cause, if application is made to the Village Board at least 30 days before the expiration of said permit.

### **§ 273-32. Complaints regarding conditional uses.**

The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this chapter. Upon written complaint by any citizen or official and after seeking an advisory recommendation from the Plan Commission, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in § 273-28 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in § 273-27 above. Any person may appear at such hearing and testify in person or be represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in § 273-28 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that § 273-28A and B will be met, the Village Board may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the

Village Board shall be furnished to the current owner of the conditional use, in writing, stating the reasons therefor.

**§ 273-33. Bed-and-breakfast establishments.**

A. As conditional use. Bed-and-breakfast establishments shall be considered conditional uses and may be permitted in residence districts pursuant to this article.

B. Definition. "Bed-and-breakfast establishment" means any place of lodging that provides four or fewer rooms for rent for more than 10 nights in a twelve-month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

C. State standards. Bed-and-breakfast establishments shall comply with the standards of Chapter HSS 197, Wis. Adm. Code.

**§ 273-34. Mineral extractions.**

Mineral extraction operations, including washing, crushing or other processing, are conditional uses and may be permitted in the Agricultural District, provided that:

A. 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; and a topographic map of the site showing existing contours with minimum vertical contour interval of five feet, trees, proposed and existing access roads, the depth of all existing and proposed excavations and a restoration plan.

B. 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 village's inspection and administrative costs and the necessary sureties which will enable the village to perform the planned restoration of the site in the event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the Village Engineer, and the form and type of such sureties shall be approved by the Village Attorney.

C. The conditional use permit shall be in effect for a period not to exceed two years and may be renewed upon application for a period not to exceed two years. Modifications or additional conditions may be imposed upon application for renewal.

D. The Village Board shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.

ARTICLE V  
Nonconforming Uses, Structures and Lots

**§ 273-35. Existing nonconforming uses.**

A. The lawful nonconforming use of a structure or land, including but not limited to fences, parking and zoning setbacks existing at the time of the adoption or amendment of this chapter, may be

continued although the use does not conform with the provisions of this chapter. However, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.

B. If no structural alterations are made, a nonconforming use of a building may be changed to any use permitted in the same use district as that in which the use existing is permitted according to the provisions of this chapter, provided that when a use district is changed, any existing, nonconforming use in such changed district may be continued or changed to a use permitted in the same use district as that in which the existing use is permitted, provided that all other regulations governing the new use are complied with.

C. Total lifetime structural repairs or alterations shall not exceed 50% of the village's assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this chapter.

D. Substitution of new equipment may be permitted by the Zoning Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

#### **§ 273-36. Abolishment or replacement.**

A. Termination. If such nonconforming use is discontinued or terminated for a period of six months, any future use of the structure or land shall conform to the provisions of this chapter.

B. Building destroyed by fire. Where a building located in a district restricted against its use has been destroyed by fire or other calamity to the extent of not more than 50% of its value assessed by the village, the same may be rebuilt; but where such a building is destroyed to the extent of more than 50% of its assessed value, a permit may be granted for its reconstruction within 12 months from the date of such fire or other calamity, except any public utility located in a restricted district shall be permitted to rebuild, alter or enlarge in any business or industrial district as the interest of the public demands.

#### **§ 273-37. Existing nonconforming structures.**

The lawful 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 and loading and access provisions of this chapter. However, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.

#### **§ 273-38. Changes and substitutions.**

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Zoning Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Zoning Board of Appeals.

#### **§ 273-39. Substandard lots.**

A. In any residential district, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel, provided that such lot or parcel was of record in the County Register of Deeds' office before the effective date or amendment of this chapter.

B. Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter. If in separate ownership, all the district requirements shall be complied with insofar as practical, but shall not be less than the following:

(1) Lot.

(a) Width: minimum 60 feet.<sup>9</sup>

(b) Area: minimum 4,000 feet.

(2) Building.

(a) Area: minimum 850 square feet.

(b) Height: maximum 30 feet.

(3) Yards.

(a) Front: minimum 25 feet; the second front yard on corner lots shall be not less than 10 feet.

(b) Rear: minimum 25 feet.

(c) Side: minimum 16% of the frontage, but not less than five feet.

## ARTICLE VI

### Traffic Visibility, Loading, Parking and Access

#### § 273-40. Traffic visibility.

A. No obstructions, such as structures, fences, parking or vegetation, shall be permitted in any district between the heights of 21/2 feet and 10 feet above the plane through mean curb grades within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of 15 feet from their intersection.

B. In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 50 feet.

#### § 273-41. Loading requirements.

A. Loading space requirements. On every lot on which a business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

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<sup>9</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Use	Floor Area (square feet)	Loading Space
Retail, wholesale	2,000 to 10,000	1
warehouse, service	10,000 to 20,000	2
manufacturing and	20,000 to 40,000	3
industrial establishments	40,000 to 60,000	4
	Each additional 50,000	1
Offices, hospitals,	5,000 to 10,000	1
places of public	10,000 to 50,000	2
assembly	50,000 to 100,000	3
	Each additional 25,000	1

B. Multiple or mixed uses. Where a building is devoted to more than one use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

C. Location. Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.

D. Design standards. Each off-street loading space shall have a width of at least 12 feet, a length of at least 45 feet and a vertical clearance of at least 14 feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to 10 feet in width, 25 feet in length and eight feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect neighboring residences.

E. Surfacing. All open off-street loading berths shall be improved with a compacted macadam base, not less than seven inches thick, surfaced with not less than two inches of asphalt or treated with some comparable all-weather dustless material.

F. Repair and service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residence district.

G. Utilization. Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

H. Central loading. Central loading facilities may be substituted for loading berths on the individual zoning lots, provided that the following conditions are fulfilled:

(1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at-grade.

(2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)

(3) No zoning lot served shall be more than 300 feet removed from the central loading area.

(4) The tunnel or ramp connecting the central loading area with the zoning lot served shall be not less than seven feet in width and have a clearance of not less than seven feet.

#### **§ 273-42. Off-street parking requirements.**

All new parking lots and all alterations of existing lots shall be subject to the approval of the Village Board, after a recommendation from the Plan Commission. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located within the fire zone as designated on the Official Map, 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. Access. Adequate access to a public street shall be provided for each parking space.

B. Design standards. Each required off-street parking space shall be at least 180 square feet, have a stall width of at least 10 feet and a stall length of at least 18 feet. No parking area of more than four spaces shall be designed as to require any vehicle to back into a public street. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.

C. Location.

(1) Off-street parking shall be on the same lot as the principal use or not over 400 feet from the principal use.

(2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts, but shall not be closer than five feet to a side lot line, right-of-way line or rear lot line or 25 feet to a residential district lot line.

(3) Off-street parking in the single-family residence and two-family residence districts is permitted in the front yard in the driveway, even though closer than five feet to a side lot line, provided that the driveway conforms to the requirements in § 273-43.

D. Surfacing. All off-street parking areas, except a single parking space accessory to a single-family dwelling, shall be surfaced with an all-weather material, such as compacted stone, gravel or blacktop. All off-street parking areas shall be graded and surfaced so as to be properly drained. Any parking area for more than five vehicles shall have the aisles and spaces clearly marked, except parking areas serving single-family dwellings.

E. Additional requirements.

(1) Special residential requirements. Those parking areas for five or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of five feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five feet from said lot line. Said fence shall be located a minimum of one foot from said lot line.

(2) Repair and service. No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in residence districts.

(3) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three footcandles measured at the lot line.

(4) Street setback area. No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.

F. Curbs. Curbs or barriers shall be installed a minimum of four feet from a property line so as to prevent the parked vehicles from extending over any lot lines.

G. Number of parking stalls required.

(1) Single-family dwelling and mobile homes: two stalls for each dwelling unit.

(2) Multifamily dwellings: 1 1/2 stalls for each dwelling unit.

(3) Hotels and motels: one stall for each guest room plus one stall for each three employees.

(4) Hospitals, clubs, lodges, dormitories, lodging and boarding houses: one stall for each two beds plus one stall for each three employees.

(5) Sanitariums, institutions, rest and nursing homes: one stall for each five beds plus one stall for each three employees.

(6) Medical and dental clinics: three stalls for each doctor.

(7) Churches, theaters, auditoriums, community centers, vocational and night schools and other places of public assembly: one stall for each five seats.

