

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

CHAPTER 17 ZONING CODE ⁽¹⁾

[17.01 AUTHORITY.](#)

[17.02 SHORT TITLE.](#)

[17.03 PURPOSE.](#)

[17.04 INTENT.](#)

[17.05 ABROGATION AND GREATER RESTRICTIONS.](#)

[17.06 INTERPRETATION.](#)

[17.07 GENERAL PROVISIONS.](#)

[17.08 DEFINITIONS. \(Renum. 7/02 iw\)](#)

[17.09 COMMUNITY LIVING ARRANGEMENTS; FAMILY DAY CARE HOMES.](#)

[17.10 ZONING DISTRICTS ESTABLISHED. \(Am. Ord. #45-95; Am. Ord. #9-99\)](#)

[17.11 DISTRICT BOUNDARIES.](#)

[17.12 A-1 AGRICULTURAL DISTRICT.](#)

[17.13 A-2 AGRICULTURAL DISTRICT.](#)

[17.14 Rs-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.15 Rs-2 SINGLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.16 Rs-3 SINGLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.17 Rs-4 SINGLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.18 Rs-5 SINGLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.19 Rs-6 SINGLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.20 Rs-7 SINGLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.21 Rd-2 ONE-FAMILY AND 2-FAMILY RESIDENTIAL DISTRICT.](#)

[17.22 Rm-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.23 Rm-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.24 Rm-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.](#)

[17.241 EH ELDERLY HOUSING DISTRICT. \(Cr. Ord. #45-95; Am. Ord. #38-99\)](#)

[17.25 MHP MOBILE HOME PARK RESIDENTIAL DISTRICT.](#)

[17.26 I INSTITUTIONAL DISTRICT.](#)

[17.27 PD PLANNED DEVELOPMENT DISTRICT.](#)

[17.28 B-1 NEIGHBORHOOD BUSINESS DISTRICT.](#)

[17.29 B-2 COMMUNITY BUSINESS DISTRICT.](#)

[17.30 B-3 GENERAL BUSINESS DISTRICT.](#)

[17.31 B-4 PROFESSIONAL OFFICE DISTRICT.](#)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- [17.32 B-5 HIGHWAY BUSINESS DISTRICT.](#)
- [17.33 M-1 LIMITED INDUSTRIAL DISTRICT.](#)
- [17.34 M-2 GENERAL INDUSTRIAL DISTRICT.](#)
- [17.35 M-3 SPECIAL USE INDUSTRIAL DISTRICT.](#)
- [17.36 M-4 MINERAL EXTRACTION DISTRICT.](#)
- [17.37 HIA HIGHWAY INTERCHANGE AREA DISTRICT \(OVERLAY DISTRICT\).](#)
- [17.38 FW FLOODWAY DISTRICT.](#)
- [17.39 FF FLOOD FRINGE DISTRICT.](#)
- [17.40 WELLHEAD PROTECTION. \(Cr. Ord. #15-10\)](#)
- [17.41 RESIDENTIAL ACCESSORY USE, BUILDING AND STRUCTURE RESTRICTIONS.](#)
- [17.42 CONDITIONAL USES.](#)
- [17.43 SITE PLAN APPROVAL REQUIREMENTS.](#)
- [17.44 RESERVED.](#)
- [17.441 PROTECTION OF TOPSOIL RESOURCE. \(Cr. Ord. #19-00\)](#)
- [17.45 TRAFFIC, PARKING, LOADING AND ACCESS.](#)
- [17.46 SIGNS.](#)
- [17.47 PERFORMANCE STANDARDS.](#)
- [17.48 NONCONFORMING USES, STRUCTURES AND LOTS.](#)
- [17.49 ARCHITECTURAL CONTROL.](#)
- [17.50 MODIFICATIONS.](#)
- [17.51 CHANGES AND AMENDMENTS.](#)
- [17.52 BOARD OF ZONING APPEALS.](#)
- [17.521 NOTICE OF GRANTING OF PERMITS REQUIRING ADMINISTRATIVE DETERMINATION. \(Cr. Ord. #2-94\)](#)
- [17.53 PUBLIC HEARINGS.](#)
- [17.54 VIOLATIONS.](#)
- [17.55 PENALTY. \(Am. Ord. #43-98\)](#)
- [17.56 WIRELESS COMMUNICATION FACILITIES. \(Cr. Ord. #37-99\)](#)
- [17.57 BERMS. \(Cr. Ord. #4-03\)](#)
- [17.58, 17.59 RESERVED.](#)
- [17.60 TREES. \(Cr. Ord. #31-02\)](#)
- [17.61 HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES. \(Cr. Ord. #24-07\)](#)
- [17.62—17.69 RESERVED.](#)
- [17.70 RUMMAGE SALES. \(Cr. Ord. #38-04\)](#)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

17.01 AUTHORITY.

These regulations are adopted under the authority granted by §§61.35 and 62.23(7), Wis. Stats.

17.02 SHORT TITLE.

This chapter shall be known as, referred to or cited as the "Zoning Code, Village of Germantown, Wisconsin".

17.03 PURPOSE.

The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics and general welfare of the Village. The Village Plan Commission and the Village Board shall continuously prepare a comprehensive plan to guide the orderly development of the Village including planning policies to guide land use and development decisions. All comprehensive plan elements, in whatever degree of detail they may embody, shall provide the basis for approval of all use and development of land under this chapter and the related chapter 18 of this Code.

State law references—Purpose of zoning ordinances, Wis. Stats. §§ 61.35, 62.23(7)(a), (7)(c).

17.04 INTENT.

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

17.05 ABROGATION AND GREATER RESTRICTIONS.

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

State law references—Conflicts with zoning ordinances, Wis. Stats. §§ 61.35, 62.23(7)(g).

17.06 INTERPRETATION.

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

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

17.07 GENERAL PROVISIONS.

- (1) **JURISDICTION.** The jurisdiction of this chapter shall include all lands and waters within the corporate limits of the Village.
- (2) **ZONING ADMINISTRATOR.**
 - (a) *Appointment.* See [section 1.16](#) of this Code.
 - (b) *Powers and Duties.* It shall be the duty of the Zoning Administrator to interpret and administer this chapter and enforce its provisions. More specifically, the Administrator shall:
 1. Maintain records of all permits issued, inspections made, work approved and other official actions.
 2. Inspect all structures, lands and waters as often as necessary to assure compliance with this chapter.
 3. Investigate all complaints made relating to the location of structures and the use of structures, lands and waters; give notice of all violations to the owner, resident, agent or occupant of the premises; and report uncorrected violations to the Village Attorney in a manner specified by him.
 4. Assist the Village Attorney in the prosecution of violations.
 5. Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this chapter. If entry is refused after presentation of his identification, he may procure a special inspection warrant in accordance with §66.122, Wis. Stats.
 6. Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
 7. Request assistance and cooperation from the Police Department and the Village Attorney as deemed necessary in carrying out his duties.
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91; Am. Ord. 20-09) Temporary uses shall be permitted as listed within the zoning district in which the proposed temporary use is located, but only provided that:
 - (a) A site plan, indicating the proposed use, length of stay, off-street parking and traffic circulation, [provisions for managing trash and debris](#), and other information as requested by the Planning Department be submitted with the appropriate filing fee as established in subsection (8) below and approved by the Zoning Administrator.
 - (b) The use is of a limited and temporary duration and in no case will exceed 6 months.
 - (c) The use is similar to or bears some functional or beneficial relationship to a permitted use within the district.
 - (d) The use will not be likely to interfere with the appropriate use and enjoyment of nearby properties that may be affected by its operation.
 - (e) The use will not involve the installation or construction of a permanent structure.
 - (f) Signage may be permitted in accordance with all applicable temporary sign regulations.
 - (g) As deemed necessary by the Zoning Administrator, a temporary use permit application may need to be reviewed by other Village departments or officials, including but not limited to, the Building Inspector, Village Engineer, Fire Department, and Police Department. Recommendations by any such department or official may be used as the basis for denying, approving, or assigning specific conditions to a temporary use permit application.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (h) A temporary use permit may be revoked (or future temporary use permits not granted) if the requirements set forth herein or any condition(s) of approval are not met and/or complied with throughout duration of the temporary use.
- (3) **USE RESTRICTIONS.** The following use restrictions and regulations shall apply:
- (a) *Principal Uses.* Only those principal uses specified for a district, their essential services and the following shall be permitted in that district.
1. *Accessory Uses.* Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; servants', owner's, itinerant agricultural laborers' and watchman's quarters not for rent; private swimming pools; and private emergency shelters.
 2. *Unclassified or Unspecified Uses.* (Am. Ord. #18-90) Unclassified or unspecified uses may be permitted by the Plan Commission, provided that such uses are similar in character to the principal uses permitted in the district. If the Plan Commission determines that an unclassified or unspecified use is similar in character to a conditional use specified for that zoning district, the unclassified or unspecified use will require review and approval by both the Plan Commission and the Village Board in accordance with the procedures established in [section 17.42](#) of this chapter.
 3. *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 Zoning Administrator.
- (b) *Performance Standards.* Performance standards listed in [section 17.47](#) of this chapter shall be complied with by all uses in all districts.
- (c) *Conditional Uses.* Conditional uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Plan Commission in accordance with [section 17.42](#) of this chapter.
- (4) **REDUCTION OR JOINT USE.** No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.
- (5) **BUILDING ZONING AND OCCUPANCY PERMITS REQUIRED.** (Am. Ord. #06-08) No structure, land or water shall hereafter be used or developed; no existing use changed; no existing but currently vacant nonresidential structure or individual tenant space occupied or use changed; no structure shall hereafter be located, erected, moved, substantially improved, extended, enlarged or structurally altered; no vacant or undeveloped land shall be occupied, used or developed for dwelling, commercial, industrial, storage or other nonagricultural or nonconservancy purposes; no building or premises shall be altered, moved or substantially improved and no change in use shall be created; no floodplain or wetland shall be filled, excavated or developed; and no nonconforming use shall be continued, renewed, substantially improved, changed or extended unless and until the owner, tenant or duly authorized agent has applied for and obtained any and all building, zoning and/or occupancy permits from the Building Inspector, Zoning Administrator or their duly authorized agent or deputy.
- (6) **RESERVED.** (Am. Ord. #06-08)
- (7) **OTHER PERMITS.** It is the responsibility of a permit applicant to secure all other necessary permits required by any State, Federal or local agency. This includes, but is not limited to, a water use permit pursuant to Chs. 30 and 31, Wis. Stats., or a wetland fill permit, pursuant to Section 404 of the Federal Water Pollution Control Act.
- (8) **PROCESSING AND REVIEW FEES.** (Am. Ord. #03-07)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

All property owners, developers, and other individuals or corporations (hereafter referred to collectively as "applicants") applying, petitioning, or appealing for the review, approval, or issuance of any permit, plan, variance, ordinance text amendment, or ordinance map amendment (hereafter referred to collectively as "permit application") pursuant to this chapter shall pay fees necessary to defray the total direct and indirect costs incurred by any and all Village department staff, elected officials and appointed commissions, legal counsel, consultants, and other representatives or professionals employed or otherwise retained by the Village to process, review, inspect, record, or take any other administrative or enforcement action pertaining to or resulting from the disposition of such permit application (hereafter referred to collectively as "processing costs").

The processing costs associated with each permit application may include, but are not limited to, the cost of time spent by Village department staff to meet with and otherwise communicate with applicants, review plans and process permits, prepare staff reports and recommendations, site and/or compliance inspections, document recording and copying costs, public hearing notice publishing and posting costs, etc.

Because the processing costs associated with each permit application can vary, the Village will require each applicant to submit a flat fee and/or fee deposit in an amount deemed reasonable and necessary by the Village to cover the Village's processing costs for each permit application. Fees and fee deposits shall be submitted when a permit application is submitted to the Village. Fee deposits shall be made into a non interest-bearing "escrow account" from which the Village may make periodic withdrawals to defray processing costs as they are accrued during the course of processing and reviewing each permit application.

Flat fees and the hourly rates used in the determination of costs associated with Village department staff time shall be established by resolution of the Village Board. Processing and review fee "escrow account" deposit amounts for each permit application required under this section shall be determined by the Village Planner/Zoning Administrator. In the event that the processing costs for a particular permit application are expected to (or have) exceeded a fee deposit prior to final disposition of a permit application, an additional escrow account fee deposit in an amount to be determined by the Village Planner/Zoning Administrator may be required prior to any further processing of said permit application at the discretion of the Village. Fee deposits, or portions thereof, that remain in a permit application escrow account after said permit application has been processed or withdrawn shall be returned to the applicant.

17.08 DEFINITIONS. (Renum. 7/02 jw)

For the purposes of this chapter, the following definitions shall be used:

- (1) **ACCESSORY BUILDING.** (Am. Ord. #42-95) A separate building, the use of which is purely incidental to that of the principal building.
- (2) **ACCESSORY USE.** A use subordinate in nature, extent or purpose to the principal use of the building or lot.
- (3) **ALLEY.** A way which affords only a secondary means of access to abutting property and which is not more than 24 feet wide.
- (4) **AMENDED SOILS.** A landscaped portion of a site where decomposed organic material has been incorporated into the soil to improve its performance for infiltration and vegetation growth, enabling the area to function as a vegetated stormwater management measure.
- (5) **APARTMENT.** A portion of a residential or commercial building used as a separate housing unit. See also DWELLING UNIT.
- (6) **APARTMENT HOUSE.** See DWELLING, MULTIPLE.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (6a) **ATTACHED.** (Cr. Ord. #06-08) A garage, dwelling or other building structure that shares a common wall with a principal building or structure where the length of the common wall shared between the two structures is at least fifteen (15) continuous feet or is connected to a principal building or structure by way of an enclosed structure, i.e. hallway, breezeway or room, constructed with a permanent foundation, roof, and walls where: (1) the length of such enclosed areas is not greater than twice the width of said enclosed area; and (2) the materials, method of construction and appearance are the same as that for the principal building to which the addition is attached.
- (7) **BASEMENT OR CELLAR.** A story partly underground but having at least ½ of its height, but not more than 5 feet, above the mean level of the adjoining ground. Basements in and of themselves shall not be used for living purposes.
- (8) **BED AND BREAKFAST ESTABLISHMENT.** (Cr. Ord. #4-97) An owner-occupied residence as defined in §254.61(1), Wis. Stats., with a minimum one acre lot size.
- (9) **BIORETENTION AREA.** An excavated area back-filled with a prepared or amended mixture covered with a mulch layer and planted with a diversity of woody or herbaceous vegetation, to which stormwater is directed to promote infiltration and evapotranspiration. Also referred to as a "rain garden."
- (10) **BOARDING HOUSE.** (Rep. & Recr. Ord. #4-97) A building with a resident owner or manager, other than a hotel, where meals or lodging and meals are regularly served for compensation for not more than 6 persons.
- (11) **BUILDING.** A structure having a roof and intended for the shelter, housing or enclosure for persons, animals or chattels.
- (12) **BUILDING, ACCESSORY.** See ACCESSORY BUILDING.
- (13) **BUILDING, ALTERATIONS OF.** Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.
- (14) **BUILDING, AREA OF.** The total living area bounded by the exterior walls of a building at the floor levels, but not including basement, garages, porches, breezeways and unfinished attics.
- (14.1) **BUILDING FRONTAGE.** (Cr. Ord. #24-06) The horizontal linear dimension of a wall that contains the primary public entrance of a building. In buildings with multiple units, the building frontage for each unit shall be considered as the width of the unit from party wall to party wall; provided, however, that the building frontage for corner units shall be the width of the unit from party wall to exterior wall of the building.
- (15) **BUILDING, FRONT LINE OF.** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
- (16) **BUILDING, HEIGHT OF.** (Am. Ord. #8-98) The vertical distance from the mean elevation of a finished grade along the front of the building to the highest point of a building, excluding chimneys, wind vanes, cupolas, plumbing vents and the like.
- (17) **BUILDING, PRINCIPAL.** (Am. Ord. #18-03; Am. Ord. #18-12) A building in which is conducted the main use of the lot on which said building is located. In all single-family residential zoning classifications only one principal building shall be permitted per lot. More than one principal building may be allowed per lot or parcel in the other residential and all nonresidential zoning districts subject to site development and building plan approval by the Plan Commission.
- (18) **BUSINESS.** Includes the commercial, limited industrial and general industrial uses and districts as herein defined.
- (19) **CARPORT.** See GARAGE.
- (20) **CISTERN.** A system for collecting rooftop runoff that detains water in above-ground or underground storage tanks, ranging in capacity from approximately one hundred to 10,000 gallons.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (21) **CLINIC.** A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or nonboarding basis only.
- (22) **CLUB.** A building owned, leased or hired by a nonprofit association of persons who are bona fide members, the use of which is restricted to said members and their guests.
- (23) **CONDITIONAL USE.** Use of a special nature such as to make impractical its predetermination as a principal use in a district.
- (24) **CONFORMING USE.** Any lawful use of a building, structure or parcel of land which complies with the provisions of this chapter.
- (25) **COURT.** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on 2 sides by the building.
- (26) **CURB BREAK.** Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.
- (27) **CURB LEVEL.** The level of the established curb elevation in the front of the building measured at the center of such front.
- (28) **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 deposition of materials.

DOWNSPOUT DISCONNECTION means rerouting of rooftop drainage pipes to drain rainwater to rain barrels, cisterns or permeable areas instead of the storm sewer.

- (29) **DWELLING UNIT.** A building or portion thereof used exclusively for human habitation, including single-family, 2-family and multifamily dwellings, but not including hotels, motels or lodging houses.
- (30) **DWELLING, ATTACHED SINGLE-FAMILY.** (Cr. Ord. #45-95) A portion of a building designed, intended and used for residential purposes by one family as a single housekeeping entity, with a separate direct entrance that shares at least one common wall with another dwelling unit, together with a private yard area and accessory private garage, either attached or detached.
- (31) **DWELLING, SINGLE-FAMILY.** (Am. Ord. #12-08) A detached building designed, arranged, used for and occupied by one family. A single-family dwelling may include a "mother-in-law suite" as provided for and defined herein subject to the granting of a conditional use permit by the Village Board.
- (32) **DWELLING, 2-FAMILY.** A building designed, arranged or used for, or occupied exclusively, by 2 families living independently of each other.
- (33) **DWELLING, MULTIPLE.** A building or portion thereof used or designated as a residence for 3 or more families as separate housekeeping units, including apartments, attached townhouses and condominiums.
- (34) **DWELLING GROUP.** A group of 2 or more multifamily dwellings occupying a lot in one ownership with any 2 or more dwellings having any yard or court in common.
- (35) **ELDERLY HOUSING.** (Cr. Ord. #45-95) Housing for older persons, as that term is defined in the Wisconsin Fair Housing Act, §101.22(lm)(m), Wis. Stats., to wit:
 - (a) Housing provided under any State or Federal program that the Secretary determined is specifically designed and operated to assist elderly persons, as defined in the State or Federal program.
 - (b) Housing solely intended for and solely occupied by persons 62 years of age or older.
 - (c) Housing primarily intended and primarily operated for occupancy by at least one person aged 55 or older per dwelling unit.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (36) **FAMILY.** Any number of persons related by blood, adoption or marriage, or not to exceed 2 persons not so related, living together in one dwelling as a single housekeeping entity.
- (37) **FARM.** Land consisting of 10 acres or more on which produce, crops, livestock or flowers are grown primarily for off-premises consumption, use or sale.
- (38) **FARMLAND PRESERVATION AGREEMENT.** An agreement between the owner of eligible farmland and the State restricting development of such farmland for a term of years pursuant to Ch. 91, Wis. Stats.
- (39) **FARM MARKET.** (Cr. Ord. #10-91) A retail facility primarily for the sale of farm and garden products including, but not limited to, fruits, vegetables, cheese, jams and jellies, cider or similar beverages, dehydrated fruits, seeds, annual or perennial plants, flowers, Christmas trees and nursery stock. The retail sale of related products such as crafts and food products prepared on the premises may also be sold. Other types of merchandise may be sold, but shall not occupy an area greater than 20% of the indoor display area of any farm market building.
- (40) **FLOOR AREA.** The sum of the gross horizontal areas of the several floors of a dwelling unit, exclusive of porches, balconies, garages, basements and cellars, measured from the exterior faces of the exterior walls or from the center lines of walls or portions separating dwelling units. For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the center line of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.
- (41) **FLOOR AREA, PRIMARY.** The floor area of a building for purposes of determining required parking ratios which shall include only that portion of the total floor area devoted to customer service, sales and office space and shall not include warehouse, utility, hallway and other accessory space which does not generate parking demand.
- (42) **FRONTAGE.** All of the property abutting on one side of a street measured along the street line.
- (43) **GARAGE, PRIVATE.** A building or portion thereof used exclusively for parking or temporary storage of self-propelled vehicles, typically not exceeding 3 vehicles.
- (44) **GARAGE, PUBLIC.** A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.
- (45) **GREEN INFRASTRUCTURE.** A runoff management system that uses vegetation, soils and natural processes to mimic nature's ability to soak up and store storm water. Example green infrastructure BMPs include downspout disconnection, rainwater harvesting, rain gardens, planter boxes, bioswales, permeable pavements or surfacing, green alleys and streets, green parking, green roofs, urban tree canopy, amended soils, and land conservation.
- (46) **GREEN PARKING, STREETS AND ALLEYS.** Integrating green infrastructure elements into the parking, street and/or alley design to store, infiltrate, and evapotranspire stormwater.
- (47) **GREEN ROOF.** An engineered roofing system that includes vegetation planted in a growing medium above an underlying waterproof membrane material, designed to reduce the volume of stormwater runoff from building roofs.
- (48) **HOME OCCUPATION.** (Am. Ord. #24-07) See [section 17.61\(2\)\(a\)](#).
- (49) **KENNEL.** (Am. Ord. #15-00) Any establishment wherein or whereon dogs or cats are kept for the commercial business of breeding, boarding, sale or sporting purposes.
- (50) **JUNK YARD.** An open space where waste and used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to scrap iron and other metals, paper, rags, rubber, tires and bottles. A "junk yard" also includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (51) **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.
- (52) **LOT.** A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter.
- (53) **LOT, CORNER.** A lot abutting 2 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. On a corner lot, both streets shall be deemed front lot lines with side opposite the front entrance considered the rear yard.
- (54a) **LOT COVERAGE (RESIDENTIAL).** (Cr. Ord. #18-03) That area of a lot occupied by the principal building or buildings and accessory buildings.
- (55) **LOT, DOUBLE FRONTAGE.** A lot having a pair of opposite lot lines along 2 more or less parallel public streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
- (56) **LOT LINES AND AREA.** The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (57) **LOT WIDTH.** The width of a parcel of land measured at the setback line.
- (58) **MOTEL.** A series of attached, semi-attached or detached sleeping units for the accommodation of transient guests.
- (59) **MOTHER-IN-LAW SUITE.** (Cr. Ord. #12-08) One or more rooms within the principal dwelling that are designed, arranged and occupied by one or more members of the same family occupying the principal dwelling provided that such rooms do not constitute a separate dwelling unit. Further, for purposes of this provision, and unless otherwise provided for as a condition of approval in a conditional use permit, a "mother-in-law suite" shall meet the following minimum requirements and limitations:
- (a) The "mother-in-law suite" cannot have a separate entry arranged so as to be used as the principal and exclusive means of access to the "mother-in-law" suite;
 - (b) The "mother-in-law suite" must share the main entry that provides the principal means of access to the principal dwelling;
 - (c) The "mother-in-law suite" can have separate rooms within the single-family dwelling such as a living room, bedroom, bathroom, kitchen and laundry room but shall also have one or more rooms or areas that are shared in common with the principal dwelling;
 - (d) The "mother-in-law suite" cannot be used or occupied by a non-family member or for rental purposes;
 - (e) The "mother-in-law suite" cannot be served by a separate electric, water or other utility connection or meter;
 - (f) The "mother-in-law suite" cannot have a separate mailing address;
 - (g) The owner of the single-family dwelling must live in the principal dwelling;
 - (h) The "mother-in-law suite" cannot occupy more than 50% of the total dwelling unit floor area;
 - (i) The principal dwelling cannot be constructed or modified such that the scale or appearance is different than a typical and customary dwelling or the single-family dwellings on surrounding properties;
 - (j) Additional restrictions and/or limitations may be adopted as part of a conditional use permit granted by the Village Board.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (60) **NONCONFORMING BUILDING OR STRUCTURE.** Any building or structure which does not comply with all of the regulations of this chapter or of any amendment hereto regulating any building or structure for the zoning district in which such building or structure is located.
- (61) **NONCONFORMING USE.** Any use of land, buildings or structures which does not comply with all of the regulations of this chapter or of any amendment hereto governing use for the zoning district in which such use is located.
- (62) **NURSERY.** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.
- (63) **NURSERY SCHOOL.** Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.
- (64) **NURSING HOME.** Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.
- (65) **PARKING LOT.** A structure or premises containing 10 or more parking spaces. Such spaces may be for rent or a fee.
- (66) **PARKING SPACE.** An off-street space available for the parking of a motor vehicle and which, in this chapter, is held to be an area 9 feet wide and a minimum of 18 20-feet long, exclusive of passageways and driveways, appurtenant thereto and giving access thereto.
- (67) **PARTIES OF INTEREST.** Includes all property owners in the area proposed to be rezoned, all abutting property owners within 100 feet, and all property owners of opposite frontages within 100 feet.
- (68) **PERMEABLE SURFACING.** A material or materials and accompanying subsurface treatments designed and installed specifically to allow stormwater to penetrate into the material, thereby reducing the volume of stormwater runoff from the surfaced area. Permeable surfacing may include without limitation paver blocks, 'grasscrete' or similar structural support materials, and permeable concrete or asphalt. Also referred to as "permeable pavements."
- (69) **PLANTER BOX.** An urban rain garden with vertical walls and open or closed bottoms that collect and absorb runoff from sidewalks, pavements, and other impervious surfaces.
- (70) **POCKET WETLANDS.** A small (typically under 1,000 SF in area) constructed wetland designed to reduce peak stormwater flows and runoff volumes and to remove pollutants via settling and bio-uptake.
- (71) **PRINCIPAL BUILDING.** See BUILDING, PRINCIPAL.
- (72) **PRINCIPAL USE.** See USE, PRINCIPAL.
- (73) **PROFESSIONAL HOME OFFICES.** (Am. Ord. #24-07) See [section 17.61\(2\)\(b\)](#).
- (74) **RAIN BARREL.** A structure for the collection of roof runoff in containers typically ranging from 50 to 100 gallons in size, designed for the subsequent release of water to landscaped areas. A rain barrel shall be securely covered, have an overflow discharge device sized to adequately convey overflow to the point of discharge and have a convenient and functional means of water withdrawal.
- (75) **RAIN GARDEN.** A shallow, vegetated basin that collects and absorbs runoff from rooftops, pavements and other impervious surfaces. Also referred to as a "bioretention area."
- (76) **RAINWATER HARVESTING.** Collecting and storing rainfall for later use, typically in a rain barrel or cistern.
- (77) **RECYCLING COLLECTION CENTER.** (Cr. Ord. #32-91) A municipally-sponsored or privately-owned location for the collection of materials for recycling. Such materials shall include, but not be limited to tin, aluminum, glass, plastic and paper goods. The use shall be limited to collection and on-site storage of such materials only.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (78) **RECYCLING COLLECTION/PROCESSING CENTER.** (Cr. Ord. #32-91) A location for the collection, storage, processing, packaging and transporting of recycled materials. Due to the nature of the zoning district and use, all operations shall be conducted inside an enclosed building. No temporary outside storage shall be allowed.
- (79) **RESTAURANT.** (Cr. Ord. #14-10) An establishment kept, used, maintained, advertised, or held out to the public as a place where the primary business is the preparation of food and meals in suitable kitchen facilities with service of such food and beverages to patrons. Food or drink are prepared and served within an enclosed building or outside dining area and predominantly consumed by customers seated at tables and served by wait staff on the premises. Other activities such as entertainment, the sale and service of alcoholic beverages for on-premises consumption, or the "carry-out" of food for off-premises consumption is considered to be accessory or incidental to the primary purpose of preparing and serving food. Restaurants have permanent seating facilities with sufficient counters or tables and seating to accommodate all customers being served with the surface of such counters or tables sufficient to accommodate full culinary services for each customer. The accessory or incidental sale of alcohol shall not entitle an establishment to be considered a tavern under the terms of this Code. The term "restaurant" shall not be interpreted to include "tavern".
- When an establishment includes characteristics shared by both a restaurant and tavern, the Zoning Administrator may consider one or more of the following characteristics when determining whether an establishment is one or the other: (1) days and hours of operation; (2) amount, relative percentage, and type of floor space, seating, tables, etc. devoted to the sale and service of alcoholic beverages vs. the preparation and service of food or other uses or activities; (3) size and type of kitchen facilities; (4) relative percentage of projected or actual business income (e.g., gross receipts) attributable to the sale of alcoholic beverages vs. food and meals; (5) other business, property, building, employee or patron-specific characteristics not listed herein.
- (80) **SETBACK OR FRONT YARD.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have 2 such yards.
- (81) **SIGN.** Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks 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 are visible from any public street or highway.
- (82) **SIGN, AWNING.** A nonilluminated identification sign painted on or affixed flat to the surface of a movable awning and which does not extend vertically or horizontally from the awning.
- (83) **SIGN, CANOPY.** A sign affixed to or forming part of a permanent canopy or marquee and which does not extend horizontally beyond the limits of such canopy or marquee.
- (84) **SIGN, DIRECTIONAL.** (Cr. Ord. #24-06) A sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians on the site.
- (85) **SIGN, GROUND.** A free-standing sign affixed to the ground and independent of any building.
- (86) **SIGN, OUTDOOR ADVERTISING.** A structural poster, panel or painted sign, either free-standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
- (87) **RESERVED.** (Rep. Ord. #21-09)
- (88) **SIGN, PROJECTING.** A sign extending more than 12 inches from the face of a building or structure.
- (89) **SIGN, ROOF.** A sign erected on or over the roof of a building.
- (90) **SIGN, TEMPORARY.** (Am. Ord. #21-09; Am. Ord. #4-10) A banner, pennant or advertising display with or without text, graphic, logo or message constructed of wood, metal, cloth, canvas, light fabric,

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

cardboard, vinyl, plastic or other material that is freestanding or mounted on a support structure where, either by type of construction, location of display or purpose, is intended to be displayed for a short period of time. Signs that are specifically prohibited for use as a temporary sign include search lights, inflatables, signs with internal electronic components, or any sign cabinet or other sign that is typically used as a permanent sign that is mounted, displayed or otherwise used on a temporary basis.

- (91) **SIGN, WALL.** A sign which is attached to a wall of a building or structure and projects no more than 12 inches from such wall or structure.
- (92) **SIGNABLE AREA.** The signable area of a building is the area of the facade of the building up to the roof line which is free of windows and doors or major architectural detail on which signs may be displayed. In computing signable area, any facade which faces and abuts upon a public street right-of-way may be utilized.
- (93) **SIGNIFICANT FACILITIES AND SERVICES SPECIFICALLY DESIGNED TO MEET THE PHYSICAL OR SOCIAL NEEDS OF OLDER PERSONS.** (Cr. Ord. #45-95) Those services or facilities defined in the Wisconsin Fair Housing Act, §101.22(lm)(u), Wis. Stats., to wit, includes social and recreational programs; continuing education; information and counseling; recreational, homemaker, outside maintenance and referral services; an accessible physical environment; emergency and preventative health care programs; congregate dining facilities; transportation to facilitate access to social services; and services designed to encourage and assist residents to use the services and facilities available to them.
- (94) **STORMWATER TREE.** A tree or trees selected and installed (either with or without an engineered box or structure) as an integral component of a site-specific stormwater management plan, sited at a point or location where the tree(s) will have the effect of increasing the coverage of tree canopies to provide stormwater interception and evapotranspiration, stormwater uptake, and increased infiltration.
- (95) **STREET.** A public right-of-way not less than 60 feet wide providing primary or principal access to abutting properties.
- (96) **STREET, ARTERIAL.** A street used, or intended to be used, primarily for fast or heavy interneighborhood or intercommunity through traffic. Arterial street shall include freeways and expressways as well as standard arterial streets, highways and parkways.
- (97) **STREET, COLLECTOR.** An urban street used, or intended to be used, to carry traffic from minor street to arterials street systems including the principal entrance street to urban residential subdivisions.
- (98) **STREET, MINOR.** A street used, or intended to be used, primarily for access to abutting properties.
- (99) **STRUCTURE.** An erection or construction such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.
- (100) **STRUCTURAL ALTERATIONS.** Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.
- (101) **STRUCTURE, OUTDOOR ADVERTISING.** Anything constructed or erected, either free-standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related to unrelated to the premises upon which located.
- (102) **SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the present equalized value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either of the following.
- (a) Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
 - (b) Any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components.

- (103) **SUSTAINED YIELD FORESTRY.** Management of forested lands to provide annual or periodic crops of forest products.
- (104) **TAVERN.** (Cr. Ord. #14-10) An establishment kept, used, maintained, advertised, or held out to the public as a place where the primary business is the sale and service of alcoholic beverages for on-premises consumption, subject to regulatory authority of the Village of Germantown and consisting of one or more of the following characteristics: age restrictions or cover charges for admission; listening to music; hours of operation which extend beyond the normal dining times for dinner (after 10:00 p.m.). The serving of already prepared snacks, chips, peanuts, pizzas, and other limited menu "short-order" grill items in a tavern is considered to be accessory or incidental to the principal use of serving and consuming alcoholic beverages. The accessory or incidental sale of such snacks or food items shall not entitle an establishment to be considered a restaurant under the terms of this Code. The term "tavern" shall not be interpreted to include "restaurant".

When an establishment includes characteristics shared by both a restaurant and tavern, the Zoning Administrator may consider one or more of the following characteristics when determining whether an establishment is one or the other: (1) days and hours of operation; (2) amount, relative percentage, and type of floor space, seating, tables, etc. devoted to the sale and service of alcoholic beverages vs. the preparation and service of food or other uses or activities; (3) size and type of kitchen facilities; (4) relative percentage of projected or actual business income (e.g., gross receipts) attributable to the sale of alcoholic beverages vs. food and meals; (5) other business, property, building, employee or patron-specific characteristics not listed herein.

- (105) **USE, ACCESSORY.** See ACCESSORY USE.
- (106) **USE, PERMITTED.** A use which may be lawfully established in a particular district, provided it conforms with all requirements, regulations and standards of such district.
- (107) **USE, PRINCIPAL.** The main use of land or a building as distinguished from a subordinate use.
- (108) **USE, TEMPORARY.** (Rep. & Recr. Ord. #32-91) Impermanent uses of an occasional nature not exceeding 6 months duration. Temporary uses shall not involve the use of permanent structures, permanent signs or portable signs.
- (109) **USE, UNCLASSIFIED OR UNSPECIFIED.** A use not specifically enumerated as a permitted use or conditional use in a particular zoning district.

(110) VEGETATED STORMWATER MANAGEMENT MEASURES. Vegetated swales, bioretention areas, rain gardens, amended soil areas, pocket wetlands, stormwater trees, or similar practices that are designed and intended to provide stormwater treatment and control by promoting evapotranspiration and infiltration of stormwater.

(111) VEGETATED SWALES. Stormwater conveyance systems routing stormwater flows through vegetated areas, natural elongated depressions, or constructed channels. A vegetated infiltration swale differs from a conventional drainage channel or ditch in that it is constructed specifically to promote infiltration. Also referred to as a "bioswale."

- (112) **YARD, FRONT.** See SETBACK or FRONT YARD.
- (113) **YARD, REAR.** An open space on the same lot with a main building, unoccupied except as hereinafter permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the center line of the alley if there be an alley, and the rear line of the building.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

(114) **YARD, SIDE.** An open unoccupied space on the same lot with a main building, situated between the side of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard. If there be no front yard, the front boundary of the side yard shall be the front line of the lot, and if there be no rear yard, the rear boundary of the side yard shall be the rear line of the lot. The side yard on corner lots shall extend from the rear line of the front yard to the rear line of the lot in every case.

17.09 COMMUNITY LIVING ARRANGEMENTS; FAMILY DAY CARE HOMES.

(1) **STATE LAWS ADOPTED.** The provisions of §§62.23(7)(l) and 66.304, Wis. Stats., are hereby adopted by reference and shall supersede all permitted and conditional uses as stated in this chapter.

(2) **PERMITTED USES; RESTRICTIONS.** (Am. Ord. #34-89; Am. Ord. #42-95)

Community Living Arrangements (CLA); Family Day Care Homes		Districts Permitted	Statutory Restrictions
(a)	Foster or treatment foster home (domicile) licensed under §48.62, Wis. Stats., up to 4 children	All residential districts	None
(b)	Other foster homes	All residential districts	§62.23(7)(i)1. and 2., Wis. Stats.
(b1)	Adult family home (domicile) as defined in §50.01(1), Wis. Stats., and certified under §50.032(1m)(b), Wis. Stats., up to 4 adults, or more if all adults are siblings	All residential districts	None
(b2)	Other adult family homes	All residential districts	§62.23(7)(l)1. and 2., Wis. Stats.
(b3)	Adult family licensed under §50.033(1m)(b) Wis. Stats., (5 or more)	All residential districts	§62.23(7)(l)9., Wis. Stats.
(c)	CLA, up to 8 persons	All residential districts	§62.23(7)(l)1., 2. and 9., Wis. Stats.
(d)	CLA, 9 to 15 persons	Multifamily districts	§62.23(7)(i)1., 2. and 9., Wis. Stats.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

(e)	Family day care home licensed under §48.65, Wis. Stats., up to 8 children	All one-family and 2-family districts and planned residential development districts	§66.304, Wis. Stats.
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- (3) **CONDITIONAL USES.** All community living arrangements and family day care homes not permitted in subsection (2) above. See [section 17.42](#) of this chapter.

17.10 ZONING DISTRICTS ESTABLISHED. (Am. Ord. #45-95; Am. Ord. #9-99)

For the purposes of this chapter, the Village is hereby divided into zoning districts, as follows:

- (1) A-1 Agricultural District.
- (2) A-2 Agricultural District.
- (3) Rs-1 Single-Family Residential District.
- (4) Rs-2 Single-Family Residential District.
- (5) Rs-3 Single-Family Residential District.
- (6) Rs-4 Single-Family Residential District.
- (7) Rs-5 Single-Family Residential District.
- (8) Rs-6 Single-Family Residential District.
- (9) Rs-7 Single-Family Residential District.
- (10) Rd-2 One-Family and 2-family Residential District.
- (11) Rm-1 Multiple-Family Residential District.
- (12) Rm-2 Multiple-Family Residential District.
- (13) Rm-3 Multiple-Family Residential District.
- (13a) EH Elderly Housing District.
- (14) MHP Mobile Home Park Residential District.
- (15) I Institutional District.
- (16) PD Planned Development District.
- (17) B-1 Neighborhood Business District.
- (18) B-2 Community Business District.
- (19) B-3 General Business District.
- (20) B-4 Professional Office District.
- (21) B-5 Highway Business District.
- (22) M-1 Limited Industrial District.
- (23) M-2 General Industrial District.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (24) M-3 Special Use Industrial District.
- (25) M-4 Mineral Extraction District.
- (26) HIA Highway Interchange Area District (Overlay District).
- (27) FW Floodway District.
- (28) FF Flood Fringe District.
- (29) HP Historic Preservation District (See chapter 26).

State law references—Zoning districts authorized, Wis. Stats. §§ 61.35, 62.23(7)(b).

17.11 DISTRICT BOUNDARIES.

- (1) **ZONING MAP.** The boundaries of the districts enumerated in [section 17.10](#) above are hereby established as shown on the maps entitled "Zoning District Map, Village of Germantown, Wisconsin," and dated January 15, 1988; said maps are hereby adopted by reference and made a part of this Code.
- (2) **BOUNDARY LINES.** The boundaries shall be construed to follow corporate limits; U.S. 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.
 - (a) *Vacation.* 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 and Consolidations.* 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 the annexation ordinance temporarily placed the land in another district. Within one year, the Plan Commission shall evaluate and recommend a permanent district classification to the Village Board.
- (3) **AMENDMENTS TO MAP.** Since January 15, 1988, the Zoning Map has been amended by Ordinance Numbers 6-88, 7-88, 13-88, 14-88, 17-88, 18-88, 19-88, 20-88, 21-88, 22-88, 23-88, 24-88, 25-88, 26-88, 32-88, 36-88, 39-88, 1-89, 2-89, 4-89, 9-89, 10-89, 14-89, 15-89, 16-89, 18-89, 21-89, 22-89, 24-89, 27-89, 29-89, 43-89, 45-89, 46-89, 47-89, 51-89, 1-90, 3-90, 7-90, 8-90, 9-90, 21-90, 22-90, 31-90, 32-90, 33-90, 34-90, 42-90, 43-90, 44-90, 47-90, 48-90, 7-91, 8-91, 9-91, 11-91, 13-91, 19-91, 24-91, 25-91, 26-91, 27-91, 29-91, 30-91, 31-91, 34-91, 35-91, 36-91, 42-91, 46-91, 1-92, 2-92, 6-92, 7-92, 8-92, 9-92, 14-92, 15-92, 16-92, 19-92, 20-92, 22-92, 23-92, 24-92, 25-92, 26a-92, 28-92, 34-92, 35-92, 36-92, 38-92, 39-92, 41-92, 42-92, 43-92, 44-92, 2-93, 3-93, 4-93, 10-93, 11-93, 14-93, 17-93, 22-93, 27-93, 30-93, 36-93, 1-94, 9-94, 10-94, 11-94, 12-94, 14-94, 16-94, 17-94, 24-94, 25-94, 28-94, 30-94, 31-94, 32-94, 35-94, 37-94, 40-94, 45-94, 46-94, 2-95, 3-95, 4-95, 6-95, 7-95, 8-95, 10-95, 13-95, 14-95, 18-95, 19-95, 20-95, 23-95, 33-95, 34-95, 37-95, 38-95, 46-95, 47-95, 48-95, 49-95, 50-95, 52-95, 53-95, 6-96, 7-96, 10-96, 12b-96, 14-96, 16-96, 17-96, 18-96, 20-96, 21-96, 24-96, 28-96, 5-97, 7-97, 10-97, 11-97, 13-97, 14-97, 15-97, 17-97, 18-97, 19-97, 20-97, 21-97, 25-97, 28-97, 31-97, 32-97, 33-97, 36-97, 18-98, 20-98, 24-98, 25-98, 26-98, 29-98, 35-98, 37-98, 42-98, 45-98, 46-98, 1-99, 2-99, 3-99, 6-99, 7-99, 8-99, 10-99, 11-99, 22-99, 26-99, 27-99, 35-99, 36-99, 1-00, 4-00, 6-00, 10-00, 12-00, 13-00, 18-00, 17-00, 18-00, 23-00, 24-00, 25-00, 27-00, 28-00, 1-01, 7-01, 10-01, 14-01, 15-01, 18-01, 19-01, 22-01, 23-01, 22-01a, 27-01, 28-01, 2-02, 3-02, 4-02, 8-02, 9-02, 10-02, 13-02, 14-02, 18-02, 19-02, 21-02, 22-02, 23-02, 24-02, 26-02, 34-02, 39-02, 40-02, 41-02, 43-02, 44-02, 45-02, 1-03, 9-03, 10-03, 15-03, 21-03, 27-03, 31-03, 1-04, 2-04, 3-04, 4-04, 5-04, 6-04, 8-04, 9-04, 12-04, 14-04, 15-04, 17-04, 18-04, 22-04, 23-04, 27-04, 28-04, 29-04, 31-04, 33-04, 34-04, 1-05, 2-05, 3-05, 6-05, 7-05, 8-05, 11-05, 12-05, 15-05, 16-05, 17-05, 19-05, 21-05, 23-05, 24-05, 25-05, 26-05, 28-05, 33-05, 37-05, 39-05, 40-05, 44-05, 45-05, 02-06, 04-06, 07-06, 08-06, 11-06, 16-06, 17-06, 18-06, 20-06, 23-06, 26-06, 27-06, 31-06, 01-07, 2-07, 12-07, 14-07, 27-07, 28-07, 32-07, 36-07, 37-07, 01-08, 05-08, 07-08, 20-08, 02-09, 11-09, 16-09, 22-09, 24-09, 27-09, 28-09, 29-09, 8-10, 16-10,

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

21-10, 6-11, 10-11, 13-11, 17-11, 18-11, 5-12, 13-12, 16-12, 02-13, 03-13, 05-13, 06-13, 09-13, 10-13, 12-13, 14-13, 15-13.