(8) Secondary and elementary schools: one stall for each 10 seats in an auditorium or one for each 17 classroom seats, whichever is greater.

(9) Restaurants, bars, places of entertainment, repair shops, retail and service stores: one stall for each 150 square feet of floor area.

(10) Manufacturing and processing plants, laboratories and warehouses: one stall for each three employees.

(11) Funeral homes: one stall for each four seats.

(12) Bowling alleys: five stalls for each alley.

(13) Central business district parking stalls: Parking stalls are not required to be provided in the Central Business District, except in the C-1 District on Cincinnati Street between Fourth and Mechanic (STH 59) Streets.



H. Uses not listed. In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.

I. Combined uses. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use. Two or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided that such uses are not operated during the same hours. A written agreement satisfactory to the Village Attorney shall accompany any joint use arrangement.

J. Handicapped parking requirements. In addition to any other requirements relating to parking spaces contained in this Code, the provisions contained in W.S.A. ss. 101.13, 346.503 and 346.56, and any Wisconsin Administrative Code sections adopted pursuant thereto, are hereby adopted by reference and made applicable to all parking facilities whenever constructed.

K. Changes in buildings or use. Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of 25% or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of 50% or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.

L. Off-lot parking.

(1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot, provided that the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the Village Attorney.

(2) Off-lot parking spaces for residential uses shall be within 250 feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved, while the farthest portions of a parking lot for all other uses shall be within 300 feet of the entrance of the establishment.

(3) Accessory parking may be located in residential districts, provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.

(4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of 10 feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

#### **§ 273-43. Highway access.**

A. Highway access. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street, without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance

ramps). No driveway openings shall be permitted within 100 feet of the intersection of an arterial street right-of-way line.

B. Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.

C. Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed 12 months.

#### **§ 273-44. Major recreational equipment.**

The parking, storage or use of major recreational equipment shall not be subject to the provisions of this section, except that no major recreational equipment shall be parked or stored on any lot in a residential district except in a garage or carport or behind the nearest portion of a building to a street. Such equipment may be parked anywhere on residential premises for a period not to exceed 24 hours during loading or unloading. No such equipment shall be used for living or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

### **ARTICLE VII Signs and Billboards**

#### **§ 273-45. Purpose.**

The purpose of this article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs and billboards.

#### **§ 273-46. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**AWNING** -- A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure.

**BILLBOARD** -- A sign which advertises goods, products or facilities or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.

**BLANKETING** -- The unreasonable obstruction of view of a sign caused by the placement of another sign.

**DIRECTLY ILLUMINATED SIGN** -- Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

**DIRECTORY SIGN** -- Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories.

**ELECTRONIC MESSAGE UNIT SIGN** -- Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.

**FLASHING SIGN** -- Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

**GROUND SIGN AND/OR POLE SIGN** -- Any sign which is supported by structures or supports in or upon the ground and independent of support from any building. (Also referred to as "freestanding sign.")

**IDENTIFICATION SIGN** -- Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises, or combination of these.

**INDIRECTLY ILLUMINATED SIGN** -- A sign that is illuminated from a source outside of the actual sign.

**MARQUEE** -- A permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall, and generally designed and constructed to provide protection against weather.

**MARQUEE SIGN** -- Any sign attached to and made part of a marquee.

**NONCONFORMING SIGN** -- Any sign which does not conform to the regulations of this article.

**PORTABLE SIGN** -- Any sign not permanently attached to the ground which is designed to be easily moved from one location to another.

**PROJECTING SIGN** -- Any sign extending more than 18 inches but less than six feet from the face of a wall or building.

**REAL ESTATE SIGN** -- Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.

**ROOF SIGN** -- Any sign erected upon or over the roof or parapet of any building.

**SIGN** -- Shall include anything that promotes, calls attention or invites patronage (or anything similar to the aforementioned) to a business, location or product.

**TEMPORARY SIGN** -- Any sign intended to be displayed for a short period of time, including real estate, political or construction site signs, and banners, decorative-type displays or anything similar to the aforementioned.

**WALL SIGN** -- Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than 18 inches from such wall.

WINDOW SIGN -- Any sign located completely within an enclosed building and visible from a public way.

**§ 273-47. Sign permit; exceptions.**

A. Permit required. No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign zoning permit except those signs excepted in Subsection B and without being in conformity with the provisions of this article. The sign shall also meet all the structural requirements of Chapter 86, Building Construction.

B. Signs permitted without zoning permit. The following signs are permitted in residential, conservancy and agricultural districts:

(1) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor, and not to exceed two feet in height and 10 feet in length.

(2) Real estate signs not to exceed eight square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.

(3) Name, occupation and warning signs not to exceed two square feet located on the premises.

(4) Bulletin boards for public, charitable or religious institutions not to exceed 12 square feet in area located on the premises.

(5) Memorial signs, tables, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a surface.

(6) Official signs, such as traffic control, parking restrictions, information and notices.

(7) Signs advertising a permitted home occupation or professional office. Such signs are permitted and shall not exceed six feet in gross area, and, if illuminated, shall be indirectly lighted. No more than one such sign for each use located on the premises shall be permitted.

**§ 273-48. Permitted signs; restrictions.**

The following signs are permitted in all commercial and industrial districts, subject to the following restrictions, and they shall relate only to the activity conducted on the same premises:

A. Wall signs. Wall signs placed against or painted on or applied to exterior walls of buildings shall not extend more than six inches outside of a building's wall surface, shall not exceed 500 square feet in area for any one premises and shall not exceed 20 feet in height above the mean center line street grade.

B. Projecting signs. Projecting signs fastened to, suspended from or supported by structures shall not exceed 100 square feet in area for any one premises; shall not extend more than six feet into any required yard; shall not extend into any public right-of-way; shall not be less than 10 feet from all side lot lines; shall not exceed a height of 20 feet above the mean center line

street grade; and shall not be less than 10 feet above the sidewalk or 15 feet above a driveway or an alley.

C. Ground signs. Ground signs shall not exceed 10 feet in height above the mean center line street grade, shall meet all yard requirements for the district in which it is located and shall not exceed 300 square feet in area for any one premises.

D. Window signs. Window signs shall be placed only on the inside of commercial buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed. Combinations of any of the above signs shall meet all the requirements for the individual sign.

#### **§ 273-49. Dangerous and abandoned signs; violations.**

A. Removal. All signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period of six months or when, in the judgment of the Building Inspector, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Village Board may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the Village Board's decision to the Board of Appeals.

B. Alterations. Any sign which was erected before the adoption of this article shall not be rebuilt or relocated without conforming to all of the requirements of this article.

C. Violations. All signs constructed or maintained in violation of any of the provisions of this article are hereby declared public nuisances within the meaning of this Code. In addition to the above penalty provisions for violation of this chapter, the Village Board may bring an action to abate the nuisance in the manner set forth in the Wisconsin Statutes.

#### **§ 273-50. Variances or exceptions.**

Variances or exceptions to these sign regulations may be granted by the Board of Appeals, and decisions by the Village Board regarding signs may be appealed to the Board of Appeals.

#### **§ 273-51. Construction and maintenance regulations for signs.**

A. Installation. All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector.

B. General requirements.

(1) Awnings. The lowest part of any awning shall be seven feet above the sidewalk. Signs are allowed directly on the awning or hanging on the frame but not below seven feet.

(2) Animated signs. Signs with any moving parts, beacon lights or moving lights shall not be permitted, except revolving signs are permitted.

(3) Flashing signs. Flashing signs are prohibited. Bare reflecting-type bulbs of any kind are not allowed for a flashing or nonflashing sign unless they are properly shaded so as not to interfere with surrounding properties.

(4) Roof signs. No sign shall be located so as to project above the parapet line, unless approved by the Village Board, upon the recommendation of the Plan Commission.

(5) Illuminated signs. Any illuminated signs shall not interfere with surrounding properties or traffic.

(6) Projection. Signs, including supports, shall not project beyond five feet of the face of the wall to which attached.

(7) Blanketing. Blanketing of signs shall not be allowed.

(8) Maintenance. All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean.

C. Prohibitions.

(1) No sign shall be erected so that any portion of the sign or its supports attach to or interfere with the free use of any fire escape, exit, any required stairway, door, ventilator or window.

(2) No sign shall be erected that will interfere with, obstruct, confuse or mislead traffic.

D. Searchlights. The Village Board may permit the temporary use of a searchlight for advertising purposes in any district, provided that the searchlight will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five days in any six-month period.

E. Signs on public rights-of-way. Signs shall not be permitted on public rights-of-way except for traffic control, parking and directional signs and as otherwise specified in this chapter.

**§ 273-52. Specific requirements.**

A. Temporary sign limitations.

(1) All temporary signs, such as real estate, construction site and political signs, shall be removed within 10 days after their use has discontinued.

(2) Temporary signs may be placed on a property, but shall not be located on a right-of-way terrace and shall not interfere with driveway vision clearance.

B. Electronic message unit signs.

(1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.

(2) Segmented messages must be displayed for not less than 1/2 second and more than 10 seconds.

(3) Traveling messages may travel no slower than 16 light columns per second and no faster than 32 columns per second.

C. Portable signs.

(1) Such signs shall be limited in use to 30 days at a time and not more frequently than three times per year at any one location.

(2) The maximum size shall be 25 square feet on each face, back-to-back.

**§ 273-53. Nonconforming signs.**

A. Signs eligible for characterization as legal nonconforming. Any sign located within the Village of Albany limits as of the date of adoption of this chapter or located in an area annexed to the Village of Albany hereafter which does not conform with the provisions of this article is eligible for characterization as a legal nonconforming sign and is permitted, provided that it meets the following requirements:

(1) The sign was covered by a proper sign permit prior to the date of adoption of this chapter.

(2) If no permit was required under the applicable law for the sign in question and the sign was, in all respects, in compliance with applicable law on the date of adoption of this chapter.

B. Loss of legal nonconforming status.

(1) A sign loses its nonconforming status if one or more of the following occurs:

(a) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this article than it was before alteration.

(b) The sign is relocated.

(c) The sign fails to conform to the village requirements regarding maintenance and repair, abandonment or dangerous or defective signs.

(2) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this article with a new permit secured therefor or shall be removed.

C. Legal nonconforming sign maintenance and repair. Nothing in this article shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this article regarding safety, maintenance and repair of signs.

**§ 273-54. Wind pressure and dead load requirements.**

All billboards, signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of area and shall be constructed to receive dead loads as required in Chapter 86, Building Construction, or other ordinances of the Village of Albany.

**§ 273-55. Abandoned billboards and signs.**

Except as otherwise herein provided, all billboards and/or sign messages shall be removed by the owner or lessee of the premises upon which an off-premises sign/billboard is located when the business it advertised is no longer conducted where advertised. If the owner or lessee fails to remove the sign/billboard, the Village Board shall give the owner 60 days' written notice to remove said sign/billboard, and thereafter, upon the owner's or lessee's failure to comply, may remove such sign/billboard, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Village Board may take any other appropriate legal action necessary to attain compliance.

ARTICLE VIII  
**Performance Standards for Industrial Developments**

**§ 273-56. Intent.**

It is the intent of this article to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects.

**§ 273-57. Noise.**<sup>10</sup>

No operation or activity shall transmit any noise exceeding 100 dBA from 7:00 a.m. to 10:00 p.m. and 100 dBA from 10:00 p.m. to 7:00 a.m. beyond the property line. The following noises are exempt from the regulations:

- A. Noises not directly under the control of the property owner.
- B. Noises from temporary construction or maintenance activities during daylight hours.
- C. Noises from emergency, safety or warning devices.

**§ 273-58. Vibration.**

A. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. "Vibration perception threshold" means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

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<sup>10</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



B. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

**§ 273-59. External lighting.**

No operation or activity shall produce any intense glare or lighting with the source directly visible beyond the Industrial District's boundaries.

**§ 273-60. Odor.**

No operation or activity shall emit any substance or combination of substances in such quantities that create an "objectionable odor" as defined in Chapter NR 154.18, Wisconsin Administrative Code.

**§ 273-61. Particulate emissions.**

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11, Wisconsin Administrative Code.

**§ 273-62. Visible emissions.**

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wisconsin Administrative Code.

**§ 273-63. Hazardous pollutants.**

No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 154.19, Wisconsin Administrative Code.

ARTICLE IX  
**Signal-Receiving Antennas**

**§ 273-64. Purpose.**

This article regulating the placement of signal-receiving antennas is adopted to:

- A. Provide uniform regulation of all signal-receiving antenna devices.
- B. Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals.

C. Protect the public from injury from antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired or are placed on structures insufficiently designed or constructed to safely support the antenna.

D. Provide for placement of such antennas in locations that preserve access to rear property areas by fire-fighting apparatus and emergency personnel.<sup>11</sup>

### **§ 273-65. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

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

**SIGNAL-RECEIVING ANTENNA** -- Any apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal-receiving antennas, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.<sup>12</sup>

### **§ 273-66. Installation standards.**

Signal-receiving antennas installed in any zoning district within the village shall comply with the following provisions:

A. Setbacks.

(1) Any signal-receiving antenna and its mounting post shall be located a minimum of 10 feet from any property line.

(2) Subject to the provisions herein, signal-receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal-receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal-receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property. For corner lots, a side yard is only a yard that does not face a street.

(3) If side yard, front yard or roof mounting is requested, the Zoning Administrator shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.

B. Mounting. Signal-receiving antennas attached to the wall or roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all

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<sup>11</sup>Editor's Note: Former § 273-65, Permit required, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>12</sup>Editor's Note: Former § 273-67, Application, which immediately followed this definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.

C. Diameter. The diameter of the signal-receiving antenna shall not exceed 15 feet in diameter, except for systems used to provide community antenna television services.

D. Height.

(1) A ground-mounted signal-receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed 18 feet in height, as measured from the ground to the highest point of the dish.

(2) A roof-mounted antenna may not exceed 15 feet in height above the surrounding roofline as measured from the lowest point of the existing roofline.

E. Wind pressure. All signal-receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of 80 miles per hour.

F. Electrical installations. Electrical installations in connection with signal-receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal-receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal-receiving antenna is to be used by two or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal-receiving antennas shall be grounded against direct lightning strikes.

G. Temporary placement. No portable or trailer-mounted signal-receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five days. However, such trial placement shall be in accordance with all provisions of this article. Failure to comply shall result in a citation being issued for violation of this article. Any person making such temporary placement shall first give written notice to the Zoning Administrator of the date when such placement shall begin and end.

H. Advertising. No form of advertising or identification, sign or mural is allowed on the signal-receiving antenna other than the customary manufacturer's identification plates.

I. Interference with broadcasting. Signal-receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal-receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

J. Compliance with federal regulations. The installation and use of every signal-receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.

K. Aesthetic considerations. Signal-receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.

**§ 273-67. Enforcement.**

A. It shall be unlawful to construct, use, build or locate any signal-receiving antenna in violation of any provisions of this article. In the event of any violation, the Village Board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this article.

B. Any person, firm or corporation who fails to comply with the provisions of this article shall, upon conviction, be subject to the general penalty found in Chapter 1, General Provisions, § 1-19.

ARTICLE X  
**Accessory Uses and Structures; Fences and Hedges**

**§ 273-68. General regulations for accessory uses or structures.**

A. Principal use to be present. An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.

B. Placement restrictions, residential district. An accessory use or structure in a residential district may be established subject to the following regulations:

(1) Accessory building number limits. In any residential district, in addition to the principal building, a detached garage or attached garage and one additional accessory building may be placed on a lot.

(2) Attached accessory buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.

(3) Detached accessory buildings. Detached accessory buildings are permitted in the rear yard only. No detached accessory building shall occupy more than 20% of the existing rear yard or be located within three feet of any other accessory building, 10 feet of the principal structure or five feet of any alley. Larger accessory use buildings may be permitted following issuance of a conditional use permit. Accessory buildings not attached to the principal building shall conform to the setback requirements of the district in which located. In no event can the accessory uses or structures be forward of the front line of the principal structure. Accessory structures shall not exceed 15 feet in height.<sup>13</sup>

C. Use restrictions, residential district. Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for "home occupations" as defined herein and shall not be occupied as a dwelling unit.