17.12 A-1 AGRICULTURAL DISTRICT.

The A-1 Agricultural District is intended to provide for the continuation of general farming and related uses in those areas of the Village that are not committed to urban development. It is further the intent of this district to protect rural lands in the Village from urban development until their orderly transition into urban-oriented districts is required.

(1) **PERMITTED USES.** (Renum. 10/01 jaw)

- (a) Apiculture (beekeeping).
- (b) Dairy farming.
- (c) Crop raising.
- (d) Grazing or pasturing.
- (e) Livestock raising, except commercial feedlots and fur farms.
- (f) Orchards.
- (g) Plant nurseries.
- (h) Poultry raising, except where conducted principally as an enterprise.
- (i) Raising of trees.
- (j) Sod farming.
- (k) Residential structures which are the original and principal farm residences remaining after the consolidation of 2 or more farms, minimum 2-acre lots.
- (l) Residential structures which are the original and principal farm residences being subdivided from an existing farm, minimum 2-acre lots.
- (m) Uses and structures customarily accessory to a permitted agricultural use.
- (n) Home occupations.
- (o) Two nonilluminated signs not larger than 6 square feet in area for use in advertising of products produced on the farm.
- (p) One roadside stand for the sale of selected farm products produced on the premises and not exceeding 150 square feet in floor area, the location of which shall be approved by the Zoning Administrator.
- (q) One single-family farm dwelling and garage.
- (r) Wind energy conversion systems and solar energy conversion systems. (Cr. Ord. #1-91)
- (s) Single-family dwellings, not farm related, with attached or detached garages, at facilities densities not greater than 0.1 dwelling unit per net acre. (Cr. Ord. #3-11)

(2) **CONDITIONAL USES.** (Renum. 10/01 jw) See [section 17.42](#) of this chapter.

- (a) Airstrips and landing fields, 20 acres minimum.
- (b) Animal hospitals, shelters and kennels.
- (c) Boarding houses.
- (d) Commercial broiler and egg production.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (e) Commercial feedlots.
- (f) Commercial fur farms.
- (g) Housing for farm laborers not permitted in subsection (1) above.
- (h) Housing for seasonal or migratory farm workers.
- (i) Livestock sales facilities.
- (j) Poultry and small game dressing and packing incidental to farm operations providing that all operations are conducted within an enclosed building.
- (k) Production of sausages incidental to farm operations providing that all operations are conducted within an enclosed building.
- (l) Retail sales of nursery products not raised on the premises.
- (m) Recreational vehicle and boat storage if completely enclosed within a building.
- (n) Sportsmen's clubs.
- (o) A second single-family residential dwelling if the need for more than one single-family dwelling to support and carry on the principal or approved conditional use can be established to the satisfaction of the Plan Commission before issuance of a building permit. If approval for a second farm dwelling is granted, the additional dwelling shall be placed on a parcel separated from the farm lot provided that any parcel so created conforms with all regulations set forth in [section 17.14](#) of this chapter.
- (p) Churches and synagogues, including parsonage.
- (q) Hospitals, sanitariums, nursing homes and clinics.
- (r) Public or private schools, colleges and universities.
- (s) Public administrative offices, including fire and police stations.
- (t) Cemeteries and mausoleums.
- (u) Electric generation plants and substations.
- (v) Public service uses, garages and storage areas.
- (w) Radio and television transmitting and receiving towers; microwave relay stations; and water towers.
- (x) Transit and carpooling parking areas.
- (y) Waste water treatment plant.
- (z) Golf courses, with or without country club facilities.
- (aa) Parks and playgrounds.
- (bb) Recreation and health centers.
- (cc) Archery and driving ranges.
- (dd) Commercial stables and riding academies.
- (ee) Skeet and trap shooting ranges.
- (ff) Campgrounds.
- (gg) Storage of commercial vehicles and equipment if completely enclosed within a building. (Cr. Ord. #35-90)
- (hh) Farm markets. (Cr. Ord. #10-91)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

(ii) Bed and breakfast establishments. (Cr. Ord. #4-97)

(2a) **TEMPORARY USES.** (Cr. Ord. #32-91)

(a) Agricultural expositions up to 30 days maximum.

(3) **LOT AREA AND WIDTH.**

(a) Farm uses as provided herein including farm structures hereafter erected, moved or structurally altered shall provide a contiguous parcel of not less than 35 acres, and no farm parcel shall be less than 600 feet in width.

(b) Existing residential structures and farm buildings remaining after the consolidation of existing farms shall provide a lot area of not less than 5 acres that has a lot width of not less than 300 feet, as established by minor land division.

(c) When lands in the S-W, FW or FF Districts lie adjacent to lands in the A-1 District and under the same ownership, up to 85% of such lands may be used to meet the lot area requirements of the A-1 District.

(4) **BUILDING HEIGHT.** Buildings, except barns, elevators, grain dryers and silos, shall not exceed 45 feet in height.

(5) **SETBACK AND YARDS.**

(a) *Front Setback.* 60 feet, minimum.

(b) *Side Yards.* 25 feet, minimum, except that bee hives and buildings used for keeping livestock and poultry, and all new buildings constructed after the effective date of this Code shall have yards of not less than 50 feet.

(c) *Rear Yard.* 50 feet, minimum.

(6) **MINIMUM DWELLING SIZE.** Same as for Rs-I District.

Minimum dwelling size, excluding garage:	
1 bedroom	1,200 sq. ft.
2 bedrooms	1,300 sq. ft.
3 bedrooms	1,500 sq. ft.
4 bedrooms	1,700 sq. ft.
Minimum ground perimeter area	1,200 sq. ft.

(7) **PARKING.** No on-street parking shall be allowed.

(8) **ACCESSORY BUILDINGS.** (Cr. Ord. #27-02) All new construction of accessory buildings in the A-1 or A-2 District shall only be permitted if the parcel contains 10 acres or more. Any parcels less than 10

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

acres shall follow the accessory building regulations, including height, size and setbacks established for the Rs-1 and Rs-2 Zoning Districts, [section 17.41\(1\)\(a\)](#).

- (9) **USES PROHIBITED.** (Cr. Ord. #27-02) All permitted and conditional uses in the A-1 and A-2 Agricultural Districts shall only be permitted if the parcel contains 10 acres or more. Any parcel less than 10 acres shall follow the permitted and conditional uses established for the Rs-1 Zoning District, [section 17.14\(1\)](#) and (2).

17.13 A-2 AGRICULTURAL DISTRICT.

The A-2 Agricultural District is intended to provide for, maintain, preserve and enhance agricultural lands historically utilized for crop production but which are not included within the A-1 Agricultural District and which are generally best suited for smaller farm units, including truck farming, horse farming, hobby farming, orchards and other similar agriculture-related farming activities.

- (1) **PERMITTED USES.** Those uses permitted in the A-1 District.
- (2) **CONDITIONAL USES.** See [section 17.42](#) of this chapter. Conditional uses enumerated in the A-1 District, except animal hospitals, shelters and kennels. (Am. Ord. #34-89; Renum. 3/02 jw)
- (a) Airstrips and landing fields, 20 acres, minimum.
 - (b) Agricultural warehousing.
 - (c) Bird seed and grain processing.
 - (d) Boarding houses.
 - (e) Commercial broiler and egg production.
 - (f) Commercial feedlots.
 - (g) Commercial fur farms.
 - (h) Contract sorting, grading and packaging of fruits and vegetables.
 - (i) Corn shelling, hay baling and threshing services.
 - (j) Drying and dehydrating of fruits and vegetables.
 - (k) Horticultural services.
 - (l) Housing for farm laborers not permitted in subsection (1) above.
 - (m) Housing for seasonal or migratory farm workers.
 - (n) Livestock sales facilities.
 - (o) Poultry and small game dressing and packing incidental to farm operations providing that all operations are conducted within an enclosed building.
 - (p) Poultry hatchery services.
 - (q) Production of sausages incidental to farm operations providing that all operations are conducted within an enclosed building.
 - (r) Retail sales of nursery products not raised on the premises.
 - (s) Recreational vehicle and boat storage if completely enclosed within a building.
 - (t) Sportsmen's clubs.
 - (u) A second single-family residential dwelling if the need for more than one single-family dwelling to support and carry on the principal or approved conditional use can be established to the

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

satisfaction of the Plan Commission before issuance of a building permit. If approval for a second farm dwelling is granted, the additional dwelling shall be placed on a parcel separated from the farm lot provided that any parcel so created conforms with all regulations set forth in [section 17.14](#) of this chapter.

- (v) Churches and synagogues, including parsonage.
- (w) Hospitals, sanitariums, nursing homes and clinics.
- (x) Public or private schools, colleges and universities.
- (y) Public administrative offices, including fire and police stations.
- (z) Cemeteries and mausoleums.
- (aa) Electric generation plants and substations.
- (bb) Public service uses, garages and storage areas.
- (cc) Radio and television transmitting and receiving towers; microwave relay stations; and water towers.
- (dd) Transit and carpooling parking areas.
- (ee) Waste water treatment plant.
- (ff) Golf courses, with or without country club facilities.
- (gg) Parks and playgrounds.
- (hh) Recreation and health centers.
- (ii) Archery and driving ranges.
- (jj) Commercial stables and riding academies.
- (kk) Skeet and trap shooting ranges.
- (ll) Campgrounds.
- (mm) Storage of commercial vehicles and equipment if completely enclosed within a building. (Cr. Ord. #35-90)
- (nn) Farm markets. (Cr. Ord. #10-91)
- (oo) Bed and breakfast establishments. (Cr. Ord. #4-97)
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91)
- (3) **LOT AREA AND WIDTH.** (Am. Ord. #18-99; Am. Ord. #31-99)

(a)	Lot frontage at building setback	Minimum 300 feet
	Lot area	Minimum 10 acres

- (b) When lands in the S-W, FW or FF Districts lie adjacent to lands in the A-2 District and under the same ownership, up to 75% of such lands may be used to meet the lot area requirements of the A-2 District.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (4) **BUILDING HEIGHT.** Same as for A-1 District. Buildings, except barns, elevators, grain dryers and silos, shall not exceed 45 feet in height.
- (5) **SETBACK AND YARDS.** Same as for A-1 District. (Renum. 3/01 jw)
 - (a) *Front Setback.* 60 feet, minimum.
 - (b) *Side Yards.* 25 feet, minimum, except that bee hives and buildings used for keeping livestock and poultry, and all new buildings constructed after the effective date of this Code shall have yards of not less than 50 feet.
 - (c) *Rear Yard.* 50 feet, minimum.
- (6) **MINIMUM DWELLING SIZE.** Same as for Rs-1 District.

Minimum dwelling size, excluding garage:	
1 bedroom	1,200 sq. ft.
2 bedrooms	1,300 sq. ft.
3 bedrooms	1,500 sq. ft.
4 bedrooms	1,700 sq. ft.
Minimum ground perimeter area	1,200 sq. ft.

- (7) **PARKING.** No on-street parking shall be allowed in the A-2 District.
- (8) **ACCESSORY BUILDINGS.** (Cr. Ord. #27-02) All new construction of accessory buildings in the A-1 or A-2 District shall only be permitted if the parcel contains 10 acres or more. Any parcels less than 10 acres shall follow the accessory building regulations, including height, size and setbacks established for the Rs-1 and Rs-2 Zoning Districts, [section 17.41\(1\)\(a\)](#).
- (9) **USES PROHIBITED.** (Cr. Ord. #27-02) All Permitted and Conditional Uses in the A-1 and A-2 Agricultural Districts shall only be permitted if the parcel contains 10 acres or more. Any parcel less than 10 acres shall follow the Permitted and Conditional Uses established for the Rs-1 Zoning District, [section 17.14\(1\)](#) and (2).

17.14 Rs-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

The Rs-1 Residential District is intended to provide for single-family residential development in predominantly rural areas not served by municipal sewer and water facilities at densities not to exceed 0.2 dwelling unit per net acre.

- (1) **PERMITTED USES.**
 - (a) Single-family dwellings with attached or detached garages.
 - (b) Home occupations and professional home offices.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (c) The keeping of certain animals in outdoor pens or detached buildings, as follows:
 - 1. Not more than one horse more than 6 months of age per 2 acres.
 - 2. Not more than 3 dogs or 3 cats, or a combination thereof, which are over the age of 12 months. (Am. Ord. #34-89)
- (d) Yard and gardening equipment storage structures.
- (2) **CONDITIONAL USES.** See [section 17.42](#) of this chapter. (Cr. Ord. #1-91; Rep. Ord. #12-92; Cr. Ord. #4-97; Rep. Ord. #34-98; Renum. 10/01 jw)
 - (a) Raising of poultry, fowl, animals or fish for meat or by-products for family consumption only.
 - (b) Electric substations.
 - (c) Transit and carpooling parking areas.
 - (d) Golf courses with or without country club facilities, and one caretaker's residence.
 - (e) Parks, leisure and ornamental.
 - (f) Recreation and health centers.
 - (g) Archery and driving ranges.
 - (h) Wind energy conversion systems and solar energy conversion systems. (Cr. Ord. #1-91)
 - (i) Bed and breakfast establishments. (Cr. Ord. #4-97)
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91)
 - (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.
- (3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03)

Lot frontage at setback	Minimum 300 ft.
*Lot area	Minimum 5 acres
Principal building:	
Front yard	Minimum 45 ft.
Side yards	Minimum 30 ft.
Rear yard	Minimum 35 ft.
Accessory buildings:	
Front yard	Minimum 45 ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

**Side yards	30 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
**Rear yard	Minimum 5 ft.
Building height	Maximum 35 ft.
Number of stories	Maximum 2½
Percent of lot coverage	Maximum 2.5%
Minimum dwelling size, excluding garage:	
1 bedroom	1,200 sq. ft.
2 bedrooms	1,300 sq. ft.
3 bedrooms	1,500 sq. ft.
4 bedrooms	1,700 sq. ft.
Minimum ground perimeter area	1,200 sq. ft.
Off-street parking	Minimum 2 spaces, both of which are in a garage. See also section 17.45 of this chapter.

*When lands in the S-W, FW or FF District lie adjacent to lands in the Rs-1 District and under the same ownership, up to 60% of such lands may be used to meet lot area requirements.

**Except 50 feet for any accessory building housing a stable, kennel or building where livestock or poultry are kept.

17.15 Rs-2 SINGLE-FAMILY RESIDENTIAL DISTRICT.

The Rs-2 Residential District is intended to provide for single-family residential development in predominantly rural areas not served by municipal sewer and water facilities where historic development patterns make impractical the use of the Rs-1 District regulations, and at densities not to exceed 0.5 dwelling unit per net acre.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

(1) **PERMITTED USES.**

- (a) Single-family dwellings with attached or detached garages.
- (b) Home occupations and professional home offices.
- (c) Yard and gardening equipment storage structures.

(2) **CONDITIONAL USES.** See [section 17.42](#) of this chapter. Conditional uses as enumerated in Rs-1 District.

- (a) The keeping of certain animals in outdoor pens or detached buildings, as follows:
 - 1. Not more than one horse more than 6 months of age per 2 acres.
 - 2. Not more than 3 dogs or 3 cats, or a combination thereof, which are over the age of 12 months. (Am. Ord. #34-89)
- (b) Raising of poultry, fowl, animals or fish for meat or by-products for family consumption only.
- (c) Electric substations.
- (d) Transit and carpooling parking areas.
- (e) Golf courses with or without country club facilities, and one caretaker's residence.
- (f) Parks, leisure and ornamental.
- (g) Recreation and health centers.
- (h) Archery and driving ranges.
- (i) Wind energy conversion systems and solar energy conversion systems. (Cr. Ord. #1-91)
- (j) Bed and breakfast establishments. Conditional uses enumerated in Rs-1 District. (Cr. Ord. #4-97)

(2a) **TEMPORARY USES.** (Cr. Ord. #32-91)

- (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.

(3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03)

Lot frontage at setback	Minimum 220 ft.
*Lot area	Minimum 2 acres
Principal building:	
Front yard	Minimum 45 ft.
Side yards	Minimum 25 ft.
Rear yard	Minimum 35 ft.
Accessory buildings:	

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Front yard	Minimum 45 ft.
**Side yards	25 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
**Rear yard	Minimum 5 ft.
Building height	Maximum 35 ft.
Number of stories	Maximum 2½
Percent of lot coverage	Maximum 6%
Minimum dwelling size, excluding garage:	
1 bedroom	1,200 sq. ft.
2 bedrooms	1,300 sq. ft.
3 bedrooms	1,500 sq. ft.
4 bedrooms	1,700 sq. ft.
Minimum ground perimeter area	1,200 sq. ft.
Off-street parking	Minimum 2 spaces, both of which are in a garage. See also section 17.45 of this chapter.

*When lands in the S-W, FW or FF District lie adjacent to lands in the Rs-2 District and under the same ownership, up to 40% of such lands may be used to meet lot area requirements.

**Except 50 feet for any accessory building housing a stable, kennel or building where livestock or poultry are kept.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

17.16 Rs-3 SINGLE-FAMILY RESIDENTIAL DISTRICT.

The Rs-3 Residential District is intended to provide for single-family residential development in predominantly rural areas not served by municipal sewer and water facilities at densities not exceeding 1.0 dwelling unit per net acre.

(1) **PERMITTED USES.**

- (a) Single-family dwellings with attached or detached garages.
- (b) Yard and gardening equipment storage structures.
- (c) Home occupations and professional home offices.

(2) **CONDITIONAL USES.** See [section 17.42](#) of this chapter. (Rep. Ord. #42-95; Rep. Ord. #34-98; Renum. 10/01 jw)

- (a) Electric substations. (Rep. & Recr. Ord. #34-98)
- (b) Parks and playgrounds. (Rep. & Recr. Ord. #34-98)
- (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
- (d) Golf courses, with or without country club facilities, and one caretaker's residence.
- (e) Lodging or boarding houses.
- (f) Wind energy conversion systems and solar energy conversion systems. (Cr. Ord. #1-91)
- (g) Bed and breakfast establishments. (Cr. Ord. #4-97)

(2a) **TEMPORARY USES.** (Cr. Ord. #32-91)

- (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.

(3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03; Am. Ord. #20-05)

Lot frontage at setback	Minimum 150 ft.
Lot area	Minimum one acre
Principal building:	
Front yard	Minimum 45 ft.
Side yards	Minimum 20 ft.
Rear yard	Minimum 35 ft.
Accessory buildings:	
Front yard	Minimum 45 ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Side yards	20 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
Rear yard	Minimum 5 ft.
Building height	Maximum 35 ft.
Percent of lot coverage	Maximum 25%
Minimum dwelling size, excluding garage (same as Rs-1 District):	
1 bedroom	1,200 sq. ft.
2 bedrooms	1,300 sq. ft.
3 bedrooms	1,500 sq. ft.
4 bedrooms	1,700 sq. ft.
Minimum ground perimeter area	1,200 sq. ft.
Off-street parking	Minimum 2 spaces, both of which are in a garage. See also section 17.45 of this chapter.

17.17 Rs-4 SINGLE-FAMILY RESIDENTIAL DISTRICT.

The Rs-4 Residential District is intended to provide for single-family residential development at densities not exceeding 2.2 dwelling units per net acre and served by municipal sewer and water facilities.

- (1) **PERMITTED USES.** Same as Rs-3 District.
 - (a) Single-family dwellings with attached or detached garages.
 - (b) Yard and gardening equipment storage structures.
 - (c) Home occupations and professional home offices.
- (2) **CONDITIONAL USES.** Same as Rs-3 District. See [section 17.42](#) of this chapter. (Rep. Ord. #42-95; Rep. Ord. #34-98; Renum. 10/01 jw)
 - (a) Electric substations. (Rep. & Recr. Ord. #34-98)
 - (b) Parks and playgrounds. (Rep. & Recr. Ord. #34-98)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
- (d) Golf courses, with or without country club facilities, and one caretaker's residence.
- (e) Lodging or boarding houses.
- (f) Wind energy conversion systems and solar energy conversion systems. (Cr. Ord. #1-91)
- (g) Bed and breakfast establishments. (Cr. Ord. #4-97)

(2a) **TEMPORARY USES.** (Cr. Ord. #32-91)

- (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.

(3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03; Am. Ord. #20-05)

Lot frontage at setback	Minimum 110 ft.
Lot area	Minimum 20,000 sq. ft.
Principal building:	
Front yard	Minimum 40 ft.
Side yards	Minimum 20 ft.
Rear yard	Minimum 35 ft.
Accessory buildings:	
Front yard	Minimum 40 ft.
Side yards	20 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
Rear yard	Minimum 5 ft.
Building height	Maximum 35 ft.
Number of stories	Maximum 2½
Percent of lot coverage	Maximum 25%
Minimum dwelling size, excluding garage:	

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

1 bedroom	1,200 sq. ft.
2 bedrooms	1,300 sq. ft.
3 bedrooms	1,500 sq. ft.
4 bedrooms	1,700 sq. ft.
Minimum ground perimeter area	1,000 sq. ft.
Off-street parking	Minimum 2 spaces, both of which are in a garage. See also section 17.45 of this chapter.