D. Placement restrictions, nonresidential districts. An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard. Accessory buildings not attached to the principal building shall conform to the setback requirements of the district in which located.

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<sup>13</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

E. Reversed corner lots. When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three feet to the side line of the adjacent structure.

F. Landscaping and decorative uses. Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flagpoles, ornamental light standards, lawn furniture, sundials, birdbaths, trees, shrubs and flowers and gardens.

G. Temporary uses. Temporary accessory uses, such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure, may be permitted by the Zoning Administrator.

H. Garages in embankments in front yards. Where the mean natural grade of a front yard is more than eight feet above the curb level, a private garage may be erected within the front yard, provided as follows:

(1) That such private garage shall be located not less than 25 feet from the front lot line.<sup>14</sup>

(2) That the floor level of such private garage shall be not more than one foot above the curb level.

(3) That at least 1/2 the height of such private garage shall be below the mean grade of the front yard.

I. Outdoor lighting. Outdoor lighting installations shall not be permitted closer than three feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed 15 feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

J. Lawn accessories. Walks, drives, paved terraces and purely decorative garden accessories, such as pools, fountains, statuary, flagpoles, etc., shall be permitted in setback areas, but not closer than three feet to an abutting property line other than a street line.

K. Retaining walls. Retaining walls may be permitted anywhere on the lot; provided, however, that no individual wall shall exceed six feet in height and a terrace of at least three feet in width shall be provided between any series of such walls, and provided further that along a street frontage, no such wall shall be closer than three feet to the property line.

### **§ 273-69. Outside storage of firewood.**

A. No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of 30 days from the date of its delivery.

B. Firewood should be neatly stacked and may not be stacked closer than three feet to any lot line and not higher than six feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. "Fences," as used in this article, shall not include hedges and other vegetation.

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<sup>14</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.

D. Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code.<sup>15</sup>

E. Not more than 20% of the side and rear yard may be used for storage of firewood at any one time.

### **§ 273-70. Fences and hedges.**

A. Fences defined. For the purpose of this section, a "fence" is herein defined as an enclosed barrier consisting of vegetation, plastic, vinyl, wood, stone or metal intended to prevent ingress or egress. For the purpose of this section, the term "fence" shall include plantings, such as hedges and shrubbery. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.

B. Fences categorized. Fences shall be categorized into five classifications:

(1) Boundary fence. A fence placed on or within three feet of the property lines of adjacent properties.

(2) Protective fence. A fence constructed to enclose a hazard to the public health, safety and welfare.

(3) Architectural or aesthetic fence. A fence constructed to enhance the appearance of the structure or the landscape.

(4) Hedge. A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.

(5) Picket fence. A fence having a pointed post, stake, pale or peg laced vertically, with the point or sharp part pointing upward to form a part of the fence.

C. Height of fences regulated. Except for swimming pool fences, a fence or wall may be erected, placed, maintained or grown along a lot line on residentially zoned property or adjacent thereto pursuant to Subsection D to a height not exceeding six feet above the ground level, except that no such fence, wall, hedge or shrubbery which is located in a required front or corner side yard shall exceed a height of three feet. Where such lot line is adjacent to a nonresidentially zoned property, there shall be an eight-foot limit on the height of a fence, wall, hedge or shrubbery along such lot line.<sup>16</sup>

D. Setback for residential fences. Fences in or adjacent to a residential property may be constructed on lot lines within setback areas.

E. Security fences. Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

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<sup>15</sup>Editor's Note: See Ch. 194, Nuisances.

<sup>16</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

F. Prohibited fences. No fence shall be constructed which is of a dangerous type of construction or which conducts electricity or is designed to electrically shock.

G. Fences to be repaired. All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.

H. Temporary fences. Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four-foot intervals. Such fences shall comply with the setback requirements set forth in this section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than 45 days.

I. Nonconforming fences and hedges. Any fence or hedge existing on the effective date of this code and not in conformance with this section may be maintained, unless it would violate vision triangle standards, but no alteration, modification or improvement of said fence shall comply with this section.

### **§ 273-71. Swimming pools.**

A. Definition. A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than 11/2 feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.

B. Exempt pools. Storable children's swimming or wading pools, with a maximum dimension of 15 feet and a maximum wall height of 15 inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity, are exempt from the provisions of this section.

C. Permit required. Before work is commenced on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted, in writing, to the Building Inspector. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. A fee of \$35 shall accompany such application.<sup>17</sup>

D. Construction requirements. In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in Subsection B, unless the following construction requirements are observed:

(1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all ordinances of the village now in effect or hereafter enacted.

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<sup>17</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(2) All plumbing work shall be in accordance with all applicable ordinances of the village and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method, and in no case shall waters from any pool be drained into the sanitary sewer system onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.

(3) All electrical installations, including lighting and heating, but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and village ordinances regulating electrical installations.

E. Setbacks and other requirements.

(1) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.

(2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in this chapter for an accessory building, and in no case shall the water line of any pool be less than six feet from any lot line.

F. Fence.

(1) Pools within the scope of this section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than six feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.

(2) The pool enclosure may be omitted where portable pools are installed aboveground and have unobstructed walls a minimum of 36 inches high on the top.

G. Compliance. All swimming pools existing at the time of passage of this code not satisfactorily fenced shall comply with the fencing requirements of this section when water is placed in the pool.<sup>18</sup>

## ARTICLE XI Mobile Homes

### § 273-72. Establishment of districts; intent.

A. Residential Mobile Home (R-MH) zoning districts may hereafter be established by amendments to the Official Zoning Map in any district previously classified as residential in accordance with the procedures, requirements and limitations set forth in this article. Within such districts, mobile homes, with such additional supporting uses and occupancies as are permitted herein, may be established subject to the requirements and limitations set forth in these and other regulations.

B. It is the intent of this article to recognize mobile homes constructed prior to October 1, 1974, as distinct and different from units designated as mobile homes within the

<sup>18</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



definitions of this article and to prohibit units not meeting the requirements for mobile homes as defined herein. Units constructed prior to 1974 are prohibited. Mobile homes meeting the requirements of the One- and Two-Family Building Dwelling Code shall not be permitted in a Residential Mobile Home (R-MH) District except as a conditional use. Permits may be obtained only after approval by the Village Board.

C. No person shall park, locate or place any mobile home outside of a licensed mobile home park in the Village of Albany, except unoccupied mobile homes may be parked on the lawfully situated premises of a licensed mobile home dealer for the purposes of sale display; the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs; the premises leased or owned by the owner of such mobile home for purposes of sales display for a period not exceeding 120 days, provided that no business is carried on therein, or in an accessory private garage, building or rear yard of the owner of such mobile home, provided that no business is carried on therein.

### **§ 273-73. Definitions.**

A. As used in this article, the following terms shall have the meanings indicated:

FOUNDATION SIDING -- A fire and weather resistant, prefinished material surrounding the entire perimeter of a home and completely enclosing a space between the exterior wall of such home and the ground. Foundation siding shall be properly vented, harmonious and compatible with the house and installed within 60 days from the date of placement on site.

MOBILE HOME COMMUNITIES/PARKS -- Are distinguished from subdivisions lacking common facilities and continuing management services. The latter would be controlled by general subdivision regulations, which would apply also to mobile home subdivisions without common open space or continuing management.

MOBILE HOME SUBDIVISION -- A parcel of land platted for subdivision according to all requirements of the Comprehensive Plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by mobile homes.

PRIMARY EXPOSURE -- Open areas adjacent to the front wall (or main entrance) of a dwelling unit.

RESIDENTIAL MOBILE HOME -- A single-family dwelling built on or after October 1, 1974, in accordance with the ANSI Code (American National Standards Institute) or in accordance with the HUD Code (Housing and Urban Development), both of which govern the heating and cooling systems, electrical systems, fire safety, body and frame construction, thermal protection and plumbing systems. All said homes shall bear the proper approved Wisconsin insignia as required by the Wisconsin Administrative Code, ILHR 20.12-20.17. "Mobile home" also means a dwelling which is or was, as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances, except that a mobile home is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceeds 50% of the assessable value of the mobile home. The term "mobile home" shall not include a factory-built structure meeting the following requirements:

- (1) Intended to be set on a foundation by virtue of its construction.

(2) Which is normally transported only once, from the factory to the construction site.

(3) Which, from its very beginning, is designed to be permanently affixed to land.

SECONDARY EXPOSURE -- Open areas adjacent to side and rear walls of a dwelling unit.

B. Statutory definitions. In addition to the above definitions, definitions contained in W.S.A. s. 66.058 shall also be applicable.

#### **§ 273-74. Mobile home occupancy outside parks.**

A. Mobile homes legally located and occupied on premises outside a licensed mobile home park prior to the enactment of this chapter may be continued in such location. Such nonconforming use shall be automatically terminated upon a discontinuance for any reason for 12 consecutive months or if the total structural repairs and alterations to the mobile home exceed 50% of the net value.

B. Nothing herein shall prevent the owner of a mobile home under Subsection A hereof from replacing the mobile home with a newer model, provided that the replacement unit meets all applicable standards of construction in the industry existing as of the date of replacement, not at the date of manufacture of the replacement unit.

#### **§ 273-75. Permits for construction, alterations or extension.**

A. Required. No person shall construct, alter or extend any mobile home park within the limits of the village unless he holds a valid permit issued by the Village Board in the name of such person for the specific construction, alteration or extension proposed.

B. Determination of public interest required. No permit for the construction, alteration or extension of any mobile home park shall be issued by the Village Board unless the issuance thereof shall first be determined to be in the best interests of the village.

C. Applications. All applications for permits shall contain the following:

(1) Name and address of applicant.

(2) Location and legal description of the mobile home park.

(3) Complete engineering plans and specifications of the proposed park showing, but not limited to, the following:

(a) Area and dimension of the tract of land.

(b) Number, location and size of all mobile home lots.

(c) Location and width of roadways and walkways.

(d) Location of water and sewer lines and riser pipes.

(e) Plans and specifications of water supply and refuse and sewage disposal facilities.

(f) Plans and specifications of all buildings constructed within the mobile home park.

(g) Such other plans and specifications and information as may reasonably be required by the Village Board.

D. Inspection fee. Applications for a permit shall be accompanied by a deposit of \$250, plus such amount as is otherwise normally required for the construction of buildings within the mobile home park. The applicant shall also agree to pay to the village such amounts as may be reasonably expended, from time to time, during construction, by the village for engineering inspections of all services and other facilities so as to verify compliance with this article and with the proposed plans and specifications of such mobile home park.<sup>19</sup>

E. Assignment of permits. No permit, once issued, shall be assignable without the written consent of the Village Board.

F. Minimum home sites. No permit shall be issued unless the same shall be for the construction of not less than 20 mobile home sites.

#### **§ 273-76. Mobile home park licenses.**

A. Required. No person shall operate any mobile home park within the village unless he holds a valid license issued annually by the Village Board in the name of such person for the specific mobile home park.

B. Determination of public interest required. No license for the operation of a mobile home park shall be issued by the Village Board unless the issuance thereof shall first be determined to be in the best interests of the village.

C. Application. The application for an original license shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by the deposit of a fee of \$50 for each 50 mobile home lots, or fraction thereof, and shall contain: the name and address of the applicant; the location and legal description of the mobile home park; and a site plan of the mobile home park showing all mobile home lots, structures, roads, walkways and other service facilities, showing compliance with the construction permit and such other matters as may have been required by the Village Board.

D. Deposit. Applications for renewals of licenses shall be made, in writing, by the holders of the licenses and shall be accompanied by the deposit of a fee of \$50 for each 50 mobile home lots, or fraction thereof, and shall contain any change in the information submitted since the original license was issued or the latest renewal was granted.

E. Notice of transfer of interest. Every person holding a license shall give notice, in writing, to the Village Clerk-Treasurer within three days after having sold, transferred, given away or otherwise disposed of any interest in or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park. Upon application, in writing, for transfer of the license and deposit of a fee of

<sup>19</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

\$10, the license may be transferred if the mobile home park is in compliance with all applicable provisions of this article and if the transfer shall be in the best interests of the village. The transfer of any license shall not be unreasonably withheld.

F. Hearing on rejection. Any person whose application for a license under this article has been denied may request and shall be granted a hearing on the matter before the Village Board under the procedure provided by § 273-80.

G. Rules and regulations. The Village Board may, from time to time, ordain and propose such other rules, regulations and requirements, as to the construction and maintenance of said mobile home park, and as to the operation and use thereof, as the Village Board shall deem necessary or advisable to and for the health, safety and general welfare of the residents of such mobile home park and of the village.

H. Licenses not assignable without consent. No license, once issued, shall be assignable without the written consent of the Village Board.

### **§ 273-77. Inspection of mobile home parks.**

A. Board to make. The Village Board or its authorized designees shall make such inspections as are necessary to determine satisfactory compliance with this chapter.

B. Right to enter for inspection and investigation. The Village Board and its authorized agents shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this article.

C. Inspection and copying of record. The Village Board and its authorized agents may inspect and copy the register containing a record of all residents of the mobile home park.

D. Management's duty to permit access. The park management shall give the Village Board and its agents free access to all lots at reasonable times for the purpose of inspection.

E. Occupant's duty to give access. Every occupant of a mobile home park shall give the owner thereof, or his agent or employee, access to any part of such mobile home park at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this article.

### **§ 273-78. Notices, hearings and orders.**

A. Order to discontinue violation. Whenever the Village Board determines that there are reasonable grounds to believe that there has been a violation of any provision of this article, the Village Board may order the discontinuance of such violation and shall give notice of such alleged violation to the person to whom the permit or license was issued. Such notice shall:

- (1) Be in writing.
- (2) Include a statement for the reasons of its issuance.
- (3) Allow a reasonable time for the performance of the act it requires.

(4) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article. Such notice and order shall have been properly served when a copy thereof has been sent by registered United States Mail to the last registered post office of the permittee or licensee as registered with the Village Clerk-Treasurer or when the same has been personally served upon the attorney-in-fact of such permittee or licensee or when the same shall have been served in any other manner as provided by the Wisconsin Statutes for the service of process.

B. Hearing. Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this article may request and shall be granted a hearing on the matter before the Village Board, provided that such person shall file in the office of the Village Board a written petition requesting such hearing and setting forth a brief statement of the grounds thereof within 10 days after the day such notice or order was served.

C. Stay of order. The filing of the request for a hearing shall operate as a stay of the notice and of the order except in the case of an order issued under Subsection D. Upon receipt of such petition, the Village Board shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice and order should be modified or withdrawn. The hearing shall be commenced not later than 10 days after the day on which the petition was filed, provided that upon application of the petitioner, the Village Board may postpone the date of the hearing for a reasonable time beyond such ten-day period when in its judgment the petitioner has submitted good and sufficient reasons for such postponement.

D. Board to make findings; suspension or revocation. Upon the expiration of the time required in such notice or order, or after such hearing, as the case may be, the Village Board shall make findings as to the compliance with the provisions of this article and shall issue an order, in writing, sustaining, modifying or withdrawing the notice and order, which shall be served as provided in Subsection A. Upon failure of the mobile home park to comply with such order, either as sustained or modified, the license of the mobile home park affected by the order may be suspended or revoked.

E. Emergency orders. Whenever the Village Board finds that an emergency exists which requires immediate action to protect the public health, it may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as it may deem necessary to meet the emergency, including the suspension of the permit or license. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Village Board shall be afforded a hearing as soon as possible.

#### **§ 273-79. Site suitability.**

A. General requirements. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.

B. Soil and ground cover requirements. Exposed ground surfaces in all parts of every mobile park shall be paved or covered with stone screenings or other solid materials or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

C. Site drainage requirements. The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

D. Park areas for nonresident uses.

(1) No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.

(2) Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.

E. Required separation between mobile homes. Each mobile home unit and each accessory or service building shall be located not less than 10 feet from a mobile home unit lot line and not less than 20 feet from another mobile home unit or accessory building.

F. Required recreation areas.

(1) There shall be one or more recreation areas which shall be easily accessible to all park residents.

(2) The aggregate size of such recreation areas shall be in an amount equal to not less than 100 square feet multiplied by the number of mobile homes for which such mobile home park is designed to accommodate. The design and placement of such recreation area(s) shall be approved by the Village Board.

(3) Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.

G. Required setbacks, buffer strips and screening.

(1) All mobile homes shall be located at least 25 feet from any park property boundary line abutting upon a public street or highway and at least 25 feet from other park property boundary lines.