17.18 Rs-5 SINGLE-FAMILY RESIDENTIAL DISTRICT.

The Rs-5 Residential District is intended to provide for single-family residential development at densities not exceeding 2.9 dwelling units per net acre and served by municipal sewer and water facilities.

- (1) **PERMITTED USES.** Same as Rs-3 District.
 - (a) Single-family dwellings with attached or detached garages.
 - (b) Yard and gardening equipment storage structures.
 - (c) Home occupations and professional home offices.
- (2) **CONDITIONAL USES.** Same as Rs-3 District, except wind energy conversion systems. See [section 17.42](#) of this chapter. (Am. Ord. #1-91; Rep. Ord. #42-95; Rep. Ord. #34-98; Renum. 10/01 jw)
 - (a) Electric substations. (Rep. & Recr. Ord. #34-98)
 - (b) Parks and playgrounds. (Rep. & Recr. Ord. #34-98)
 - (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
 - (d) Golf courses, with or without country club facilities, and one caretaker's residence.
 - (e) Lodging or boarding houses.
 - (f) Solar energy conversion systems. (Cr. Ord. #1-91)
 - (g) Bed and breakfast establishments. (Cr. Ord. #4-97)
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91)
 - (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.
- (3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Lot frontage at setback	Minimum 100 ft.
Lot area	Minimum 15,000 sq. ft.
Principal building:	
Front yard	Minimum 35 ft.
Side yards	Minimum 15 ft.
Rear yard	Minimum 35 ft.
Accessory buildings:	
Front yard	Minimum 35 ft.
Side yards	15 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
Rear yard	Minimum 5 ft.
Building height	Maximum 35 ft.
Number of stories	Maximum 2½
Percent of lot coverage	Maximum 25%
Minimum dwelling size, excluding garage:	
1 bedroom	1,200 sq. ft.
2 bedrooms	1,300 sq. ft.
3 bedrooms	1,400 sq. ft.
4 bedrooms	1,500 sq. ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Minimum ground perimeter area	1,000 sq. ft.
Off-street parking	Minimum 2 spaces, both of which are in a garage. See also section 17.45 of this chapter.

17.19 Rs-6 SINGLE-FAMILY RESIDENTIAL DISTRICT.

The Rs-6 Residential District is intended to provide for single-family residential development at densities not exceeding 3.5 dwelling units per net acre and served by municipal sewer and water facilities.

- (1) **PERMITTED USES.** Same as Rs-3 District.
 - (a) Single-family dwellings with attached or detached garages.
 - (b) Yard and gardening equipment storage structures.
 - (c) Home occupations and professional home offices.
- (2) **CONDITIONAL USES.** Same as Rs-3 District, except wind energy conversion systems. See [section 17.42](#) of this chapter. (Am. Ord. #1-91; Rep. Ord. #42-95; Rep. Ord. #34-98; Renum. 10/01 jw)
 - (a) Electric substations. (Rep. & Recr. Ord. #34-98)
 - (b) Parks and playgrounds. (Rep. & Recr. Ord. #34-98)
 - (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
 - (d) Golf courses, with or without country club facilities, and one caretaker's residence.
 - (e) Lodging or boarding houses.
 - (f) Solar energy conversion systems. (Cr. Ord. #1-91)
 - (g) Bed and breakfast establishments. (Cr. Ord. #4-97)
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91)
 - (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.

(3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03)

Lot frontage at setback	Minimum 90 ft.
Lot area	Minimum 12,500 sq. ft.
Principal building:	
Front yard	Minimum 30 ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Side yards	Minimum 12 ft.
Rear yard	Minimum 30 ft.
Accessory buildings:	
Front yard	Minimum 30 ft.
Side yards	12 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
Rear yard	Minimum 5 ft.
Building height	Maximum 35 ft.
Number of stories	Maximum 2½
Percent of lot coverage	Maximum 25%
Minimum dwelling size, excluding garage:	
1 bedroom	1,200 sq. ft.
2 bedrooms	1,200 sq. ft.
3 bedrooms	1,300 sq. ft.
4 bedrooms	1,400 sq. ft.
Minimum ground perimeter area	1,000 sq. ft.
Off-street parking	Minimum 2 spaces, both of which are in a garage. See also section 17.45 of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

17.20 Rs-7 SINGLE-FAMILY RESIDENTIAL DISTRICT.

The Rs-7 Residential District is intended to provide for single-family residential development at densities not exceeding 4.4 units per net acre and served by municipal sewer and water facilities.

- (1) **PERMITTED USES.** Same as Rs-3 District.
 - (a) Single-family dwellings with attached or detached garages.
 - (b) Yard and gardening equipment storage structures.
 - (c) Home occupations and professional home offices.
- (2) **CONDITIONAL USES.** Same as Rs-3 District. See [section 17.42](#) of this chapter. (Am. Ord. #1-91; Rep. Ord. #42-95; Rep. Ord. #34-98; Renum. 10/01 jw)
 - (a) Electric substations. (Rep. & Recr. Ord. #34-98)
 - (b) Parks and playgrounds. (Rep. & Recr. Ord. #34-98)
 - (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
 - (d) Golf courses, with or without country club facilities, and one caretaker's residence.
 - (e) Lodging or boarding houses.
 - (f) Solar energy conversion systems. (Cr. Ord. #1-91)
 - (g) Bed and breakfast establishments. (Cr. Ord. #4-97)
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91)
 - (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.
- (3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03)

Lot frontage at setback	Minimum 80 ft.
Lot area	Minimum 10,000 sq. ft.
Principal building:	
Front yard	Minimum 30 ft.
Side yards	Minimum 10 ft.
Rear yard	Minimum 25 ft.
Accessory buildings:	
Front yard	Minimum 30 ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Side yards	10 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
Rear yard	Minimum 5 ft.
Building height	Maximum 35 ft.
Number of stories	Maximum 2½
Percent of lot coverage	Maximum 30%
Minimum dwelling size, excluding garage:	
1 bedroom	1,200 sq. ft.
2 bedrooms	1,200 sq. ft.
3 bedrooms	1,200 sq. ft.
4 bedrooms	1,400 sq. ft.
Minimum ground perimeter area	1,000 sq. ft.
Off-street parking	Minimum 2 spaces, one of which is in a garage. See also section 17.45 of this chapter.

17.21 Rd-2 ONE-FAMILY AND 2-FAMILY RESIDENTIAL DISTRICT.

The Rd-2 Residential District is intended to provide for one-family and 2-family residential development at densities not exceeding 5.8 dwelling units per net acre and served by municipal sewer and water facilities.

(1) PERMITTED USES.

- (a) One-family and 2-family dwellings with attached or detached garages.
- (b) Yard and gardening equipment storage structures.
- (c) Home occupations and professional offices (one-family dwellings only).

(2) CONDITIONAL USES. Same as Rs-3 District, except wind energy conversion systems. See [section 17.42](#) of this chapter. (Am. Ord. #1-91; Rep. Ord. #42-95; Rep. Ord. #34-98; Renum. 10/01 jw)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (a) Electric substations. (Rep. & Recr. Ord. #34-98)
 - (b) Parks and playgrounds. (Rep. & Recr. Ord. #34-98)
 - (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
 - (d) Golf courses, with or without country club facilities, and one caretaker's residence.
 - (e) Home occupations and professional home offices (2-family dwellings only).
 - (f) Lodging or boarding houses.
 - (g) Solar energy conversion systems. (Cr. Ord. #1-91)
 - (h) Bed and breakfast establishments. (Cr. Ord. #4-97)
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91)
- (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.
- (3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #17-99)
- (a) *2-family.* (Am. Ord. #22-03)

Lot frontage at setback	Minimum 100 ft.
Lot area	Minimum 15,000 sq. ft.
Principal building:	
Front yard	Minimum 30 ft.
Side yards	Minimum 10 ft.
Rear yard	Minimum 25 ft.
Accessory buildings:	
Front yard	Minimum 30 ft.
Side yards	10 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
Rear yard	Minimum 5 ft.
Building height	Maximum 35 ft.
Number of stories	Maximum 2½

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Percent of lot coverage	Maximum 30%
Floor area per unit:	
Single story	Minimum 1,000 sq. ft.
Two-story	1,200 sq. ft.
Minimum ground perimeter area	1,000 sq. ft.
Off-street parking per unit	Minimum of 2 spaces, one of which is in a garage. See also section 17.45 of this chapter.

(b) *Single-Family*. (Am. Ord. #19-96; Am. Ord. #22-03)

Lot frontage at setback	Minimum 100 ft.
Lot area	Minimum 15,000 sq. ft.
Principal building:	
Front yard	Minimum 30 ft.
Side yards	Minimum 10 ft.
Rear yard	Minimum 25 ft.
Accessory buildings:	
Front yard	Minimum 30 ft.
Side yards	10 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Rear yard	Minimum 5 ft.
Building height	Maximum 35 ft.
Number of stories	Maximum 2½
Percent of lot coverage	Maximum 20%
Minimum dwelling size, excluding garage:	
1 bedroom	1,200 sq. ft.
2 bedrooms	1,200 sq. ft.
3 bedrooms	1,200 sq. ft.
4 bedrooms	1,400 sq. ft.
Minimum ground perimeter area	1,000 sq. ft.
Off-street parking per unit	Minimum 2 spaces (unless fewer spaces are required in accordance with Site Plan approval by the Plan Commission) , one of which is in a garage. See also section 17.45 of this chapter.

17.22 Rm-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

The Rm-1 Residential District is intended to provide for multiple-family resident development at densities not exceeding 6.0 dwelling units per net acre served by municipal sewer and water facilities.

(1) **PERMITTED USES.**

- (a) Multiple-family dwellings with attached or detached private garages.
- (b) Yard maintenance equipment structures.

(2) **CONDITIONAL USES.** Same as Rs-3 District, except wind energy conversion systems. See [section 17.42](#) of this chapter. (Am. Ord. #1-91; Rep. Ord. #42-95; Rep. Ord. #34-98; Renum. 10/01 jw)

- (a) Electric substations. (Rep. & Recr. Ord. #34-98)
- (b) Parks and playgrounds. (Rep. & Recr. Ord. #34-98)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
- (d) Golf courses, with or without country club facilities, and one caretaker's residence.
- (e) Home occupations and professional home offices.
- (f) Lodging or boarding houses.
- (g) Solar energy conversion systems. (Cr. Ord. #1-91)
- (h) Bed and breakfast establishments. (Cr. Ord. #4-97)

(2a) **TEMPORARY USES.** (Cr. Ord. #32-91)

- (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.

(3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03)

Lot frontage at setback	Minimum 120 ft.
Lot area	Minimum 0.5 acres
Lot area per unit	Minimum 7,260 sq. ft.
Principal building:	
Front yard	Minimum 35 ft.
Side yards	Minimum 25 ft.
Rear yards	Minimum 35 ft.
Accessory buildings:	
Front yard	Minimum 35 ft.
Side yards	25 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
Rear yard	Minimum 12 ft.
Principal building height	Maximum 35 ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Number of stories	Maximum 2½
Percent of lot coverage	Maximum 20%
Floor area:	
<i>Number of Bedrooms</i>	<i>Minimum Floor</i>
<i>Per Dwelling Unit</i>	<i>Area Per Unit</i>
Efficiency	400 sq. ft.
One	650 sq. ft.
Two	800 sq. ft.
Three or more	1,000 sq. ft.
Parking	Minimum 2 spaces <u>unless fewer spaces are required in accordance with Site Plan approval by the Plan Commission</u> , one of which is in a garage. See also section 17.45 of this chapter.

(4) **SITE PLAN APPROVAL REQUIRED.** See sections [17.43](#) and [17.44](#) of this chapter.

17.23 Rm-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

The Rm-2 Residential District is intended to provide for multiple-family residential development at densities not exceeding 8.0 dwelling units per net acre and served by municipal sewer and water facilities.

- (1) **PERMITTED USES.** Same as Rm-1 District.
- (a) Multiple-family dwellings with attached or detached private garages.
 - (b) Yard maintenance equipment structures.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (2) **CONDITIONAL USES.** Same as Rs-3 District, except wind energy conversion systems. See [section 17.42](#) of this chapter. (Am. Ord. #1-91; Rep. Ord. #42-95; Rep. Ord. #34-98; Renum. 10/01 jw)
- (a) Electric substations. (Rep. & Recr. Ord. #34-98)
 - (b) Parks and playgrounds. (Rep. & Recr. Ord. #34-98)
 - (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
 - (d) Golf courses, with or without country club facilities, and one caretaker's residence.
 - (e) Home occupations and professional home offices.
 - (f) Lodging or boarding houses.
 - (g) Solar energy conversion systems. (Cr. Ord. #1-91)
 - (h) Bed and breakfast establishments. (Cr. Ord. #4-97)
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91)
- (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.
- (3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03)

Lot frontage at setback	Minimum 120 ft.
Lot area	Minimum 0.5 acres
Lot area per unit	Minimum 5,445 sq. ft.
Principal building:	
Front yard	Minimum 35 ft.
Side yards	Minimum 25 ft.
Rear yard	Minimum 35 ft.
Accessory buildings:	
Front yard	Minimum 35 ft.
Side yards	25 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Rear yard	Minimum 12 ft.
Principal building height	Maximum 45 ft.
Number of stories	Maximum 2½
Percent of lot coverage	Maximum 40%
Minimum Floor:	
<i>Number of Bedrooms</i>	<i>Minimum Floor</i>
<i>Per Dwelling Unit</i>	<i>Area Per Unit</i>
Efficiency	400 sq. ft.
One	650 sq. ft.
Two	800 sq. ft.
Three or more	1,000 sq. ft.
Parking	Minimum 2 spaces (unless fewer spaces are required in accordance with Site Plan approval by the Plan Commission) , one of which is in a garage. See also section 17.45 of this chapter.

(4) **SITE PLAN APPROVAL REQUIRED.** See sections [17.43](#) and [17.44](#) of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

17.24 Rm-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

The Rm-3 Residential District is intended to provide for multiple-family residential development at densities not exceeding 10.0 dwelling units per net acre and served by municipal sewer and water facilities.

- (1) **PERMITTED USES.** Same as Rm-1 District.
 - (a) Multiple-family dwellings with attached or detached private garages.
 - (b) Yard maintenance equipment structures.
- (2) **CONDITIONAL USES.** Same as Rs-3 District, except wind energy conversion systems. See [section 17.42](#) of this chapter. (Am. Ord. #1-91; Rep. Ord. #42-95; Rep. Ord. #34-98; Renum. 10/01 jw)
 - (a) Electric substations. (Rep. & Recr. Ord. #34-98)
 - (b) Parks and playgrounds. (Rep. & Recr. Ord. #34-98)
 - (c) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
 - (d) Golf courses, with or without country club facilities, and one caretaker's residence.
 - (e) Home occupations and professional home offices.
 - (f) Lodging or boarding houses.
 - (g) Solar energy conversion systems. (Cr. Ord. #1-91)
 - (h) Bed and breakfast establishments. (Cr. Ord. #4-97)
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91)
 - (a) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.
- (3) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #22-03)

Lot frontage at setback	Minimum 150 ft.
Lot area	Minimum 0.8 acres
Lot area per unit	Minimum 4,356 sq. ft.
Principal building:	
Front yard	Minimum 35 ft.
Side yards	Minimum 25 ft.
Rear yard	Minimum 35 ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Accessory buildings:	
Front yard	Minimum 35 ft.
Side yards	25 ft. (except if accessory building is located in the rear yard, then 5 ft. side yard setback is required - See section 17.41)
Rear yard	Minimum 12 ft.
Building height	Maximum 45 ft.
Number of stories	Maximum 3
Percent of coverage	Maximum 25%
Floor area:	
<i>Number of Bedrooms</i>	<i>Minimum Floor</i>
<i>Per Dwelling Unit</i>	<i>Area Per Unit</i>
Efficiency	350 sq. ft.
One	525 sq. ft.
Two	650 sq. ft.
Three or more	850 sq. ft.
Parking	Minimum 2 spaces (unless fewer spaces are required in accordance with Site Plan approval by the Plan Commission) , one of which is in a garage. See also section 17.45 of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (4) **SITE PLAN APPROVAL REQUIRED.** See sections [17.43](#) and [17.44](#) of this chapter.

17.241 EH ELDERLY HOUSING DISTRICT. (Cr. Ord. #45-95; Am. Ord. #38-99)

The EH Elderly Housing District is intended to provide for the orderly development, management and use of land in planned communities for the older residents of the Village. It is intended that all uses of land within the EH District shall comply with the Wisconsin Fair Housing Act and the Federal Fair Housing Act as amended at the date this section is adopted and as those acts may be amended from time to time in the future. The Village Board has determined that it is a right and proper public purpose to promote the health, safety and welfare of senior citizens. The EH District is intended to allow residential development at densities not to exceed an average of 10 units per acre in the District as measured in this section and to allow limited commercial and institutional uses and "significant facilities and services specifically designed to meet the physical or social needs of older persons," as that term is defined in [section 17.08\(77\)](#) of this chapter. The EH District is intended to provide a planned community setting, and initial consideration of the District shall include consideration of the layout of the District and the uses proposed therein.

(1) **PERMITTED USES.**

- (a) Attached single-family elderly housing dwellings containing no more than 2 bedrooms per unit with attached private garages.
- (b) 2-family elderly housing dwellings containing no more than 2 bedrooms per unit with attached private garages.
- (c) Multifamily elderly housing dwellings containing no more than 36 units per floor, with no more than 2 bedrooms per unit with enclosed parking.

(2) **ACCESSORY USES.**

- (a) *Multifamily.* The following commercial uses may be permitted as accessory uses to permitted multifamily elderly housing uses, provided they are contained within the same building as the primary use and that the total area of the building dedicated to all accessory uses in the building does not exceed 10% of the total area of the building:
 1. Automated teller machines.
 2. Barber or beauty shops.
 3. Chapels.
 4. Convenience food stores.
 5. Dentist, physician or similar professional health offices.
 6. Drug stores.
 7. Laundry drop off and self-service laundry.
 8. Management office.
 9. Indoor recreation or health club facilities.
- (b) *Single-Family and 2-Family.* The following uses or structures may be permitted as accessory uses to attached single-family and 2-family elderly housing primary uses provided they do not exceed 5% of the EH District:
 1. One central maintenance equipment storage shed of not more than 1,152 square feet per 10 acres.
 2. Recreation building/social center.
 3. Swimming pools.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

4. Tennis courts.

(3) **CONDITIONAL USES.** The uses listed below may be permitted in free standing buildings which may be on separate platted lots or on land occupied by multiple buildings or in buildings containing multiple uses. All conditional uses are intended to support the elderly community in which they are located. No more than 40% of the EH District may be dedicated to nursing home use. The total area within the EH District which is dedicated to other conditional uses shall not exceed 10% of the District in which they are situated.

- (a) Barber and beauty shops.
- (b) Book stores.
- (c) Convenience food stores, not including gasoline service stations.
- (d) Dentist, physician, optician or other similar professional health offices.
- (e) Drug stores.
- (f) Hobby shops.
- (g) Laundry and dry cleaning drop off and pickup service only.
- (h) Nursing homes, subject to the special lot, yard and building requirements contained in subsection (4)(c)2. below.
- (i) Residential quarters for caretaker/caregiver, contained in a detached single-family dwelling within the residential area of the EH District.
- (j) Restaurants, indoor service and affiliated patio or outdoor extension thereof, but no drive through service.
- (k) Self-service laundry.
- (l) Senior activity center.
- (m) Taxi stand or other transportation depot.

(3a) **TEMPORARY USES.** (Cr. Ord. #20-09) Any use listed as an allowable use within the district of a limited duration as established in [section 17.07\(2a\)](#) of this chapter and as defined in [section 17.08\(90\)](#) of this chapter, including, but not limited to, the following uses:

- (a) Sale of farm produce, flowers, plants and similar seasonal items.

(4) **DISTRICT, LOT, YARD AND BUILDING REQUIREMENTS.**

- (a) *Size and Density.* The EH District may be comprised of lands no less than 10 acres in size and no larger than 40 acres in size. Up to 25% of the wetlands and floodplain within the District may be counted in the density calculations for each use. Acreage for density calculations shall be net of road dedications.
- (b) *Residential Uses.* Residential uses shall be permitted at an average maximum density of 10 units per acre for the District.

1. *Attached Single-Family Units.*

Number of contiguous units	3 minimum
	6 maximum

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Floor area:	
One bedroom	800 sq. ft. minimum
Two bedrooms	1,000 sq. ft. minimum
Number of buildings	1.8 per acre maximum
Lot coverage	35% maximum
Setbacks:	
Front yard	40 ft. from ultimate right-of-way per adopted transportation plan or 40 ft. from center line of interior road
Side yards	25 ft. from closest adjoining principal building or property line
Rear yard	50 ft. from closest adjoining building within the District and 50 ft. from closest adjoining property line or District boundary.
Number of stories	2 maximum
Enclosed parking spaces	1.0 per unit minimum

2. *2-family Elderly Housing.*

Floor area:	
One bedroom	800 sq. ft. per unit minimum
Two bedrooms	1,000 sq. ft. per unit minimum
Number of buildings	1.0 per acre maximum

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Lot coverage	35% maximum
Setbacks:	
Front yard	40 ft. from ultimate right-of-way per adopted transportation plan or 40 ft. from centerline of interior road.
Side yards	25 ft. from closest adjoining principal building or property line.
Rear yard	50 ft. from closest adjoining principal building within the District or 50 ft. from closest adjoining property line or District boundary.
Number of stories	2 maximum
Enclosed parking spaces	1 per unit minimum

3. *Multifamily Elderly Housing.*

Number of units	108 per building maximum
Floor area per unit:	
Efficiency	400 sq. ft. minimum
One Bedroom	600 sq. ft. minimum
Two Bedrooms	800 sq. ft. minimum
Lot coverage	35% maximum
Setbacks:	

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Front yard	3 times the height of the building from ultimate right-of-way per adopted transportation plan or 40 ft. from center line of interior road.
Side yards	25 ft. from closest adjoining principal building or property line.
Rear yard	50 ft. from closest adjoining principal building within the District or 3 times the height of the building from closest adjoining property line or District boundary.
Height	35 ft. Maximum
Parking	1 space per unit with at least 50% enclosed.

(c) *Commercial Uses.*

*Density	10% maximum
Lot Coverage	80% maximum
Setbacks:	
Front yard	40 ft. from ultimate right-of-way per approved transportation plan or 60 ft. from centerline of interior road.
Side yards	25 ft. from closest adjoining principal building or property line.
Rear yard	50 ft. from closest adjoining principal building within the District or 50 ft. from closest adjoining property line or District boundary.
Number of stories	1 maximum
**Parking and loading	See section 17.45 of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

* No more than 10% of the EH District may be dedicated to commercial uses. Since development may occur in a planned setting where there may be multiple uses on a lot, bulk requirements may be more appropriately measured in terms of required green space. Therefore, of the area used for commercial purposes within the EH District, 20% shall be reserved for green space.

** Except that required parking for commercial uses may be reduced by up to 50% at the time of site plan approval upon a showing by the applicant that alternative modes of transportation are available which will result in fewer trips per day per use.

(d) *Nursing Homes.*

Density of District	40% maximum
Lot coverage	70% maximum
Green space	30% minimum
Setbacks:	
Front yard	40 ft. from ultimate right-of-way per approved transportation plan or 60 ft. from center line of interior road.
Side yards	25 ft. from closest adjoining principal building or property line.
Rear yard	50 ft. from closest adjoining principal building within the District or 50 ft. from closest adjoining property line or District boundary.
Number of stories	2 maximum
Parking	See section 17.45(1)(d) of this chapter, plus one loading area service vehicles.

(5) **SITE PLAN APPROVAL REQUIRED.** See sections [17.43](#) and [17.44](#) of this chapter. In evaluating the site plan for any portion of the EH District, the following criteria shall be considered:

- (a) Transportation design providing for adequate access between uses within the District (vehicular and pedestrian), and from the District to other community facilities which are attractive to residents of the District.
- (b) Compatibility with adjoining uses.
- (c) Compatibility of building design with design and location of adjoining buildings.
- (d) Suitability of terrain, soils and subsoils for the level of development proposed.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (e) Coordination of uses within the District.
- (f) Proposed location of drives, parking, loading and walkways.
- (g) Proposed location, size and type of signage.
- (6) **APPLICATION PROCEDURE AND REQUIRED INFORMATION.** (Cr. Ord. #38-99)
 - (a) *Preliminary Consultation.* An applicant may meet with the Plan Commission and appropriate Village staff members for a preliminary consultation prior to formally submitting a rezoning petition for Elderly Housing Zoning. The purpose of this preliminary consultation is to discuss the proposed request and review the local regulations and policies applicable to the project and discuss the land use implications of the proposal.
 - (b) *Rezoning Petition and General Development Plan.* The applicant shall submit a rezoning petition in accordance with the application procedure described in [section 17.51](#) of this chapter. In addition to the required information noted in [section 17.51](#), a general development plan shall be submitted to the Plan Commission and Village Board for review 30 business days prior to any rezoning public hearing. The general development plan shall show the locations of buildings, common open space, parking and drive areas, recreation facilities, principal landscaping **and stormwater management** features and other major components of the proposed project.
 - (c) *Other Information.* In addition, other documents or related information or plans showing the architectural designs of the buildings may be required by the Plan Commission and the Village Board. This information shall also be submitted to the Plan Commission and the Village Board for review at least 30 business days prior to any rezoning public hearing. Other related information may include, but is not limited to, maintenance standards, plans of operation and economic impact and market feasibility.
 - (d) *Public Inspection.* The general development plan and related information shall be available for public inspection prior to any rezoning hearing on the proposed project.
 - (e) *Detailed Plans and Information.* After Elderly Housing zoning has been granted and the general development plan has been approved, detailed site plans and information covering that portion of the total project which is intended for construction shall be submitted to the Plan Commission for approval prior to issuance of building permit. The detailed plans and information shall conform substantially to the general development plan approved at the time of the rezoning. The detailed site plans and information shall comply with the requirements and procedures in [section 17.41](#) of this chapter.

17.25 MHP MOBILE HOME PARK RESIDENTIAL DISTRICT.

The MHP Residential District is intended to provide for single-family residential development and served by municipal sewer and water.

- (1) **PERMITTED USES.**
 - (a) Mobile home parks.
- (2) **CONDITIONAL USES.** None.
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91)
 - (a) Real estate field offices or shelters.
- (3) **MOBILE HOME PARK REQUIREMENTS.**
 - (a) *Site Plan.* At the time of application for a rezoning to the MHP District and application for a mobile home park license under [section 12.19](#) of this Code, the applicant shall submit a preliminary site plan to the Zoning Administrator containing the following:

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

1. The name and address of all owners and developers of the proposed mobile home park.
 2. The legal description and lot size, in acres, of the proposed mobile home park.
 3. The location and size of all mobile home spaces, storage areas, recreation areas and facilities, landscaping, existing tree growth, water areas, drainage pathways, roadways, sidewalks and parking sites.
 4. Preliminary landscaping and stormwater management plans and specifications.
 5. Plan for sanitary sewerage disposal, surface drainage, water system, electrical service, gas service, street lighting and topography diagrams.
 6. Location and size of all public roadways abutting the mobile home park and all street and sidewalk accesses from such street and sidewalk to the mobile home park.
 7. Preliminary road construction plans, specifications and elevations.
 8. Preliminary floor plans and elevation for all mobile home park support structures.
 9. Description and method of disposing of garbage and refuse.
 10. Description of proposed maintenance procedures.
 11. Staging and timing of construction program, whether or not the entire area will be developed at one time or in stages.
 12. Such other reasonable information as shall be required by the Zoning Administrator.
- (b) *Mobile Home Park Requirements.* Each mobile home park shall comply with the following standards:
1. A minimum park size shall be 10 acres.
 2. The minimum park width shall be 450 feet at the building setback line.
 3. The minimum open space provided shall be 20% of the development area, exclusive of mobile home unit sites, streets, roads and public or general purpose parking. Vegetative stormwater management measures may be included in open space areas counting towards this requirement.
 4. The minimum setback for a mobile home park building, structure or unit shall be 75 feet from the right-of-way line of a street or highway which abuts the development.
 5. The minimum distance between any park structure, mobile home unit or accessory storage structures and all other exterior park lot lines shall be 40 feet.
- (c) *Mobile Home Space Requirements.* Each mobile home space shall have:
1. A minimum of 5,000 square feet of land area for a single modular mobile home for the exclusive use of the residents of the mobile home located on the space with a minimum width of 50 feet and a minimum depth of 100 feet.
 2. A minimum of 6,000 square feet of land area for a double modular mobile home for the exclusive use of the residents of the mobile home located on the space with a minimum width of 60 feet and a minimum depth of 100 feet.
 3. Frontage on approved roadway and the corner of each space shall be marked and each lot shall be numbered.
- (d) *Yard Requirements.* All mobile homes shall comply with the following yard requirements.
1. No mobile home shall be parked closer than 10 feet to the side lot lines, 20 feet to the front lot line nor 4 feet to the rear lot line.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

2. There shall be an open space of at least 20 feet between adjacent mobile homes.
- (e) *Parking.* The following are minimum parking requirements for mobile home parks:
1. Each mobile home space shall have off-street parking space for 2 automobiles.
 2. Each mobile home park shall maintain a dust-free area with permeable or other hard surfacing hard surfaced as an off-street parking lot for guests of occupants of a size equivalent to one space for each 5 mobile home spaces.
 3. Access drives off roads to all parking spaces and mobile home spaces shall be hard surfaced in bituminous concrete or portland cement concrete designed to accommodate normal traffic. Permeable surfacing as defined in this Chapter shall be permitted for low-volume areas and parking spaces.
 4. Automobiles shall not be parked nearer than one foot from any side lot line unless combined with a contiguous parking area.
- (f) *Utilities.* The following minimum requirements for utilities shall be maintained:
1. There shall be no obstructions impeding the inspection of plumbing, electrical facilities, utilities or other related equipment.
 2. Garbage, waste and trash disposal plans must conform to all State and local health and pollution control regulations. Garbage, waste and trash areas must be enclosed on four sides and graded or curbed to prevent contaminated drainage from reaching storm drains or surface waters.
 3. The owner of a mobile home park shall pay all required sewer and utility connection fees to the Village Treasurer.
- (g) *Internal Streets.* All internal streets shall meet the following minimum requirements:
1. Streets shall be hard surfaced with bituminous concrete or portland cement concrete to accommodate the structural requirements in the Village streets as approved by the Plan Commission. Permeable surfacing may be used upon recommendation of the Village Engineer and approval of the Plan Commission.
 2. All streets shall be developed with a roadbed of not less than 30 feet and a street surface of not less than 18 feet. Ancillary parking on one side may be allowed, except at parking area entrances if the street width is at least 28 feet wide.
- (h) *Sidewalks.* A 30-inch portland cement concrete sidewalk surfaced with a hard, dust-free material shall be built and maintained by the owner providing access to all recreational areas, common use buildings and storage areas, and to the public street access.
- (i) *Lighting.* Artificial lights shall be maintained during all hours of darkness in all buildings provided for common facilities for occupants' use. The mobile home park grounds, street and pedestrian areas shall be lighted from sunset to sunrise in accordance with a lighting plan approved by the Plan Commission.
- (j) *Recreation Areas.* All mobile home parks shall have one or more recreational areas which shall be easily accessible to all park residents. Recreational areas shall be so located as to be free of traffic hazards and shall, where the topography permits, be centrally located. The size of such recreational area shall be a minimum of 10% of the land area of the mobile home park. All equipment installed in such area shall be owned and maintained by the owner or operator of the mobile home park at his expense.
- (k) *Landscaping.* The following minimum landscaping requirements shall be maintained in all mobile home parks:

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

1. Each space shall be properly landscaped with at least one tree. All yards shall be sodded or planted in grass. There shall be a minimum of 20 trees per gross acre in all areas of a mobile home park. Tree, grass and landscape materials shall be properly maintained and replaced to conform to the approved landscape plans and specifications.
2. A visual screen consisting of a compact hedge, redwood fence, coniferous trees or other approved landscape materials or a screen fencing approved by the Plan Commission shall be installed and maintained around the periphery of the mobile home park to substantially inhibit the eye level vision from the exterior when adjacent to any residential district and shall be maintained free of rubbish, debris, weeds and paper.
3. All areas shall be landscaped and the landscape plan shall be approved by the Plan Commission.

4. The use of vegetative stormwater control measures as part of landscaped areas and the landscape plan is strongly encouraged.

- (l) *Mobile Home Stands Required.* All mobile homes shall be placed and leveled on stands consisting of a 16 inch by 16 inch by 4 inch deep square solid base, minimum, with a double tier of alternately crossed 8 inch block ascending; no I-beam or any portion of the mobile home frame shall rest directly on the concrete block. Wood shimming shall be used. No second or medium grade of concrete block may be used and all block must be installed with the hollow core in a vertical position.
 - (m) *Tie Downs and Anchors Required on All Mobile Homes.* Straps and anchoring equipment shall be capable of resisting an allowable working load of not less than 3,150 pounds and capable of withstanding a 50% overload (4,750 pounds) without failure. (Example: Type 1 Finish B, Grade 1 steel strapping, 1 ¼ inch wide and 0.035 inch thick conforming with Federal specifications. Q-QS781-H is recommended to meet the above load requirements.)
 - (n) *Skirting.* All mobile home units shall have skirts around the entire mobile home made of plastic, fiberglass or other comparable noncombustible material approved by the Zoning Administrator and shall be of a permanent color, or painted to match the appropriate mobile home so as to enhance the general appearance thereof.
 - (o) *Storage Buildings.* Any storage building in a mobile home park shall be anchored.
 - (p) *Register of Occupants.* The owner of a mobile home park shall keep a registration list available to the Village or its agents for inspection at reasonable times.
 - (q) *Inspection.* All mobile homes shall comply with State and Village fire, health and building regulations. Before a mobile home unit may be occupied, the owner must secure the inspection and approval of the Zoning Administrator regarding compliance with such regulations.
- (4) **DETAILED SITE PLANS AND INFORMATION REQUIRED.** After MHP zoning has been granted, detailed site plans and information covering that portion of the total project which is intended for construction shall be submitted for approval by the Plan Commission prior to the issuance of building permits. The detailed plans and information shall conform substantially to the preliminary plans and to all other conditions required at the time of zoning approval. All required detailed plans and information shall be submitted to the Plan Commission at least 10 business days prior to the requested date of approval.

17.26 I INSTITUTIONAL DISTRICT.

The I Institutional District is intended to be applied to existing areas of the Village which are under public or quasi-public ownership and where the use for public purpose is anticipated to be permanent. In the future, public or quasi-public uses shall be granted as conditional uses in appropriate zoning districts.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (1) **PERMITTED PRINCIPAL USES.**
 - (a) Churches and synagogues.
 - (b) Hospitals, sanatorium, nursing homes and clinics.
 - (c) Libraries, museums and art galleries.
 - (d) Public or private schools, colleges and universities.
 - (e) Public administrative offices, including fire and police stations.
 - (f) Public utility offices.
- (2) **PERMITTED ACCESSORY USES.**
 - (a) Garages for storage of vehicles used in conjunction with the operation of a permitted use.
 - (b) Residential quarters for caretakers or clergy (not for rent and on the same parcel as the principal use).
 - (c) Service buildings and facilities normally accessory to the permitted uses.
- (3) **CONDITIONAL USES.** See [section 17.42](#) of this chapter.
 - (a) Airport, landing fields, heliport pads and aircraft storage and equipment maintenance, provided that the site is not less than 20 acres in size.
 - (b) Bus terminals and related equipment storage and maintenance
 - (c) Cemeteries and mausoleums.
 - (d) Electrical generation plants and electricity regulating substations, whose height may exceed 35 feet in height. (Am. Ord. #19-99)
 - (e) Public service uses, garages and storage areas.
 - (f) Radio and television transmitting and receiving towers, microwave relay stations and water towers whose height may exceed 35 feet in height. (Am. Ord. #19-99)
 - (g) Transit and car pooling parking areas.
 - (h) Wastewater treatment plant.
 - (i) Water storage tanks and towers.
 - (j) Recycling collection centers. (Cr. Ord. #32-91)
- (3a) **TEMPORARY USES.** (Cr. Ord. #32-91; Am. Ord. #20-09) Any use listed as an allowable use within the district of a limited duration as established in [section 17.07\(2a\)](#) of this chapter and as defined in [section 17.08\(90\)](#) of this chapter, including, but not limited to, the following uses:
 - (a) Sale of farm produce, flowers, plants and similar seasonal items.
- (4) **LOT AREA AND WIDTH.**
 - (a) A minimum area of 7,200 square feet.
 - (b) Not less than 60 feet in width at the building setback line.
- (5) **BUILDING HEIGHT AND AREA.**
 - (a) No building or structure shall exceed 35 feet in height. (Am. Ord. #19-99)
 - (b) The sum total of the first floor area of all principal use and accessory buildings shall not exceed 70% of the total area of the lot.
- (6) **SETBACK AND YARDS.**

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (a) A minimum building setback from the right-of-way of all streets or highways equal to the average setback on each side of the use parcel or districts.
 - (b) A minimum side yard equal to the side yard on adjacent use parcels or districts.
 - (c) A rear yard of not less than 25 feet.
- (7) **OFF-STREET PARKING AND LOADING SPACE.**
- (a) See [section 17.45](#) of this chapter.
 - (b) Sufficient paved off-street loading area shall be provided to accommodate all anticipated loading and unloading needs on the premises. [The use of permeable surfacing for off-street loading areas shall be permitted upon approval of the Village Engineer.](#)
- (8) **SPECIAL REGULATIONS.** To encourage an institutional use environment that is compatible with the residential character of the Village, zoning/building permits for permitted uses in the Institutional District shall not be issued without prior review by and approval of the Plan Commission. Said review and approval shall be concerned with adjacent uses, general layout, building plans, building materials, ingress, egress, parking, loading and unloading, [stormwater management](#), and screening and landscape plans.

17.27 PD PLANNED DEVELOPMENT DISTRICT.

- (1) **INTENT.** Planned Development District regulations are intended to permit greater flexibility and, consequently, more creative and imaginative design for the development of a site than is possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of amenities, and preservation of the natural qualities of open spaces. The planned development procedure requires a high degree of cooperation between the developer and the Village. The procedure described herein is designed to give the developer general plan approval before completing all detailed design work while providing the Village with assurances that the project will retain the character envisioned at the time of approval.
- (2) **GENERAL PROVISIONS.** The Plan Commission may recommend and the Village Board may, upon the request of the owners, establish planned development districts which will, over a period of time, tend to promote the maximum benefit from coordinated area site planning by permitting the diversified location of structures and mixed dwelling types and mixed compatible uses.
- (a) *Permitted Uses.* Permitted and accessory uses in the Planned Development District shall be the same as those permitted in the underlying existing zoning district in which the PDD is located. If a developer desires uses different than those permitted by the existing zoning, the developer must simultaneously petition for rezoning of the underlying existing zoning to a zoning district which allows the desired use(s).
 - (b) *Mixed Uses.* A mix of different uses within a Planned Development District may be permitted if the Plan Commission and the Village Board determine that the mix of uses is compatible and necessary to achieve the objectives of the PDD.
 - (c) *Number of Buildings on a Lot.* The Planned Development District may allow more than one building on a lot.
 - (d) *Density.* The Planned Development District may permit the transfer of density (dwelling units) from one portion of the subject site to another and will permit the clustering of dwelling units in one or more locations within the total site. However, the density of use shall not exceed the density permitted in the underlying existing zoning district.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

(e) *Minimum Area for a Planned Development District.* Planned Development Districts are intended to provide flexibility to encourage more creative design for all sizes of sites that would be allowed under conventional zoning. To achieve this goal, there is no minimum area for a PDD.

(f) *Temporary Uses.* (Cr. Ord. #32-91) Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.

(3) APPLICATION PROCEDURE AND REQUIRED INFORMATION.

(a) *Preliminary Consultation.* An applicant may meet with the Plan Commission and appropriate Village staff members for a preliminary consultation prior to formally submitting a rezoning petition for planned development zoning. The purpose of this preliminary consultation is to discuss the proposed request and review the local regulations and policies applicable to the project and discuss the land use implications of the proposal.

(b) *Rezoning Petition and General Development Plan.* The applicant shall submit a rezoning petition in accordance with the application procedure described in [section 17.51](#) of this chapter. In addition to the required information noted in [section 17.51](#), a general development plan shall be submitted to the Plan Commission and the Village Board for review 30 business days prior to any rezoning hearing. The general development plan shall show the locations of buildings, common open space, parking and drive areas, recreation facilities, principal landscaping features and other major components of the proposed project.

(c) *Other Information.* In addition, other documents or related information or plans showing the architectural designs of buildings may be required by the Plan Commission and the Village Board. This information shall also be submitted to the Plan Commission and the Village Board for review at least 30 business days prior to any rezoning hearing. Other related information may include, but is not limited to, maintenance standards, plans of operation and economic impact and market feasibility.

(d) *Public Inspection.* The general development plan and related information shall be available for public inspection prior to any rezoning hearing on the proposed project.

(4) CONDITIONS AND RESTRICTIONS.

(a) The Plan Commission may recommend and the Village Board may adopt, by resolution, conditions and restrictions for planned developments that specify permitted uses, set bulk regulations and density standards for lot coverage and dwelling unit size and distribution and yard setbacks.

(b) Conditions and restrictions adopted to govern any planned development may include nonstandard or nonuniform requirements, regulations and provisions recommended by the Plan Commission and approved by the Village Board. Such nonstandard requirements, regulations and provisions shall be designed to insure proper development and appropriate operation and maintenance of specific developments on specific sites.

(c) Developers shall agree, by a developer's agreement, with the Village to comply with all applicable laws and regulations, including any conditions and restrictions adopted to regulate a specific planned development.