(2) There shall be a minimum distance of 10 feet between the mobile home stand and abutting park street.

(3) All proposed landscaping and screening shall be as required and approved by the Village Board as part of the original plans and specifications.

(4) The minimum lot area per unit shall be 3,000 square feet.

H. Barbecue pits, fireplaces, stoves and incinerators. Cooking shelters, barbecue pits, fireplaces, woodburning stoves and incinerators shall be so located, constructed, maintained and used as to minimize fire hazards and smoke nuisance, both on the property on which used and on neighboring property. No open fire shall be permitted except in facilities provided. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

I. Refuse handling.

(1) The storage, collection and disposal of refuse in the mobile home park shall be conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

(2) All refuse shall be stored in flytight, watertight and rodentproof containers, which shall be located not more than 150 feet from any mobile home lot. Containers shall be provided by the park management in sufficient number and capacity to properly store all refuse.

(3) All refuse containing garbage shall be collected at least weekly. Where suitable collection service is not available from municipal or private agencies, the mobile home park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

J. Parks to be free of insects and rodents. The park management shall keep the grounds, buildings and structures free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the Village Board.

K. Parks to be free of accumulations of debris. Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

L. Storage areas not to be rodent harborages. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building materials shall be stored at least one foot above the ground.

M. Screening to prevent infestation. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.

N. Control of weeds and grass. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

O. Fire extinguishers. Portable fire extinguishers, as prescribed by law and rated for Class B and C fires, shall be kept in service buildings and at other locations, conveniently and readily accessible for use by all occupants, and shall be maintained in good operating condition.

P. Occupancy must exceed 90 days. The park management shall not enter into any lease or otherwise permit any mobile home occupancy in the park for any period of less than 90 days, excusable emergencies only excepted.

Q. Leases to incorporate village rules. The park management shall adopt and include into their leases, by reference, such rules and regulations as shall be reasonably required by the Village Board for the general health, safety and welfare of such mobile home park and of the village, and shall cause the eviction of any tenants of said mobile home park who violate the same.

R. Post office address; attorney-in-fact to be appointed. Every permittee and licensee shall register his official post office address with the Village Clerk-Treasurer and shall execute and irrevocably appoint an attorney-in-fact, who shall at all times be a bona fide resident of Green County, Wisconsin, upon whom may be served any summons, complaint, pleadings, process,

order or notice in any action, proceedings or matter concerning said mobile home park and arising out of the construction, maintenance or use of said mobile home park.

**§ 273-80. Responsibilities of park management.**

A. Operation; supervision. The person to whom a license for a mobile home park is issued shall operate the park in compliance with this article and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

B. Duty to inform occupants. The park management shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article.

C. Placing of mobile homes. The park management shall supervise the placement of each mobile home on its mobile home stand, which includes securing its stability and installing all utility connections.

D. Park register. The park management shall maintain a register containing the names of all park occupants, identified by lot number or street address and motor vehicle license numbers. A true copy of such register listing of all such information and all monthly changes as of the first day of each month shall be mailed to the Village Clerk-Treasurer by the park management on or before the 10th day of each month.

**§ 273-81. Responsibilities of park occupants.**

A. Compliance; maintenance of lots. The park occupant shall comply with all applicable requirements of this article and shall maintain his mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.

B. Placing of home; installation of utility connections. The park occupant shall be responsible for proper placement of his mobile home on its mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.

C. Pets. Pets shall not be permitted to run at large or to commit any nuisance within the limits of any mobile home lot.

D. Additions. Skirtings, porches, awnings and other additions may be installed only if permitted and approved by the park management. When installed, they shall be maintained in good repair and fully comply with the provisions of Chapter 86, Building Construction.

E. Storage area. The space immediately underneath a mobile home shall be used for storage only if permitted by the park management. If permitted, the following conditions shall be satisfied:

- (1) The storage area shall be provided with a base of impervious material.
- (2) Stored items shall be located so as not to interfere with the underneath inspection of the mobile home.
- (3) The storage area shall be enclosed by skirting.



ARTICLE XII  
**Administration**

**§ 273-82. General administrative system.**

This chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and Zoning Map and amending the text of this chapter require review and recommendation by the Plan Commission and ultimate action by the Village Board. A Zoning Board of Appeals is provided to assure the proper administration of this chapter and to avoid arbitrariness.

**§ 273-83. Zoning Administrator.**

The Village Board shall designate a village official to serve as the Zoning Administrator and as the administrative enforcement officer for the provisions of this chapter. The duty of the Zoning Administrator shall be to interpret and administer this chapter and to issue, after on-site inspection, all permits required by this chapter. The Zoning Administrator shall further:

- A. Maintain records of all permits issued, inspections made, work approved and other official actions.
- B. Record the lowest floor elevations of all structures erected, moved, altered or improved in the floodland districts.
- C. Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- D. Inspect all structures, lands and waters as often as necessary to assure compliance with this chapter.
- E. Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the Village Attorney in a manner specified by him.
- F. Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
- G. Request assistance and cooperation from the Police Department, Village Clerk-Treasurer, Building Inspector and Village Attorney as deemed necessary.

**§ 273-84. Role of specific village officials in zoning administration.**

A. Plan Commission. The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the village to the Village Board, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its

functions and promote municipal planning. Under this chapter, its functions are primarily recommendatory to the Village Board pursuant to guidelines set forth in this chapter as to various matters and, always, being mindful of the intent and purposes of this chapter. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing.

B. Village Board. The Village Board, the governing body of the village, subject to recommendations by the Plan Commission, and the holding of public hearings by said Board has ultimate authority to grant permitted conditional uses, planned unit development conditional uses, make changes and amendments in zoning districts, the Zoning Map and Supplementary Floodland Zoning Map, and to amend the text of this chapter. The Village Board may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this chapter.

C. Zoning Board of Appeals. A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this chapter. See Article XIV, Appeals, of this chapter for detail provisions.

#### **§ 273-85. Zoning permit.**

A. Zoning permit required. No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit.

B. Applications for a zoning permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:

(1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.

(2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

(3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.

(4) Additional information as may be required by the Zoning Administrator or the Plan Commission and Village Board (if involved).

C. Action.

(1) A zoning permit shall be granted or denied, in writing, by the Zoning Administrator within 30 days of application, and the applicant shall post such permit in a conspicuous place at the site.

(2) The permit shall expire within six months unless substantial work has commenced or within 18 months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration the application shall reapply for a zoning permit before commencing work on the structure.

(3) Any permit issued in conflict with the provisions of this chapter shall be null and void.

### **§ 273-86. Site plan approval.**

A. Site plan approval. All applications for zoning permits for any construction, reconstruction, expansion or conversion, except for one- and two-family residences in residential districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this section.

B. Application. The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this chapter.

C. The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Plan Commission within 10 days. The Plan Commission shall review the application and may refer the application and plans to any expert consultants selected by the Village Board to advise whether the application and plans meet all the requirements applicable thereto in this chapter. Within 30 days of its receipt of the application, the Commission shall authorize the Zoning Administrator to issue or refuse a zoning permit.

D. Requirements. In acting on any site plan, the Plan Commission shall consider the following:

(1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.

(2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.

(3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.

(4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be

effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this section.

E. Effect on municipal services. Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Village Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Village Board and shall not issue final approval until the Village Board has entered into an agreement with the applicant regarding the development of such facilities.

### **§ 273-87. Violations and penalties.**

A. Violations. It shall be unlawful to use or improve any structure or land or to use water or air in violation of any of the provisions of this chapter. In case of any violation, the Village Board, the Zoning Administrator, the Plan Commission or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this chapter or cause a structure to be vacated or removed.

B. Remedial action. Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Village Board, the Zoning Administrator or the Village Attorney may institute appropriate legal action or proceedings.

C. Penalties. Any person, firm or corporation who fails to comply with the provisions of this chapter or any order of the Zoning Administrator issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Chapter 1, General Provisions, § 1-19.

## **ARTICLE XIII Amendments**

### **§ 273-88. Authority.**

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village Board may, by ordinance, change the district boundaries established by this chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

### **§ 273-89. Initiation of changes or amendments.**

The Village Board, the Plan Commission, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this chapter to the district boundaries hereby established or by amendments hereto in the accompanying Zoning Map made a part of this chapter and/or the Supplementary Floodland Zoning Map to be made a part of this chapter by reference.

**§ 273-90. Procedure for changes or amendments.**

A. Application. Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Village Board and shall be filed with the Zoning Administrator, describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:

(1) Plot plan, drawn to a scale of one inch equals 100 feet, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.

(2) Owners' names and addresses of all properties lying within 100 feet of the area proposed to be rezoned.

(3) Together with additional information as may be required by the Plan Commission or Village Board.

B. Recommendations. The Village Board or the Village Clerk-Treasurer shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text and Zoning Map(s) within the corporate limits and shall recommend, in writing, that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. In arriving at its recommendation, the Commission may, on occasion, of its own volition, conduct its own public hearing on proposed amendment(s).

C. Hearings.

(1) The Village Board, following receipt of recommendation of the Plan Commission, shall hold a public hearing at a time established by the Plan Commission upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under W.S.A. ch. 985. At least 10 days' prior, written notice shall also be given to the Clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.

(2) The Village Board may delegate to the Plan Commission the responsibility to hold public hearings as required under this section.

D. Village Board's action. Following such hearing and after consideration of the Plan Commission's recommendations, the Village Board shall vote on the proposed ordinance effecting the proposed change or amendment. The Plan Commission's recommendations may only be overruled by 3/4 of the full Board membership.

E. Fee. The fee for a rezoning petition shall be \$25 plus publication and report costs.

**§ 273-91. Protest.**

A. In the event of a protest against amendment to the Zoning Map, duly signed and acknowledged by the owners of 20% or more, either of the areas of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending

100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the full Village Board membership.

B. In the event of protest against amendment to the text of the regulations of this chapter, and acknowledged by 20% of the number of persons casting ballots in the last general election, it shall cause a three-fourths vote of the full Village Board membership to adopt such amendment.

## ARTICLE XIV Appeals

### § 273-92. Appeals to Zoning Board of Appeals.

A. Scope of appeals. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the village affected by any decision of the administrative officer. Such appeal shall be taken within reasonable 30 days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Village Board. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appealed from was taken.

B. Stay of proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

C. Powers of Zoning Board of Appeals. In addition to these powers enumerated elsewhere in this Code,<sup>20</sup> the Board of Appeals shall have the following powers:

(1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.<sup>21</sup>

(2) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.

(3) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided that no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

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<sup>20</sup>Editor's Note: See Ch. 16, Boards, Commissions and Committees, § 16-2.

<sup>21</sup>Editor's Note: Former § 273-92C(2), Variances, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(4) Unclassified uses. To hear and grant applications for unclassified and unspecified uses, provided that such uses are similar in character to the principal uses permitted in the district and the Plan Commission has made a review and recommendation.

(5) Temporary uses. To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses, and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Zoning Board of Appeals and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this chapter shall be required.

(6) Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

### **§ 273-93. Hearing on appeals.**

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than seven days prior thereto and cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five days prior to the hearing of the fee owners of records of all land within 100 feet of any part of the subject building or premises involved in the appeal.

### **§ 273-94. Decisions of Board of Appeals.**

A. Time frame. The Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.

B. Conditions. Conditions may be placed upon any zoning permit ordered or authorized by this Board.

C. Validity. Variances, substitutions or use permits granted by the Board shall expire within six months unless substantial work has commenced pursuant to such grant.

### **§ 273-95. Variations.**

A. Purpose.

(1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this chapter would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.

(2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district,

permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.

(3) For the purposes of this section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

B. Application for variation. The application for variation shall be filed with the Zoning Administrator, with a fee of \$50 plus publication and report costs. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:

- (1) Name and address of applicant and all abutting and opposite property owners of record.
- (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
- (3) Address and description of the property.
- (4) A site plan showing an accurate depiction of the property.
- (5) Additional information required by the Plan Commission, Village Engineer, Zoning Board of Appeals or Zoning Administrator.
- (6) Fee receipt in the amount of \$25.

C. Public hearing of application. The Board of Appeals shall conduct at least one public hearing on the proposed variation. Notice of such hearing shall be given not more than 30 days and not less than 10 days before the hearing in one or more of the newspapers in general circulation in the village, and shall give due notice to the parties in interest, the Zoning Administrator and the Plan Commission. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within 30 days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant, Zoning Administrator, Plan Commission and Village Board.

D. Action of the Board of Appeals. For the Board to grant a variance, it must find that:

- (1) Denial of variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
- (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.



(3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.

(4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

(5) The proposed variation will not undermine the spirit and general and specific purposes of this chapter.

E. Conditions. The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section.

### **§ 273-96. Review by court of record.**

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Board of Appeals.

## **ARTICLE XV Terminology**

### **§ 273-97. Definitions and word usage.**

A. Definitions. For the purposes of this chapter, the following definitions shall be used, unless a different definition is specifically provided for a section:

**ABUTTING** -- Having a common property line or district line.

**ACCESSORY USE OR STRUCTURE** -- A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.

**ACRE, NET** -- The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.

**ALLEY** -- A public way not more than 21 feet wide which affords only a secondary means of access to abutting property.

**APARTMENT** -- A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

**ARTERIAL STREET** -- A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.

**A ZONES** -- Areas of potential flooding shown on the village's Flood Insurance Rate Map which would be inundated by the regional flood as defined herein. These zones may be

numbered as A0, A1 to A99 or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

**BASEMENT** -- That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-round living accommodations. Space partly below-grade which is designed and finished as habitable space is not defined as basement space.

**BLOCK** -- A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.

**BOARDINGHOUSE** -- A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

**BUILDABLE LOT AREA** -- The portion of a lot remaining after required yards have been provided.

**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. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

**BUILDING, DETACHED** -- A building surrounded by open space on the same lot.

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

**BUILDING, PRINCIPAL** -- A building in which the principal use of the lot on which it is located is conducted.

**BUILDING SETBACK LINE** -- A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this code.

**BUSINESS** -- An occupation, employment or enterprise which occupies time, labor and materials or wherein merchandise is exhibited or sold or where services are offered.

**CAMPING GROUND** -- A parcel of land to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

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

**COMMUNITY LIVING ARRANGEMENT** -- The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under W.S.A. s. 48.60, group foster homes for children under W.S.A. s. 48.02(7) and community-based residential facilities under W.S.A. s. 50.01, but does not include day-care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable sections of the Wisconsin

State Statutes, including W.S.A. ss. 46.03(22), 59.69(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.<sup>22</sup>

**CONDITIONAL USES** -- Uses of a special nature as to make impractical their predetermination as a principal use in a district.

**CONSERVATION STANDARDS** -- Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the USDA Soil Conservation Service for Green County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.

**CONTROLLED ACCESS ARTERIAL STREET** -- The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.

**CORNER LOT** -- On corner lots, the setback shall be measured from the street right-of-way line on which the lot fronts. The setback from the side street shall be equal to 75% of the setback required on residences fronting on the side street, but the side yard setback shall in no case restrict the buildable width to less than 30 feet. Said corner lots shall be consisting of a parcel of property abutting on two or more streets at their intersection, provided that the interior angle of such intersection is less than 135°.

**DEVELOPMENT** -- Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.

**DISTRICT, BASIC** -- A part or parts of the village for which the regulations of this chapter governing the use and location of land and building are uniform.

**DISTRICT, OVERLAY** -- Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

**DWELLING** -- A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

**DWELLING, EFFICIENCY** -- A dwelling unit consisting of one principal room with no separate sleeping rooms.

**DWELLING, MULTIPLE-FAMILY** -- A residential building designed for or occupied by three or more families, with the number of families in residence not to exceed the number of dwelling units provided.

**DWELLING, SINGLE-FAMILY** -- A detached building designed for or occupied by one family.

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<sup>22</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

DWELLING, TWO-FAMILY -- A detached building containing two separate dwelling (or living) units, designed for occupancy by not more than two families.

DWELLING UNIT -- A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one family.

EQUAL DEGREE OF HYDRAULIC ENCROACHMENT -- The effect of any encroachment into the floodway is to be computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach, in order to compute the effect of the encroachment upon hydraulic conveyance. This computation assures that the property owners up, down or across the river or stream will have the same rights of hydraulic encroachment.