(5) DETAILED PLANS AND INFORMATION. (Am. Ord. #54-89) After Planned Development District zoning has been granted and the general development plan, together with conditions imposed, has been approved, detailed site plans and information covering that portion of the total project which is intended for construction shall be submitted to the Plan Commission for approval prior to the issuance of building permits. The detailed plans and information shall conform substantially to the general development plan and to the resolution of conditions and restrictions which were approved at the time of rezoning. The detailed site plans and information shall comply with the requirements and procedures in [section 17.43](#) of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (6) **ARCHITECTURAL REVIEW.** Building plans shall also be submitted to the Architectural Review Board for their review and approval prior to the issuance of a building permit. (See [section 17.49](#) of this chapter.)
- (7) **COMMENCEMENT OF PROJECT.** (Rep. & Recr. Ord. #54-89)
- (a) After the Plan Commission has approved the detailed site plans, construction of private and public construction may commence in accordance with [section 18.09](#) of this Code.
 - (b) No building permit shall be issued until all applicable fees and assessments required in [section 18.10](#) of this Code have been paid and either all public and private construction has been completed and approved or a developer's agreement has been approved by the Village Board. For staged development such developers' agreements shall provide for the construction of improvement and the use of common areas outside of the subject stage.
 - (c) After the Plan Commission has approved the plans, the project shall commence and continue toward completion in accordance with the provisions of [section 17.43\(11\)](#). (Am. Ord. #22-07)
- (8) **MAINTENANCE OF PROJECT.**
- (a) Should the owner of a planned development fail to properly operate or maintain the business or premises to the extent that a nuisance is caused to occupants or neighbors, or constitutes a nuisance to nearby properties, the Plan Commission may refuse to approve subsequent stages of development until such time as they determine that the situation and/or the method of operation has been corrected.
 - (b) Should the owner of a planned development fail to adequately perform maintenance functions such as snow and ice removal, [maintenance of stormwater management measures](#), weed cutting or trash disposal, the Village shall have the right to perform such functions or to contract for their accomplishment at the property owner's expense.
- (9) **CHANGES OR REVISIONS.**
- (a) All proposed changes, revisions and additions to any aspect of an approved planned development project shall be submitted to the Plan Commission for its review. The Plan Commission shall determine if the change, revision or addition is minor or if it materially affects the intended design of the project and the impact of the project on neighboring uses.
 - (b) If the change is determined to be minor, the Plan Commission shall review the request and pass its findings to the Village Board, which may approve the change without a public hearing. The Plan Commission's decision on minor changes shall be rendered at a meeting subsequent to the meeting at which the requested change was initially presented to the Plan Commission. (Am. Ord. #54-89)
 - (c) If the requested change is determined by the Plan Commission to be substantial because of its effect on the intended design of the project or on neighboring uses, a public hearing shall be held by the Plan Commission to review and pass its findings to the Village Board for final approval. (Am. Ord. #54-89)
- (10) **APPLICATION OF THE SUBDIVISION AND PLATTING CODE.** (Am. Ord. #54-89) To the extent applicable, any planned development shall be subject to the procedures and regulations of chapter 18 of this Code governing the division and platting of land. However, the design standards and required improvements established in chapter 18 may be modified or waived upon recommendation by the Plan Commission and approval by the Village Board where strict compliance would result in not achieving the design flexibility necessary to achieve the objectives of the planned development.

State law references—Planned development districts, Wis. Stats. §§ 61.35, 62.23(7)(b).

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

17.28 B-I NEIGHBORHOOD BUSINESS DISTRICT.

The B-1 Business District is intended to provide for individual or small groups of retail and customer service retail establishments in a "shopping center" setting. This type of district is generally separated from the traditional "central business district," but near residential development and includes such amenities as increased open space and ample off-street parking and loading areas and architectural or landscape screening from adjacent nonbusiness uses, making such retail centers more compatible with the character of adjacent residential districts.

(1) **PERMITTED PRINCIPAL USES.** (Rep. & Recr. Ord. #1-95) The following uses and activities:

- (a) Reserved.
- (b) Antique stores.
- (c) Art, dance or music studios.
- (d) Bakeries, retail sales only.
- (e) Banks, savings and loan associations and other financial institutions.
- (f) Barber and beauty shops.
- (g) Book stores.
- (h) Business offices.
- (i) Candy and confectionery stores.
- (j) Clock/watch shops.
- (k) Clothing repair shops.
- (l) Clothing stores.
- (m) Computer sales and service.
- (n) Convenience food stores.
- (o) Delicatessens.
- (p) Dentist, physician or other similar professional health offices.
- (q) Drug stores.
- (r) Financial or tax consultants.
- (s) Florists.
- (t) Furniture stores.
- (u) Garden supplies, horticultural services.
- (v) Gift stores.
- (w) Grocery stores.
- (x) Hardware stores.
- (y) Hobby shops.
- (z) Liquor stores.
- (aa) Meat, fish or poultry markets.
- (bb) Optical stores.
- (cc) Photo and film pickup stores.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (dd) Photo studios.
 - (ee) Professional offices.
 - (ff) Restaurants, indoor service only.
 - (gg) Self-service laundries.
 - (hh) Shoe repair shops.
 - (ii) Soda fountains.
 - (jj) Sporting goods stores.
 - (kk) Variety stores.
 - (ll) Video sales/rental.
 - (mm) Secondhand stores less than 5,000 square feet in area. (Cr. Ord. #26-97)
- (2) **PERMITTED ACCESSORY USES.** (Rep. & Recr. Ord. #1-95)
- (a) Off-street parking and loading areas.
 - (b) Roof-mounted satellite transmitting and receiving fixtures.
 - (c) Outdoor vending (see [section 17.50](#)). (Cr. Ord. #24-10)
- (3) **CONDITIONAL USES.** (Rep. & Recr. Ord. #1-95) See [section 17.42](#) of this chapter.
- (a) Animal hospitals, clinics, shelters and kennels.
 - (b) Any use similar to a permitted principal use.
 - (c) Dry cleaning pickup and delivery establishments.
 - (d) Funeral homes, mortuaries.
 - (e) Indoor health and recreation establishments.
 - (f) Interior decorators.
 - (g) Museums.
 - (h) Paint, glass and wallpaper stores.
 - (i) Petroleum service stations.
 - (j) Real estate and insurance offices.
 - (k) Recycling collection centers.
 - (l) Self-serve carwashes.
 - (m) Taverns.
 - (n) Attached and detached accessory buildings.
 - (o) Automobile accessory sales and service uses, except establishments that perform engine, auto body or transmission repair services. (Cr. Ord. #27-97)
 - (p) Child care, day care centers or preschool centers licensed by the State and in continuous compliance with all applicable State and local regulations. (Cr. Ord. #34-97)
 - (q) Any store larger than 20,000 square feet in floor area. (Cr. Ord. #32-98)
 - (r) Churches, length of duration and permit renewal schedule as determined by the Village Board. (Cr. Ord. #2-01; Am. Ord. #37-04)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (s) Drive-through establishments and facilities, other than restaurants, provided that all such facilities meet the yard requirements set forth herein, any protective canopy shall be located not closer than 25 feet to the property line and any parking stall or driveway, shall not be closer than 50 feet to a residential district lot line (per [section 17.45\(1\)\(b\)](#)). (Cr. Ord. #7-04)
- (t) Tattoo and body piercing establishments. (Cr. Ord. #06-09)
- (u) Off-site parking areas (see [section 17.45](#)). (Cr. Ord. #9-10)
- (3a) **TEMPORARY USES.** (Cr. Ord. #32-91) Any use listed as a permitted use within the district of a limited duration as established in [section 17.07\(2a\)](#) of this chapter and as defined in [section 17.08\(83\)](#) of this chapter.
- (4) **LOT, YARD AND BUILDING REQUIREMENTS.** (Am. Ord. #1-95; Am. Ord. #32-98)

Lot frontage at setback	Minimum 100 ft.
Lot area	Minimum 20,000 sq. ft.
Principal buildings:	
Front yard	Minimum 30 ft.
Side yards	Minimum 20 ft.
Rear yard	Minimum 30 ft.
Building height	Maximum 35 ft.
Accessory buildings:	
Front yard	Minimum 30 ft.
Side yards	Minimum 20 ft.
Rear yard	Minimum 25 ft.
Building height	Maximum 15 ft.
Number of stories	Maximum 2
Percent of lot coverage	Maximum 75%, including parking and loading
Floor area per store	Minimum 450 sq. ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (5) **PARKING AND LOADING REQUIREMENTS.** See [section 17.45](#) of this chapter.
- (6) **SITE PLAN APPROVAL REQUIRED.** See [section 17.43\(2\)](#) of this chapter.
- (7) **SCREENING REQUIREMENTS.** All outdoor storage and trash or dumpster storage areas shall be screened from view and on all four sides by a fenced and gated enclosure or by landscape screening, or by a combination of both methods. Enclosures shall be sufficient to ensure that trash and debris are fully contained within the area. Outdoor storage areas other than trash or dumpster enclosures may be screened from view with a combination of landscape screening or an enclosure. All outdoor storage and trash areas shall be graded to prevent the discharge of contaminated stormwater runoff into storm drains or surface waters. Whenever possible, divert flows to a vegetated area.

17.29 B-2 COMMUNITY BUSINESS DISTRICT.

The B-2 District is intended to provide for individual or large groups of retail and customer service retail establishments in a "shopping center" setting. This type of district is usually located at or near the intersections of 2 arterial streets or highways, but separated from the traditional "central business district" and designed for the convenience of weekly or monthly one-stop shopping and includes such amenities as increased open space and ample off-street parking and loading areas and architectural screening or landscaping.

- (1) **PERMITTED PRINCIPAL USES.** (Rep. & Recr. Ord. #1-95) The following uses and activities:
 - (a) Animal hospitals, clinics.
 - (b) Antique stores.
 - (c) Appliance sales and service.
 - (d) Art, dance or music studios.
 - (e) Auto accessory sales and service.
 - (f) Bakeries, including the baking of goods for local sale.
 - (g) Banks, savings and loan associations and other financial institutions.
 - (h) Barber and beauty stops.
 - (i) Book stores.
 - (j) Bowling/pool establishments.
 - (k) Business offices.
 - (l) Candy and confectionery stores.
 - (m) Caterers.
 - (n) Clock/watch shops.
 - (o) Clothing repair shops.
 - (p) Clothing stores.
 - (q) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
 - (r) Computer sales and service.
 - (s) Convenience food stores.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (t) Delicatessens.
- (u) Dentist, physician or other similar professional health offices.
- (v) Department stores, maximum 50,000 square feet.
- (w) Drug stores.
- (x) Dry cleaning pickup and delivery establishments.
- (y) Electrical supply stores.
- (z) Financial or tax consultants.
- (aa) Florists.
- (bb) Furniture stores.
- (cc) Furniture upholstery/repair.
- (dd) Furriers.
- (ee) Garden supplies, horticultural services.
- (ff) Gift stores.
- (gg) Grocery stores.
- (hh) Hardware stores.
- (ii) Heating supply stores.
- (jj) Hobby shops.
- (kk) Indoor health or recreation establishments.
- (ll) Indoor tennis/racket ball establishments.
- (mm) Indoor theaters.
- (nn) Interior decorators.
- (oo) Jewelry stores.
- (pp) Liquor stores.
- (qq) Meat, fish or poultry markets.
- (rr) Museums.
- (ss) Music and musical instrument stores.
- (tt) Optical stores.
- (uu) Paint, glass and wallpaper stores.
- (vv) Pet shops.
- (ww) Photo and film pickup stores.
- (xx) Photo studios.
- (yy) Photographic supplies and camera stores.
- (zz) Plumbing supply stores.
- (aaa) Professional offices.
- (bbb) Quick printing shops.
- (ccc) Radio broadcasting studios.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (ddd) Real estate and insurance offices.
- (eee) Restaurants. (Am. Ord. #7-04)
- (fff) Self-service carwashes.
- (ggg) Self-service laundries.
- (hhh) Shoe repair shops.
- (iii) Shoe stores.
- (jjj) Soda fountains.
- (kkk) Sporting goods stores.
- (lll) Stationery stores.
- (mmm) Variety stores.
- (nnn) Video sales/rental.
- (ooo) Secondhand stores less than 5,000 square feet in area. (Cr. Ord. #26-97)
- (ppp) Home improvement stores. (Cr. Ord. #17-98)
- (2) **PERMITTED ACCESSORY USES.** (Rep. & Recr. Ord. #1-95)
 - (a) Attached garages for storage of vehicles used in conjunction with the operation of a business.
 - (b) Off-street parking and loading areas.
 - (c) Roof-mounted satellite transmitting and receiving fixtures.
 - (d) Drive-through establishments and facilities provided that all such facilities meet the yard requirements set forth herein, any protective canopy shall be located not closer than 25 feet to the property line, and any parking stall or driveway, shall not be closer than 50 feet to a residential district lot line (per [section 17.45\(1\)\(b\)](#)). (Cr. Ord. #7-04, Renum. MCC)
 - (e) Outdoor vending (see [section 17.50](#)). (Cr. Ord. #24-10)
- (3) **CONDITIONAL USES.** (Rep. & Recr. Ord. #1-95) See [section 17.42](#) of this chapter.
 - (a) Amusement arcades.
 - (b) Any use similar to a permitted principal use.
 - (c) Churches, length of duration and permit renewal schedule as determined by the Village Board. (Am. Ord. #16-99; Cr. Ord. #2-01; Am. Ord. #37-04)
 - (d) Reserved. (Rep. Ord. #7-04)
 - (e) Hotels or motels.
 - (f) Parks, leisure or ornamental.
 - (g) Petroleum service stations.
 - (h) Theaters, assembly halls.
 - (i) Transit and car pooling parking areas.
 - (j) Transit bus stations.
 - (k) Wind energy conversion systems.
 - (l) Residential quarters for the owner or proprietor or caretaker/watchman provided that such quarters are in the principal building, not on the ground level floor, and that entrances and exits to such quarters are direct to the exterior of the building. There shall also be a minimum floor area

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

of 400 square feet for an efficiency unit, 600 square feet for a one-bedroom unit and 750 square feet for a 2-bedroom unit. A dwelling unit with more than 2 bedrooms shall not be allowed. Residential quarters in a B-2 District shall be reviewed by the Plan Commission in the same manner provided for in [section 17.24](#) of this chapter.

- (m) Detached accessory buildings.
 - (n) Taverns.
 - (o) Recreational vehicle sales and services.
 - (p) Child care, day care centers or preschool centers licensed by the State and in continuous compliance with all applicable State and local regulations. (Cr. Ord. #34-97)
 - (q) Fenced yards for the sale and storage of goods and materials directly related to a permitted use. (Cr. Ord. #17-98)
 - (r) Any store larger than 50,000 square feet. (Cr. Ord. #27-98)
 - (s) Tattoo and body piercing establishments. (Cr. Ord. #06-09)
 - (t) Off-site parking areas (see [section 17.45](#)). (Cr. Ord. #9-10)
- (3a) **TEMPORARY USES.** (Cr. Ord. #32-91) Any use listed as a permitted use within the district of a limited duration as established in [section 17.07\(2a\)](#) of this chapter and as defined in [section 17.08\(83\)](#) of this chapter.
- (4) **LOT, YARD AND BUILDING REQUIREMENTS.** (Rep. & Recr. Ord. #1-95; Am. Ord. #27-98)

Lot frontage at setback	Minimum 500 ft.
Lot area	Minimum 390,000 sq. ft.
Principal buildings:	
Front yard	Minimum 100 ft.
Side yards	Minimum 40 ft.
Rear yard	Minimum 40 ft.
Building height	Maximum 45 ft.
Accessory buildings:	
Front yard	Minimum 100 ft.
Side yards	Minimum 40 ft.
Rear yard	Minimum 25 ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Building height	Maximum 15 ft.
Number of stories	Maximum 2
Percent of lot coverage	Maximum 75%, including parking and loading
Floor area per store	Minimum 450 sq. ft.

- (5) **PARKING AND LOADING REQUIREMENTS.** See [section 17.45](#) of this chapter.
- (6) **SITE PLAN APPROVAL REQUIRED.** See [section 17.43](#) of this chapter.
- (7) **SCREENING REQUIREMENTS.** ~~Same as for B-1 District. All outdoor storage and trash areas shall be screened from view by an enclosure or by landscape screening, or by a combination of both methods.~~

17.30 B-3 GENERAL BUSINESS DISTRICT.

The B-3 District is intended to provide for the orderly continuation and revitalization of the older established "central business district" area of the Village where uses are not exclusively of one type but, rather, mixed and include retail sales shops, wholesale and warehousing outlets, and institutional, recreational and residential uses. Many of the existing businesses in this district may not meet the requirements of the B-1 or B-2 Districts. It is the intent of this district to provide minimum requirements for all new uses of land within the district and a guide for the redevelopment or revitalization of existing uses of land within the district.

- (1) **PERMITTED PRINCIPAL USES.** (Rep. & Recr. Ord. #1-95) The following uses and activities:
 - (a) Antique stores.
 - (b) Appliance sales and service.
 - (c) Art, dance or music studios.
 - (d) Bakeries, including the baking of goods for local sale.
 - (e) Banks, savings and loan associations and other financial institutions.
 - (f) Barber and beauty shops.
 - (g) Book stores.
 - (h) Bowling/pool establishments.
 - (i) Business offices.
 - (j) Candy and confectionery stores.
 - (k) Caterers.
 - (l) Clock/watch shops.
 - (m) Clothing repair shops.
 - (n) Clothing stores.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (o) Computer sales and service.
- (p) Convenience food stores.
- (q) Delicatessens.
- (r) Dentist, physician or other similar professional health offices.
- (s) Department stores, maximum 50,000 square feet.
- (t) Drug stores.
- (u) Dry cleaning pickup and delivery establishments.
- (v) Electrical supply stores.
- (w) Financial or tax consultants.
- (x) Florists.
- (y) Furniture stores.
- (z) Furniture upholstery/repair.
- (aa) Furriers.
- (bb) Gift stores.
- (cc) Grocery stores.
- (dd) Hardware stores.
- (ee) Heating supply stores.
- (ff) Hobby shops.
- (gg) Interior decorators.
- (hh) Jewelry stores.
- (ii) Liquor stores.
- (jj) Meat, fish or poultry markets.
- (kk) Museums.
- (ll) Music and musical instrument stores.
- (mm) Optical stores.
- (nn) Paint, glass and wallpaper stores.
- (oo) Pet shops.
- (pp) Photo and film pickup stores.
- (qq) Photo studios.
- (rr) Photographic supplies and camera stores.
- (ss) Plumbing supply stores.
- (tt) Professional offices.
- (uu) Quick printing shops.
- (vv) Radio broadcasting studios.
- (ww) Real estate and insurance offices.
- (xx) Restaurants. (Am. Ord. #7-04)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (yy) Self-service laundries.
 - (zz) Shoe repair shops.
 - (aaa) Shoe stores.
 - (bbb) Soda fountains.
 - (ccc) Sporting goods stores.
 - (ddd) Stationery stores.
 - (eee) Taverns.
 - (fff) Variety stores.
 - (ggg) Video sales/rental.
 - (hhh) Secondhand stores less than 5,000 square feet in area. (Cr. Ord. #26-97)
- (2) **PERMITTED ACCESSORY USES.** (Rep. & Recr. Ord. #1-95)
- (a) Attached or detached garages for storage of vehicles used in conjunction with the operation of a business.
 - (b) Off-street parking and loading areas.
 - (c) Roof-mounted satellite transmitting and receiving fixtures.
 - (d) Drive-through establishments and facilities provided that all such facilities meet the yard requirements set forth herein, any protective canopy shall be located not closer than 25 feet to the property line, and any parking stall or driveway, shall not be closer than 50 feet to a residential district lot line (per [section 17.45\(1\)\(b\)](#)). (Cr. Ord. #7-04)
 - (e) Outdoor vending (see [section 17.50](#)). (Cr. Ord. #24-10)
- (3) **CONDITIONAL USES.** (Rep. & Recr. Ord. #1-95) See [section 17.42](#) of this chapter.
- (a) Amusement arcades.
 - (b) Animal hospitals, clinics.
 - (c) Auto accessory sales and service.
 - (d) Auto and truck rental.
 - (e) Auto repair shops.
 - (f) Bed and breakfast establishments.
 - (g) Boarding houses.
 - (h) Body shops.
 - (i) Clubs, fraternities, lodges and meeting places of a noncommercial nature.
 - (j) Construction services; contractor shops.
 - (k) Department stores (50,000 to 100,000 square foot area).
 - (l) Experimental testing labs.
 - (m) Food lockers.
 - (n) Fuel oil, bottled gas, ice dealers.
 - (o) Funeral homes, mortuaries.
 - (p) Garden supplies, horticultural services.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (q) Indoor health or recreation establishment.
- (r) Indoor tennis/racket ball establishment.
- (s) Indoor theaters.
- (t) Millwork, lumber yards, saw mills and planing mills.
- (u) New and used marine sales and service.
- (v) Outdoor recreation facilities.
- (w) Parks, leisure or ornamental.
- (x) Pawn shops.
- (y) Petroleum service stations.
- (z) Public administrative offices, and fire and police stations.
- (aa) Radio and television transmitting and receiving towers, microwave relay stations, and water towers.
- (bb) Rest homes, nursing homes and elderly housing (20 units per acre maximum).
- (cc) Self-service carwashes.
- (dd) Trailer sales or rental.
- (ee) Transit and car pooling parking areas.
- (ff) Warehouse and indoor storage.
- (gg) Wind energy conversion systems.
- (hh) Residential quarters for the owner or proprietor or caretaker/watchman provided that such quarters are in the principal building, not on the ground level floor, and that entrances and exits to such quarters are direct to the exterior of the building. There shall also be a minimum floor area of 400 square feet for an efficiency unit, 600 square feet for a one-bedroom unit and 750 square feet for a 2-bedroom unit. A dwelling unit with more than 2 bedrooms shall not be allowed. Residential quarters in a B-3 District shall be reviewed by the Plan Commission in the same manner provided for in [section 17.24](#) of this chapter.
- (ii) Any use similar to a permitted use.
- (jj) Reserved. (Cr. Ord. #42-95; Rep. Ord. #7-04)
- (kk) Child care, day care centers or preschool centers licensed by the State and in continuous compliance with all applicable State and local regulations. (Cr. Ord. #34-97)
- (ll) Churches, length of duration and permit renewal schedule as determined by the Village Board. (Cr. Ord. #2-01; Am. Ord. #37-04)
- (mm) Tattoo and body piercing establishments. (Cr. Ord. #06-09)
- (nn) Off-site parking areas (see [section 17.45](#)). (Cr. Ord. #9-10)
- (3a) **TEMPORARY USES.** (Cr. Ord. #32-91)
- (4) **LOT, YARD AND BUILDING REQUIREMENTS.** (Rep. & Recr. Ord. #1-95)

Lot frontage at setback	Minimum 50 ft.
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- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Lot area	Minimum 5,000 sq. ft.
Principal buildings:	
Front yard	None, except that the front yard for newly constructed principal buildings shall be the average of the front yard of adjoining or neighboring properties.
Side yards	None, except as required in sections 17.07 and 17.50 of this chapter
Rear yard	Minimum 25 ft.
Number of stories	Maximum 2½
Accessory building:	
Front yard	Minimum 5 ft.
Side yards	Minimum 5 ft.
Rear yard	Minimum 5 ft.
Building height:	
Principal building	Maximum 45 ft.
Accessory building	Maximum 15 ft.
Percent of lot coverage	Maximum 90%, including parking and loading
Floor area per store	No minimum, Maximum 50,000 sq. ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (5) **PARKING AND LOADING REQUIREMENTS.** See [section 17.45](#) of this chapter.
- (6) **SITE PLAN APPROVAL REQUIRED.** See sections [17.43](#) and [17.44](#) of this chapter.
- (7) **SCREENING REQUIREMENTS.** **Same as for B-1 District.** ~~All outdoor storage and trash areas shall be screened from view by an enclosure or by landscape screening, or by a combination of both methods.~~

17.31 B-4 PROFESSIONAL OFFICE DISTRICT.

The B-4 District is intended to provide for individual or limited office, professional and special service uses where the office activity would be compatible with neighborhood uses and not exhibit the intense activity of other business districts.

- (1) **PERMITTED PRINCIPAL USES.** (Rep. & Recr. Ord. #1-95) The following uses and activities:
 - (a) Business offices.
 - (b) Dentist, physician or other similar professional health offices.
 - (c) Financial or tax consultants.
 - (d) Interior decorators.
 - (e) Professional offices.
 - (f) Public administrative offices, and fire and police stations.
 - (g) Real estate and insurance offices.
- (2) **PERMITTED ACCESSORY USES.** (Rep. & Recr. Ord. #1-95)
 - (a) Attached or detached garages for storage of vehicles used in conjunction with the operation of the business.
 - (b) Attached or detached garages for use by apartments or other residential uses as listed in paragraph (c) below.
 - (c) Off-street parking and loading areas.
 - (d) Roof-mounted satellite transmitting and receiving fixtures.
- (3) **CONDITIONAL USES.** See [section 17.42](#) of this chapter.
 - (a) Experimental, testing and research laboratories, provided all principal structures and uses are not less than 100 feet from a residential use.
 - (b) Rental apartments having not more than 2 bedrooms on a nonground level, provided there shall be a minimum floor area of 400 square feet for an efficiency or one bedroom apartment and 550 square feet for a 2-bedroom apartment.
 - (c) Barber shops and beauty shops. (Cr. Ord. #36-90)
 - (d) Studios for photography, painting, music, sculpture, dance or other recognized fine art. (Cr. Ord. #36-90)
 - (e) Child care, day care centers or preschool centers licensed by the State and in continuous compliance with all applicable State and local regulations. (Cr. Ord. #34-97)
 - (f) Churches, length of duration and permit renewal schedule as determined by the Village Board. (Cr. Ord. #2-01; Am. Ord. #37-04)
 - (g) Tattoo and body piercing establishments. (Cr. Ord. #06-09)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

(h) Off-site parking areas (see [section 17.45](#)). (Cr. Ord. #9-10)

(3a) **TEMPORARY USES.** (Cr. Ord. #32-91)

(4) **LOT, YARD AND BUILDING REQUIREMENTS.** (Rep. & Recr. Ord. #1-95)

Lot frontage at setback	Minimum 90 ft.
Lot area	Minimum 10,000 sq. ft.
Principal building:	
Front yard	Average setback of required setbacks in adjoining district.
Side yards	Equal to minimum side yard of adjoining district.
Rear yard	Minimum 25 ft.
Accessory buildings:	
Front yard	Average setback of required setbacks in adjoining districts.
Side yards	Minimum 5 ft.
Rear yard	Minimum 5 ft.
Building height:	
Principal building	Maximum 35 ft.
Accessory building	Maximum 15 ft.
Percent of lot coverage	Maximum 75%, including parking and loading.
Floor area per store/office	Minimum 450 sq. ft. No maximum store size.

(5) **PARKING AND LOADING REQUIREMENTS.** See [section 17.45](#) of this chapter.

(6) **SITE PLAN APPROVAL REQUIRED.** See sections [17.43](#) and [17.44](#) of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (7) **SCREENING REQUIREMENTS.** Same as for B-1 District. All outdoor storage and trash areas shall be screened from view by an enclosure or by landscape screening, or by a combination of both methods.

17.32 B-5 HIGHWAY BUSINESS DISTRICT.

The B-5 District is intended to provide for the orderly and attractive grouping at appropriate locations along principal highway routes of those businesses and customer service establishments which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.

- (1) **PERMITTED PRINCIPAL USES.** (Rep. & Recr. Ord. #1-95; Rep. & Recr. Ord. #7-04; Rep. & Recr. Ord. #03-06) The following uses and activities:
- (a) Appliance sales and services.
 - (b) Art, dance or music studios.
 - (c) Banks, savings and loan associations and other financial institutions.
 - (d) Business offices.
 - (e) Cellular phone retail store.
 - (f) Convenience food stores.
 - (g) Delicatessens.
 - (h) Dentist, physician or other similar professional health offices.
 - (i) Hotels and motels.
 - (j) Indoor health and recreation establishments.
 - (k) Petroleum service stations.
 - (l) Professional offices.
 - (m) Restaurants.
 - (n) Transit bus station.
- (2) **PERMITTED ACCESSORY USES.** (Rep. & Recr. Ord. #1-95)
- (a) Off-street parking and loading areas.
 - (b) Roof-mounted satellite transmitting and receiving fixtures.
 - (c) Drive-through establishments and facilities provided that all such facilities meet the yard requirements set forth herein, any protective canopy shall be located not closer than 25 feet to the property line, and any parking stall or driveway, shall not be closer than 50 feet to a residential district lot line (per [section 17.45\(1\)\(b\)](#)). (Cr. Ord. #7-04)
 - (d) Outdoor vending (see [section 17.50](#)). (Cr. Ord. #24-10)
- (3) **CONDITIONAL USES.** (Rep. & Recr. Ord. #1-95) See [section 17.42](#) of this chapter.
- (a) Any use similar to a permitted use.
 - (b) Convention center.
 - (c) Indoor theaters.
 - (d) Motor vehicle sales and service.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (e) New and used marine sales and service.
 - (f) Recreational vehicle sales and service.
 - (g) Self-serve carwashes.
 - (h) Tractor and other farm implement sales and service.
 - (i) Trailer sales and rentals.
 - (j) Transit and car pooling areas.
 - (k) Truck stops.
 - (l) Attached and detached garages for storage of vehicles used in conjunction with the operation of a business.
 - (m) Churches, length of duration and permit renewal schedule as determined by the Village Board. (Cr. Ord. #2-01; Am. Ord. #37-04)
 - (n) Construction services, contractor shops. (Cr. Ord. #03-06)
 - (o) Animal hospitals, clinics. (Cr. Ord. #03-06)
 - (p) Dry cleaning pickup and delivery establishments. (Cr. Ord. #03-06)
 - (q) Heating supply stores. (Cr. Ord. #03-06)
 - (r) Plumbing supply stores. (Cr. Ord. #03-06)
 - (s) Auto accessory sales and service. (Cr. Ord. #03-06)
 - (t) Tattoo and body piercing establishments. (Cr. Ord. #06-09)
 - (u) Off-site parking areas (see [section 17.45](#)). (Cr. Ord. #9-10)
- (3a) **TEMPORARY USES.** (Cr. Ord. #32-91) Any use listed as a permitted use within the district of a limited duration as established in [section 17.07\(2a\)](#) of this chapter and as defined in [section 17.08\(83\)](#) of this chapter.
- (4) **LOT, YARD AND BUILDING REQUIREMENTS.** (Rep. & Recr. Ord. #1-95)

Lot frontage at setback	Minimum 120 ft.
Lot area	Minimum 30,000 sq. ft.
Principal buildings:	
Front yard	Minimum 40 ft.
Side yards	Minimum 10 ft.
Rear yard	Minimum 25 ft.
Building height	Maximum 35 ft.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Accessory buildings:	
Front yard	Minimum 40 ft.
Side yards	Minimum 5 ft.
Rear yard	Minimum 5 ft.
Number of stories	Maximum 2
Percent of lot coverage	Maximum 80%, including parking and loading

- (5) **PARKING AND LOADING REQUIREMENTS.** See [section 17.45](#) of this chapter.
- (6) **SITE PLAN APPROVAL REQUIRED.** See sections [17.43](#) and [17.44](#) of this chapter.
- (7) **SCREENING REQUIREMENTS.** ~~Same as for B-1 District. All outdoor storage and trash areas shall be screened from view by an enclosure or by landscape screening, or by a combination of both methods.~~

17.33 M-1 LIMITED INDUSTRIAL DISTRICT.

The M-1 Industrial District is intended to provide for warehousing, manufacturing or fabrication operations which, on the basis of physical and operational characteristics, would not be detrimental to the immediate surrounding area or to the Village as a whole by reason of smoke, odor, noise, dust, flash, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably insure compatibility with the surrounding area in this respect. All uses in this District must meet the State of Wisconsin industrial standards.

- (1) **PERMITTED PRINCIPAL USES.**
 - (a) Building and yards for the storage and wholesale of goods and materials other than chemical, flammable, liquid, gaseous, vaporous or explosive substances where such goods or materials are temporarily stored inside a building or within an open area visually screened from public streets or highways and adjacent nonindustrial uses.
 - (b) All uses involving the manufacture and fabrication of goods within the confines of a building and in which any smoke, noise, dust, flash or odor produced in the manufacturing process is confined within the building.
 - (c) All uses involving the provisions of a service which is either manufacturing-related or fabrication-related and not permitted in business districts confined within a building, and in which smoke, dust, flash, heat, noise or odor produced by such service uses is confined within the building.
- (2) **PERMITTED ACCESSORY USES.**
 - (a) Enclosed as well as screened areas for the storage of materials other than explosive or flammable materials or substances used in the manufacturing or fabrication process.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (b) Offices normally auxiliary to the principal use.
 - (c) Garages for the storage of vehicles used in conjunction with the operation of the warehouse or industrial use.
 - (d) Auxiliary power generators.
 - (e) Off-street parking and loading areas.
 - (f) One aboveground storage tank (maximum 5,000 gallon capacity) for storage of flammable materials, subject to compliance with [section 11.071](#) of this Code. (Cr. Ord. #30-97)
- (3) **CONDITIONAL USES.** (Rep. & Recr. Ord. #30-97)
- (a) Buildings, structures or underground storage tanks used for the storage of chemicals, flammable liquids and gaseous or vaporous substances.
 - (b) Two or more aboveground storage tanks (over 5,000 gallon capacity) for storage of flammable materials, subject to compliance with [section 11.071](#) of this Code.
 - (c) Yards and structures used for the temporary storage or holding of animals not for slaughter.
 - (d) Recycling collection/processing center.
 - (e) Reserved. (Rep. Ord. #5-02)
 - (f) Secondhand stores greater than 5,000 square feet in area, subject to all other requisite approvals applicable to conditional use and subject to the Plan Commission determining reasonable regulations for the collection, warehousing, sorting and repair of materials in the course of operation of such secondhand stores.
 - (g) Child care, day care centers or preschool centers licensed by the State and in continuous compliance with all applicable State and local regulations. (Cr. Ord. #34-97)
 - (h) Commercial activities permitted in the B-2, Community Business District when the Plan Commission finds that the activity will directly support the businesses of the industrial park and can be integrated into an overall plan for the industrial park. (Cr. Ord. #11-00)
 - (i) Agricultural and dairy product silos, cooling towers, and other accessory structures whose height exceeds 45 feet. (Cr. Ord. #23-03; Am. Ord. #31-07)
 - (j) Principal buildings exceeding a height of 45 feet provided that: (Cr. Ord. #31-07)
 - 1. A new or expanded building should normally not exceed the height of any existing principal building(s) on an adjacent or opposing property (across the street) if the height of the new building will be greater than twice the height of the nearest, tallest existing building;
 - 2. The site design and architecture of the new or expanded building includes additional setback, and, variation or articulation of the wall and roof components of the new or expanded building to provide a transition in height; and
 - 3. The new or expanded building is not on property that is adjacent to a residential zoning district or other established residential area.
- (3a) **TEMPORARY USES.** (Cr. Ord. #32-91) Any use listed as a permitted use within the district of a limited duration as established in [section 17.07](#)(2a) of this chapter and as defined in [section 17.08](#)(83) of this chapter.
- (4) **LOT, YARD AND BUILDING REQUIREMENTS.**

Lot frontage at setback	Minimum 120 ft.
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- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Lot area	Minimum 30,000 sq. ft.
Principal building:	
Front yard	Minimum 30 ft.
Side yards	Minimum 10 ft.
Rear yard	Minimum 25 ft.
Building height	Maximum 45 ft.
Percentage of coverage, including parking and loading	Maximum 80%

- (5) **PARKING AND LOADING REQUIREMENTS.** See [section 17.45](#) of this chapter.
- (6) **SITE PLAN APPROVAL REQUIRED.** See [section 17.43](#) of this chapter.

17.34 M-2 GENERAL INDUSTRIAL DISTRICT.

The M-2 Industrial District is intended to provide for the same type of manufacturing and fabricating operations and uses as in the M-1 Industrial District plus more intensive uses. However, these operations and uses shall be provided in those areas where the relationships to surrounding land use would create fewer problems of compatibility. The M-2 Industrial District also permits those activities generally perceived as being of a nuisance nature or considered to be hazardous. All uses in this District must meet State of Wisconsin industrial standards as well as performance standards set forth in [section 17.47](#) of this chapter. Such districts should not normally abut directly upon residential or commercial districts.

- (1) **PERMITTED PRINCIPAL USES.**
 - (a) Uses permitted in the M-1 District.
 - (b) All manufacturing, fabricating and storage uses not permitted in any other industrial district (except the manufacture or fabrication of explosives, flammable liquids, chemicals and gaseous or vaporous substances) as long as such permitted uses are carried on within an enclosed structure or within a totally screened yard area.
- (2) **PERMITTED ACCESSORY USES.**
 - (a) Enclosed as well as screened open storage of materials other than explosive or flammable materials or substances used in the manufacturing or fabrication process.
 - (b) Offices normally auxiliary to the principal use.
 - (c) Garages for the storage of vehicles used in conjunction with the operation of the industrial use.
 - (d) Auxiliary power generators.
 - (e) Off-street parking and loading areas.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (f) One aboveground storage tank (maximum 5,000 gallon capacity) for storage of flammable materials, subject to compliance with [section 11.071](#) of this Code. (Cr. Ord. #30-97)
- (3) **CONDITIONAL USES.** (Rep. & Recr. Ord. #30-97) See [section 17.42](#) of this chapter.
 - (a) The manufacturing, fabricating or underground storage of chemicals, explosives, flammable liquids and gaseous or vaporous substances.
 - (b) Two or more aboveground storage tanks (over 5,000 gallon capacity) for storage of flammable materials, subject to compliance with [section 11.071](#) of this Code.
 - (c) Landfills, and solid and other waste disposal and recovery uses.
- (3a) **TEMPORARY USES.** (Cr. Ord. #32-91) Any use listed as a permitted use within the district of a limited duration as established in [section 17.07](#)(2a) of this chapter and as defined in [section 17.08](#)(83) of this chapter.
- (4) **LOT, YARD AND BUILDING REQUIREMENTS.**

Lot frontage at setback	Minimum 150 ft.
Lot area	Minimum 50,000 sq. ft.
Principal building:	
Front yard	Minimum 30 ft.
Side yards	Minimum 25 ft.
Rear yard	Minimum 25 ft.
Building height	Maximum 45 ft.
Percentage of lot coverage, including parking and loading.	Maximum 50%

- (5) **PARKING AND LOADING REQUIREMENTS.** See [section 17.45](#) of this chapter.
- (6) **SITE PLAN APPROVAL REQUIRED.** See sections [17.43](#) and [17.44](#) of this chapter.

17.35 M-3 SPECIAL USE INDUSTRIAL DISTRICT.

The M-3 Industrial District is intended to allow for flexibility in the design of large, single-user, manufacturing or fabricating operations consisting of one such manufacturing or fabricating facility per lot in a manner which would not be detrimental to the surrounding area or to the Village as a whole.

- (1) **PERMITTED PRINCIPAL USES.**
 - (a) All uses as permitted in the M-1 District.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

(b) All manufacturing, fabricating and storage uses not permitted in any other industrial district (except the manufacturing or fabricating of explosives, chemicals, gaseous or vaporous substances, and underground storage tanks for flammable liquids). (Am. Ord. #30-97)

(2) PERMITTED ACCESSORY USES.

- (a) Enclosed as well as screened open storage of materials other than explosive or flammable materials or substances used in the manufacturing or fabrication process.
- (b) Offices normally auxiliary to the principal use.
- (c) Garages for the storage of vehicles used in conjunction with the operation of the industrial use.
- (d) Auxiliary power generators.
- (e) Off-street parking and loading areas.
- (f) One aboveground storage tank (maximum 5,000 gallon capacity) for storage of flammable materials, subject to compliance with [section 11.071](#) of this Code. (Cr. Ord. #30-97)

(3) CONDITIONAL USES. (Am. Ord. #30-97)

- (a) Manufacturing and fabricating of explosives, chemicals, gaseous or vaporous substances, and underground storage tanks for flammable liquids.
- (b) Two or more aboveground storage tanks (over 5,000 gallon capacity) for storage of flammable materials, subject to compliance with [section 11.071](#) of this Code.

(3a) **TEMPORARY USES.** (Cr. Ord. #32-91) Any use listed as a permitted use within the district of a limited duration as established in [section 17.07\(2a\)](#) of this chapter and as defined in [section 17.08\(83\)](#) of this chapter.

(4) LOT, YARD AND BUILDING REQUIREMENTS.

Lot frontage at setback	Minimum 1,000 ft.
Lot area	Minimum 40 acres
Principal building:	
Front yard	Minimum 40 ft.
Side yards	Minimum 15 ft.
Rear yard	Minimum 15 ft.
Building height	Maximum 40 ft.
Percentage of lot coverage, including parking and loading.	Maximum 45%

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (5) **PARKING AND LOADING REQUIREMENTS.** See [section 17.45](#) of this chapter.
- (6) **PROCEDURE.**
- (a) The owner or his agent shall file a petition requesting a zoning map amendment to the M-3 Special Use Industrial District with the Village Clerk, in the manner set forth in [section 17.51](#) of this chapter. In addition, a general site plan shall be submitted as a part of the petition of sufficient detail to satisfy the Village Board as to the general character, scope and appearance of the proposed development. Such plan shall show the general layout of proposed buildings or building sites, as well as storage, parking, loading and unloading areas, and any other information as the Village Board may reasonably require.
- (b) The petition shall be referred to the Plan Commission for its review and recommendation. The requirements of subsections (4), (5) and (6) above may be modified by the Plan Commission prior to its recommendation to the Village Board if such modification, in the opinion of the Plan Commission, is necessary to make maximum use of the proposed site without causing detriment to the surrounding area or to the Village as a whole.
- (c) The Village Board shall then hold a public hearing on the Plan Commission recommendation concerning the petition and shall give notice as specified in [section 17.51](#) of this chapter.
- (d) Following such hearing and after careful consideration of the Plan Commission's recommendations, the Village Board shall either deny the petition or approve the petition as submitted.
- (e) Subsequent to the approval of M-3 District zoning and the general site plan, detailed plans shall be submitted to the Plan Commission for approval prior to the issuance of building permits. Such plans shall contain the following information:
1. The precise location of public and private roads, driveways and parking facilities.
 2. Detailed information concerning the size, arrangement and location of any individual building sites and proposed building groups on each individual site, [including the location, type and proposed screening of trash handling or other outdoor storage areas.](#)
 3. The location of open space areas and areas reserved or dedicated for public use, drainage ways, and stormwater [management features](#), ~~retention or detention areas, if required.~~
 4. The type, size and location of all structures.
 5. Detailed screening and landscape plans, [including the location and type of vegetative stormwater management features.](#)
 6. Detailed architectural plans, elevation and perspective drawings and sketches illustrating the design and character of proposed structures.
 7. The existing and proposed location of public sanitary sewer and water supply facilities.
 8. The existing and proposed location of all private utilities or other easements.
 9. Existing topography on the site with contours at no greater than 2-foot intervals.
 10. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
 11. Any other detailed information as the Plan Commission may reasonably require.
- (f) In making its determination regarding approval of plans submitted in accordance with the requirements of paragraph (e) above if, in the opinion of the Plan Commission, such plans submitted for approval are found to be in substantial variance with the approved general site plan, a public hearing before the Village Board shall be required and notice thereof shall be given, pursuant to the provisions of [section 17.51](#) of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

17.36 M-4 MINERAL EXTRACTION DISTRICT.

The M-4 District is intended to provide for the orderly continuation or restoration of existing quarries or other extractive and related operations and to provide for the location in appropriate places of new extractive operations that provide maximum protection to the natural environment. This District further provides for the restoration of quarries in a manner that will not deteriorate the natural environment

- (1) **PERMITTED USES.** None.
- (2) **CONDITIONAL USES.** See [section 17.42](#) of this chapter.
 - (a) Mining or extraction of rock, slate, gravel, sand, topsoil and other minerals.
 - (b) Processing, refining and washing of rock, slate, sand or minerals.
 - (c) Processing or storage of topsoil.
 - (d) Storage of any of the aforesaid mineral products.
 - (e) The on-site processing, conversion or packaging of the materials extracted including manufacturing of concrete products, lime, gypsum or plaster of Paris, and the initial preparation of concrete as a "ready-mix."
- (2a) **TEMPORARY USES.** (Cr. Ord. #32-91) Any use listed as a permitted use within the district of a limited duration as established in [section 17.07](#)(2a) of this chapter and as defined in [section 17.08](#)(83).
- (3) **LOT, YARD AND BUILDING REQUIREMENTS.**

Lot frontage at street access	Minimum 80 ft.
Lot area	Sufficient area for extraction operation, stockpiling, buildings and parking
Setbacks:	
Extraction operation	Minimum 200 ft. from the right-of-way and all property lines
Stockpiling, buildings and parking	Minimum 100 ft. from the right-of-way and all property lines
Building height	Maximum 75 ft.
Percent of lot coverage	Maximum 5%

- (4) **SPECIAL REGULATIONS.**
 - (a) An application for a conditional use permit in the M-4 District shall be submitted to the Plan Commission by the property owner or long-term lessee, who shall be directly responsible for the

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

operation of the quarry or other extractive operation-related activity. The application shall include the following:

1. An adequate description of the operational methods and a plat survey of the proposed site.
 2. A list of equipment, machinery and structures to be used.
 3. The source, quantity and disposition of water to be used.
 4. A topographic map of the site showing all existing structures, trees and existing contours at a maximum interval of 2 feet.
 5. Proposed and existing access roads.
 6. The depth of all existing and proposed excavations.
 7. A restoration plan.
- (b) The restoration plan provided by the applicant shall include the following:
1. Proposed contours at a maximum interval of 2 feet after filling or restoration.
 2. Depth of restored topsoil.
 3. Type of fill, planting or reforestation.
 4. Restoration commencement and completion dates.
 5. The proposed use of the site after restoration.
- (c) The applicant shall pay to the Village Treasurer the necessary fees to provide for the Village inspection and administration costs, based on the actual cost of such inspection and administration.
- (d) The applicant and/or owner of the land from which the mineral, gravel, sand, rock, slate or topsoil is being removed or extracted shall furnish 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 the sureties shall be based upon cost estimates prepared by the Village Engineer including a reasonable inflation factor, and the form and type of such sureties shall be approved by the Village Attorney. (See also [section 17.42](#) of this chapter)

17.37 HIA HIGHWAY INTERCHANGE AREA DISTRICT (OVERLAY DISTRICT).

- (1) **PURPOSE.** The purpose of the HIA District is to supplement the controls of the underlying zoning districts by providing special regulations as required by the unique characteristics of land development and traffic generation and movement in interchange areas.
- (2) **APPLICATION.** The general standards set forth hereunder shall apply to all lands within the delineated areas surrounding any existing or planned highway interchange and shall be overlaid upon the underlying zoning districts already applied to the same lands. In the event of conflicting standards between the underlying zoning and the interchange overlay regulations, the more restrictive shall apply.
- (3) **ACCESS AND ROAD REQUIREMENTS.** The following requirements shall apply for an area of ½ mile outside the interchange right-of-way or for a distance of ½ mile along either side of an intersecting highway from the most remote end of the interchange ramp taper, whichever is greater.
 - (a) *Access Control on Intersecting Highway.*
 1. On a dual-lane highway, there shall be no access within 1,000 feet of the most remote end of any ramp taper.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

2. On other intersecting highways, there shall be no access within 700 feet of the most remote end of taper.
 3. There shall be no access point closer than 700 feet to another access point.
 4. Access points on opposite sides of the highway shall be directly opposite each other or opposite a median crossover, or separated by at least 300 feet of lateral distance.
 5. Frontage roads or interior access roads shall be utilized to minimize the number of direct access points to the intersecting highway.
 6. Every property owner developing land within this district shall dedicate land for either a frontage road minimum width of 50 feet or an interior street of a minimum width of 66 feet.
- (b) *Setback.* The setback from an intersecting highway shall be 160 feet from the center line or 100 feet from the right-of-way line, whichever is greater, or 50 feet from the right-of-way of a frontage road.