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 or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

#### FAMILY:

(1) One or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in one dwelling unit shall constitute a family. A family may include in addition thereto two but not more than two persons not related by blood, marriage or adoption. A person shall be considered to be related for the purpose of this section if he is dwelling for the purpose of adoption or for a foster care program.

(2) Exceptions. Nothing in this chapter shall prohibit, under the definition of "family," priests, laybrothers, nurses or such other collective body of persons living together in one house under the same management and care, subsisting in common, and directing their attention to a common object or the promotion of their mutual interest and social happiness as set forth by the Wisconsin Supreme Court in *Missionaries of Our Lady of LaSalette vs. Village of Whitefish Bay Zoning Board of Appeals*, which is hereby incorporated by reference.<sup>23</sup>

FARMSTEAD -- A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.

FLOOD -- A temporary rise in streamflow or stage in lake level that results in water overtopping the banks and inundating the areas adjacent to the stream channel or lake bed.

FLOOD INSURANCE STUDY -- An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mud flow) and/or flood-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.

FLOODLANDS -- For the purpose of this code, the floodlands are all lands contained in the regional flood or one-hundred-year recurrence interval flood. For the purpose of

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<sup>23</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

zoning regulation, the floodlands are divided into the Floodway District, the Floodplain Conservancy District and the Floodplain Fringe Overlay District.

**FLOODPLAIN FRINGE** -- Those floodlands, outside the floodway, subject to inundation by the one-hundred-year recurrence interval flood. For the purpose of this code, the floodplain fringe includes the Floodplain Conservancy District and the Floodplain Fringe Overlay District.

**FLOOD PROFILE** -- A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

**FLOODPROOFING** -- Measures designed to prevent and reduce flood damage for those uses which cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from structural modifications through installation of special equipment or materials, to operation and management safeguards, such as the following: reinforcing the basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal-tight windows and doors; installation of wire reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable areas; temporary removal of waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and food drain pipes; placement of movable watertight bulkheads; erection of sandbag levees; and the shoring of weak walls or structures. Floodproofing of structures shall be extended at least to a point two feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.

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

**FLOOD STAGE** -- The elevation of the floodwater surface above an officially established datum plane, which is Mean Sea Level, 1929 Adjustment, on the Supplementary Floodland Zoning Map.

**FLOODWAY** -- A designated portion of the one-hundred-year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.1 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.

**FLOOR AREA, BUSINESS AND MANUFACTURING BUILDINGS** -- For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to

retailing activities, to the production or processing of goods or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

**FOSTER FAMILY HOME** -- The primary domicile of a foster parent which has four or fewer foster children and which is licensed under W.S.A. s. 48.62, and amendments thereto.

**FRONTAGE** -- All the property butting on one side of a street between two intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

**GARAGE, PRIVATE** -- A detached accessory building or portion of the principal building designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.

**GARAGE, PUBLIC** -- Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.

**GROUP FOSTER HOME** -- Any facility operated by a person required to be licensed by the State of Wisconsin under W.S.A. s. 48.62 for the care and maintenance of five to eight foster children.

**HOME OFFICES, PROFESSIONAL** -- Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed 1/2 the area of only one floor of the residence and only one nonresident person is employed. The use is to be clearly incidental to the use of the dwelling unit for residential purposes and shall not endanger the public health or safety. No articles shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises, and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. No business such as a shop or store shall be conducted upon the premises. No material or equipment shall be stored outside the confines of the home. No mechanical equipment may be used which creates a disturbance, such as noise, dust, odor or electrical disturbance. The home may not be altered to attract business. No motors shall be utilized which exceed one horsepower each and not exceeding five horsepower in total, such activity being deemed a public nuisance. Repairing of motor bicycles, motorcycles and motor-driven cycles, other than those licensed and owned by the occupants of a home in a residential area, is strictly prohibited. For the purpose of this subsection, the definitions of the above-mentioned vehicles shall be as set forth in Ch. 340 of the Vehicle Code of the Wisconsin State Statutes. Such repairing is deemed a public nuisance. It is immaterial for the purpose of this definition whether or not such repairing is done in return for remuneration.

**HOTEL** -- A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five sleeping rooms, with no cooking facilities in any individual room or apartment.

**LOADING AREA** -- A completely 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.

LODGING HOUSE -- A building where lodging only is provided for compensation for not more than three persons not members of the family.

LOT -- A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this chapter as pertaining to the district wherein located.

LOT, CORNER -- A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135° or less, measured on the lot side.

LOT COVERAGE (EXCEPT RESIDENTIAL) -- The area of a lot occupied by the principal building or buildings and accessory buildings, including any driveways, parking areas, loading areas, storage areas and walkways.

LOT COVERAGE (RESIDENTIAL) -- The area of a lot occupied by the principal building or buildings and accessory building.

LOT, INTERIOR -- A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.

LOT LINE -- A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.

LOT LINES AND AREA -- The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

LOT, SUBSTANDARD -- A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas or other open space provisions of this chapter as pertaining to the district wherein located.

LOT, THROUGH -- A lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

LOT WIDTH -- The horizontal distance between the side lot lines measured at the building setback line.

MINOR STRUCTURES -- Any small, movable accessory erection or construction, such as birdhouses, toolhouses, pet houses, play equipment, arbors and walls and fences under four feet in height.

MOBILE HOME -- A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.

MOBILE HOME LOT -- A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

MOBILE HOME PARK -- A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association or corporation. Individual lots within a mobile home park are rented to individual mobile home users.

MOBILE HOME SUBDIVISION -- A land subdivision, as defined by W.S.A. ch. 236, and any village land division ordinance,<sup>24</sup> with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.

MODULAR UNIT -- A factory fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational or industrial purposes.

NONCONFORMING USES -- Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this chapter or amendments thereto and which is not in conformance with this chapter. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming use, but shall be considered nonconforming with respect to those characteristics.

OFFICIAL LETTER OF MAP AMENDMENT -- Official notification from the Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

PARKING LOT -- A structure or premises containing five or more parking spaces open to the public.

PARKING SPACE -- A graded and surfaced area of not less than 180 square feet in area, either enclosed or open, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

PARTIES IN INTEREST -- Includes all abutting property owners, all property owners within 100 feet and all property owners of opposite frontages.

PROFESSIONAL OFFICE -- The office of a doctor, practitioner, dentist, minister, architect, landscape architect, engineer, lawyer, author, musician or other recognized trade. When established in a residential district, a professional office shall be incidental to the residential occupation, not more than 25% of the floor area of one story of a dwelling unit shall be occupied by such office and only one unlighted nameplate, not exceeding one square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.

PUBLIC AIRPORT -- Any airport which complies with the definition contained in W.S.A. s. 114.002(18m), or any airport which serves or offers to serve common carriers engaged in air transport.<sup>25</sup>

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<sup>24</sup>Editor's Note: See Ch. 272, Subdivision of Land.

<sup>25</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



**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 street yard or one of the street yards on a corner lot.

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

**RETAIL** -- The sale of goods or merchandise in small quantities to the consumer.

**SETBACK** -- The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed 24 inches. Any overhang of the cornice in excess of 24 inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over 24 inches. Uncovered steps shall not be included in measuring the setback.

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

**SIGNS** -- Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, by which anything is made known and which 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.

**STORY** -- That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof. A basement having 1/2 or more of its height above-grade shall be deemed a story for purposes of height regulation.

**STORY, HALF** -- That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two opposite exterior walls, are not more than 4 1/2 feet above the finished floor of such story. In the case of one-family dwellings, two-family dwellings and multifamily dwellings less than three stories in height, half story in a sloping roof shall not be counted as a story for the purposes of this code.

**STREET** -- Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is 21 feet or more in width.

**STREET YARD** -- A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two street yards.

**STRUCTURAL ALTERATIONS** -- Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

STRUCTURE -- Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

TEMPORARY STRUCTURE -- A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.

USE -- The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.

USE, ACCESSORY -- A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.

USE, PRINCIPAL -- The main use of land or a building as distinguished from subordinate or accessory use.

UTILITIES -- Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

VISION CLEARANCE -- An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

YARD -- An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.

ZERO LOT LINE -- The concept whereby two respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.

ZONING PERMIT -- A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this chapter are or shall be used in accordance with the provisions of said chapter.

B. Word usage. 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 permissive.