17.38 FW FLOODWAY DISTRICT.

See chapter 23 of this Code.

17.39 FF FLOOD FRINGE DISTRICT.

See chapter 23 of this Code.

17.40 WELLHEAD PROTECTION. (Cr. Ord. #15-10)

17.40.01 PURPOSE AND AUTHORITY.

- (1) *Purpose.* The residents of the Village of Germantown depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Wellhead Protection Ordinance is to institute land use regulations and restrictions protecting the municipal water supply of the Village of Germantown and promote the public health, safety and general welfare of the residents.
- (2) *Authority.* Statutory authority of the Village to enact these regulations was established by the Wisconsin Legislature in §62.23(7)(a) and (c), Wis. Stats. Under these statutes, the Village has the authority to enact this ordinance to encourage the protection of groundwater resources.

17.40.02 APPLICATION OF REGULATIONS. The regulations specified in this Wellhead Protection Ordinance shall apply to those areas of the Village of Germantown that lie within the recharge areas for municipal water supply wells as defined in subsection 17.40.05, and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this ordinance and the zoning ordinance, the more restrictive provision shall apply.

17.40.03 DEFINITIONS.

- (1) *Aquifer.* A saturated, permeable geologic formation that contains and will yield significant quantities of water.
- (2) *Cone of Depression.* The area around a well, in which the water level has been lowered at least 1/10 of a foot by pumping of the well.
- (3) *Facilities.* A general term referring to land uses, business operations, activities, developed property, or material stored.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (4) *Five-Year Time of Travel*. The recharge area upgradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater will take 5 years to reach a pumping well.
- (5) *Municipal Water Supply*. The municipal water supply of the Village of Germantown.
- (6) *Person*. An individual, partnership, association, corporation, municipality or state agency, or other legal entity.
- (7) *Recharge Area*. The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.
- (8) *Thirty-Day Time of Travel*. The recharge area upgradient of a well, or its cone of depression, the outer boundary of which it is determined or estimated that groundwater will take 30 days to reach a pumping well.
- (9) *Well Field*. A piece of land used primarily for the purpose of locating wells to supply a municipal water system.
- (10) *Well*. A boring into the earth for the purpose of extracting groundwater for supply to the municipal water supply.
- (11) *Zone of Saturation*. The area of unconsolidated, fractured or porous material that is saturated with water and constitutes groundwater.

17.40.04 **GROUNDWATER TECHNICAL REVIEW COMMITTEE.**

- (1) The Germantown Groundwater Technical Review Committee shall consist of all of the following:
 - (a) The Village Planner/Zoning Administrator.
 - (b) The Village Public Works Director.
 - (c) The Village Engineer
 - (d) The Fire Chief.
 - (e) The Superintendent of the Water Utility.
- (2) The purpose of the Germantown Groundwater Technical Review Committee is to provide objective and scientific technical review of requests for conditional use permits and make recommendations to the Plan Commission and ultimately to the Village Board to grant or deny conditional use permits based upon the facts discovered in that review, to make recommendations on any and all conditions placed on a conditional use permit, and to give advice on matters concerning groundwater.
- (3) Professional Services. The Village may retain the services of professional consultants (including engineer, environmental specialist, hydrologist, and other experts) to assist the Village in the Village's review of a proposal or submittal coming before the Germantown Water Technical Review Committee. The submittal of a proposal by a petitioner shall be construed as an agreement to pay for such professional review services applicable to the proposal. The Village may apply the charges for these services to the petitioner along with an administrative fee. Review fees which are applied to the petitioner, but which are not paid, may be assigned by the Village as a special assessment to the subject property.

17.40.05 **GROUNDWATER PROTECTION OVERLAY DISTRICT.** A Groundwater Protection Overlay District may be created to institute land use regulations and restrictions within a defined area which contributes water directly to a municipal water supply and thus promotes public health, safety, and welfare. The district is intended to protect the groundwater recharge area for the existing or future municipal water supply from contamination.

17.40.06 **SUPREMACY OF THIS DISTRICT.** The regulations of an overlay district will apply in addition to all other regulations which occupy the same geographic area. The provisions of any zoning

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

districts that underlay this overlay district will apply except when provisions of the Groundwater Protection Overlay District are more stringent.

17.40.07 **GROUNDWATER PROTECTION OVERLAY DISTRICTS BOUNDARIES.** The boundaries of the Groundwater Protection Overlay Districts are referenced as being part of the Germantown zoning map being an overlay district to the zoning map. The locations and boundaries of the zoning districts established by this ordinance are set forth on the Village of Germantown Municipal Wellhead Protection Areas Map which is incorporated herein and hereby made a part of this ordinance. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this ordinance as though fully set forth and described herein.

17.40.08 **PERMITTED USES.**

- (1) Subject to the conditions for existing uses listed in subsection 17.40.12 the following are the only permitted uses within the groundwater protection overlay district.
 - (a) Public and private parks, and playgrounds provided there are no on-site wastewater disposal systems or holding tanks.
 - (b) Wildlife and natural and woodland areas.
 - (c) Biking, hiking, skiing, nature, equestrian and fitness trails.
 - (d) Residential which is municipally sewered and free of flammable and combustible liquid underground storage tanks.
 - (e) Agricultural uses in accordance with the county soil conservation department's best management practices guidelines.
 - (f) Single-family residences on a minimum lot of 20,000 square feet with a private on-site sewage treatment system receiving less than 8,000 gallons per day, which meets the County and State health standards for the effluent, and free of flammable or combustible liquid underground storage tanks.
 - (g) Commercial, institutional, industrial or office establishments which are municipally sewered subject to the prohibited and conditional uses listed in subsections 17.40.10 and 17.40.11.

17.40.09 **SEPARATION DISTANCE REQUIREMENTS.**

- (1) The following separation distances as specified in § NR 811.16(4)(d), Wis. Adm. Code, shall be maintained. Measurements shall be from the well head to the specified structure, facility, edge of landfill or storage area as described in items (a) through (f) below.
 - (a) Fifty feet between a public water supply well and a stormwater sewer main or any sanitary sewer main constructed of water main materials and joints which is pressure tested in place to meet current AWWA 600 specifications. NOTE: Current AWWA 600 specifications are available for inspection at the office of the Wisconsin Department of Natural Resources, the Secretary of State's office and the office of the Revisor of Statutes.
 - (b) Two hundred feet between a public water supply well and any sanitary sewer main not meeting the above specifications, any sanitary sewer lift station or single-family residential fuel oil tank.
 - (c) Four hundred feet between a public water supply well and a septic system receiving less than 8,000 gallons per day, or a stormwater detention, retention, infiltration or drainage basin.
 - (d) Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under § COMM 10.10, Wis. Adm. Code.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (e) One thousand feet between a well and land application of municipal, commercial or industrial waste; industrial, commercial or municipal waste water lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil adsorption units receiving 8,000 gallons per day or more.
- (f) Twelve hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one-time disposal or small demolition facility; sanitary landfill; coal storage area; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under § COMM 10.10, Wis. Adm. Code; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

17.40.10 **PROHIBITED USES.**

- (1) The following uses are prohibited:
 - (a) Buried hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40 CFR Part 370.)
 - (b) Radioactive waste facilities.
 - (c) Coal storage.
 - (d) Industrial lagoons, pits or natural or manmade containment structures, primarily of earthen materials used for storage or treatment of wastewater, fermentation leachates or sludge.
 - (e) Landfills and any other solid waste facility, except post-consumer recycling.
 - (f) Manure and animal waste storage except animal waste storage facilities regulated by the County.
 - (g) Pesticide and fertilizer dealer.
 - (h) Railroad yards and maintenance stations.
 - (i) Rendering plants and slaughterhouses.
 - (j) Salt or deicing material storage for the purpose of distribution.
 - (k) Septage or sludge spreading.
 - (l) Septage, wastewater, or sewage lagoons.
 - (m) Motor vehicular filling stations.
 - (n) Wood preserving operations.

17.40.11 **CONDITIONAL USES.**

- (1) Any person may request a conditional use permit for certain uses, activities and structures within the Groundwater Protection Overlay District not prohibited in subsection 17.40.10.
- (2) The uses, activities, and structures that may be conditionally allowed are:
 - (a) Jewelry plating and metal plating.
 - (b) Machine or metal working shops as the principal business.
 - (c) Commercial, institutional, or office establishments utilizing a private on-site wastewater treatment system.
 - (d) Cemeteries.
 - (e) Chemical manufacturers (Standard Industrial Classification Major Group 28).
 - (f) Dry cleaners.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (g) Nonmetallic earthen materials extraction or sand and gravel pits.
 - (h) Salvage or junk yards.
 - (i) Stockyards and feedlots.
 - (j) Research labs, universities and hospitals.
 - (k) Exposed hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40 CFR Part 370.) This shall not apply to residential LP gas tanks which are permitted under subsection 17.40.08(1)(i).
 - (l) Storage or processing of extremely hazardous substances, radioactive materials or substances listed in Table 1, Ch. NR 140, Wis. Adm. Code (Extremely hazardous substances are identified by SARA/EPCRA criteria under 40 CFR Parts 302 and 355.)
 - (m) Septage or sludge storage or treatment
 - (n) Motor vehicular service stations, repair, renovation and body working.
- (3) All requests for a conditional use permit shall be submitted in writing to the Germantown Village Planning and Zoning Department, and shall include all of the following:
- (a) A site plan map with all building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, and 2-foot ground elevation contours.
 - (b) A business plan and/or other documentation which describes in detail the use, activities, and structures proposed.
 - (c) An environmental assessment report prepared by a licensed environmental engineer which details the risk to, and potential impact of, the proposed use, activities, and structures on groundwater quality.
 - (d) An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring.
 - (e) A contingency plan which addresses in detail the actions that will be taken should a contamination event caused by the proposed use, activities, or structures occur.
- (4) All applicants submitting a request for a conditional use permit shall reimburse the Village for all consultant fees and expenses and technical review committee expenses associated with this review, plus administrative costs and processing fees.
- (5) All conditional use permits granted shall be subject to conditions that will include environmental and safety monitoring determined necessary to afford adequate protection of the public water supply. These conditions shall include all of the following:
- (a) Provide current copies of all federal, state and local facility operation approval or certificates and on-going environmental monitoring results to the Village.
 - (b) Establish environmental or safety structures/monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management, and groundwater monitoring.
 - (c) Replace equipment or expand in a manner that improves the environmental and safety technologies in existence.
 - (d) Prepare, file and maintain a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county and state officials. Provide a current copy to the Village.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (6) The Germantown Village Board shall decide upon a request for a conditional use permit only after full consideration of the recommendations made by the Germantown Groundwater Technical Review Committee. Any conditions above and beyond those specified in conditional uses, subsection (5) herein that are recommended by the Germantown Groundwater Technical Review Committee may be applied to the granting of the conditional use permit.

17.40.12 **REQUIREMENTS FOR EXISTING FACILITIES REQUIRING A CONDITIONAL USE OR LISTED AS A PROHIBITED USE.** Existing facilities within the Groundwater Protection Overlay District at the time of enactment of such district which require a conditional use or are listed as a prohibited use in subsection 17.40.11 or subsection 17.40.10 all of which are incorporated herein as if fully set forth.

- (1) The owners or operators of such facilities as above which exist within the district at the time of enactment shall, within 45 days of enactment, provide copies of all current, and within 30 days of receipt, revised or new Federal, State and local facility operation approvals, permits or certificates; operational safety plan and on-going environmental monitoring results to the Village.
- (2) The owners or operators of such facilities as above which exist within the district at the time of enactment of a district shall have the responsibility of devising, filing and maintaining, with the Village, a current contingency plan which details how they intend to respond to any emergency which may cause or threaten to cause environmental pollution that occurs at their facility, including notifying municipal, county and state officials.
- (3) In the event of casualty loss causing damage or destruction to building improvements exceeding 50% of the assessed valuation thereof, or the desire to expand or enlarge building improvements, the cost of which will reasonably be anticipated to exceed 50% of the assessed valuation thereof, the owners or operators of such facilities shall be granted a conditional use permit, in accordance with this Code, and subsection 17.40.11 above, to repair, rebuild, or expand such facilities, provided that the conditions imposed shall generally require that:
 - (a) To the extent feasible, based upon scientific, engineering and economic factors, the building improvements shall be repaired, restored or rebuilt employing designs and technologies which are state of the art, such that they diminish the potential for wellhead contamination, and
 - (b) To the extent feasible, based upon scientific, engineering, and economic factors, the replacement or augmentation of equipment and machinery and the installation thereof, which diminishes potential for wellhead contamination. This section does not apply to normal maintenance or minor repairs.

17.40.13 **CHANGING TECHNOLOGY.**

- (1) The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by a particular use considered to be of a high risk for pollution to the groundwater resource. As the technology of other uses change to low or non-risk materials or methods, upon petition from such use, after conferring with the Groundwater Technical Review Committee or other expert opinion, and after appropriate public notice and hearing, the Village through appropriate procedures and actions to change these provisions of the Germantown Municipal Code may remove from the designated prohibited uses such uses as are demonstrated convincingly that they no longer pose a groundwater pollution hazard.
- (2) In dealing with uses which attempt to become permissible, under the terms of this district, by continuing to utilize pollutant materials but altering their processing, storage and handling, it is not the intention to accept alternate or reduced hazards as the basis for making a use permissible. It is the intention to continue a prohibition on such uses until the technology of the use removes reliance upon the pollutant materials or processes deemed to be a groundwater hazard.

17.40.14 **ENFORCEMENT AND PENALTY.**

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (1) *Penalty.* Any person who violates, neglects or refuses to comply with any of the provisions of this ordinance shall be subject to a penalty as provided in [section 17.40](#) of this Municipal Code.
- (2) *Injunction.* The Village of Germantown may, in addition to any other remedy, seek injunction or restraining order against the party alleged to have violated the provisions herein, the cost of which shall be charged to the defendant in such action.
- (3) *Cleanup Costs.* As a substitute for, and in addition to any other action, the Village of Germantown may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the costs, together with the costs of prosecution. Any person who causes the release of any contaminants which may endanger or contaminate the municipal water supply system associated with a Groundwater Protection Overlay District shall immediately cease such discharge and immediately initiate cleanup satisfactory to the Village of Germantown and the other State and Federal regulatory agencies.

The person who releases such contaminants and the person who owns the facility whereon the contaminants have been released shall be jointly and severally responsible for the cost of cleanup, consultant, or other contractor fees, including all administrative costs for oversight, review and documentation, including the Village employees, equipment, and mileage.

17.40.15 **CONFLICT, INTERPRETATION AND SEVERABILITY.**

- (1) *Conflict and Interpretation of Provisions.* If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum and are not deemed a limitation or repeal of any other power granted by Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the most restrictive requirements or interpretations shall apply.
- (2) *Severability of Code Provisions.* If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Village Council hereby declares that they would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

17.41 **RESIDENTIAL ACCESSORY USE, BUILDING AND STRUCTURE RESTRICTIONS.**

- (1) **SIZE AND NUMBER LIMITATIONS.** (Rep. & Recr. Ord. #19-93; Rep. & Recr. Ord. #8-96; Am. Ord. #12-08; Am. Ord. #22-12)
 - (a) In the single-family and 2-family zoning districts (Rs-1 through Rs-7 and Rd-2), each residential dwelling shall be constructed to include an attached garage and/or a detached garage (i.e., detached accessory building). Where a dwelling contains a single attached garage, subject to the maximum lot coverage, building height, building setback or other applicable allowances and limitations, there is no specific size (area) limit for said attached garage. A dwelling within the Rs-1 or Rs-2 District may include a second attached garage provided that such garage complies with the area standards in subsection (b), and, obtains site plan approval from the Plan Commission.
 - (b) The maximum size of a second attached garage and the maximum size and number of detached **garages and** accessory buildings allowed per lot or parcel in each residential zoning district shall be as set forth in Table 1 below.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

TABLE 1

Zoning District	Attached Garages		Detached Accessory Building		
	Max. Number	Max. Floor Area ⁽⁵⁾ (sqft)	Max. Number	Maximum Floor Area ⁽⁵⁾ (sqft) (cumulative total for all accessory buildings)	
				Attached Garage Included	Attached Garage NOT Included
Rs-1	2; Second requires site plan approval	No limit on first; second may not exceed 1% of lot area or 192 sqft ⁽¹⁾⁽²⁾	2; except that only one is allowed if there is more than one attached garage	1% of lot area or 192 sqft ⁽²⁾	1% of lot area or 864 sqft ⁽⁴⁾
Rs-2	2; Second requires site plan approval	No limit on first; second may not exceed 1% of lot area or 192 sqft ⁽¹⁾⁽²⁾	2; except that only one is allowed if there is more than one attached garage	1% of lot area or 192 sqft ⁽²⁾	1% of lot area or 864 sqft ⁽⁴⁾
Rs-3	1	No limit ⁽¹⁾	1	1% of lot area or 192 sqft ⁽²⁾	1% of lot area or 864 sqft ⁽⁴⁾
Rs-4	1	No limit ⁽¹⁾	1	1% of lot area or 192 sqft ⁽²⁾	1% of lot area or 864 sqft ⁽⁴⁾
Rs-5	1	No limit ⁽¹⁾	1	1% of lot area or 192 sqft ⁽²⁾	1% of lot area or 864 sqft ⁽⁴⁾
Rs-6	1	No limit ⁽¹⁾	1	1% of lot area or 192 sqft ⁽²⁾	1% of lot area or 864 sqft ⁽⁴⁾

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Rs-7	1	No limit ⁽¹⁾	1	1% of lot area or 192 sqft ⁽²⁾	1% of lot area or 864 sqft ⁽⁴⁾
Rd-2	2	No limit ⁽¹⁾	2	1% of lot area or 192 sqft ⁽²⁾⁽³⁾	1% of lot area or 864 sqft ⁽⁴⁾

Notes:

1. Subject to the maximum lot coverage, building height, building setback or other applicable allowances and limitations, there is no maximum size (area) for an attached garage.
2. If an existing dwelling unit includes an attached garage, then the maximum floor area allowed for all detached accessory buildings (cumulative total per lot or parcel) is 1% of the net lot or parcel area (in square feet) or 192 square feet, whichever is greater.
3. The 1 percent maximum floor area allowance applies to each dwelling unit on a lot or parcel in the Rd-2 2-family zoning district.
4. Many residential lots in the older established areas of the Village do not have (or may not be capable of having) an attached garage due to lot width, building setback, septic system location, or other limitations associated with substandard lots. In these cases, the maximum floor area allowed for all detached accessory buildings (cumulative total per lot or parcel) is 1% of the net lot or parcel area (in square feet) or 864 square feet, whichever is greater.
5. The calculation of "maximum floor area" for detached accessory building shall include:
 - a. All floor area (including second or higher floors) where the ceiling height above the floor is 6 feet or higher; and
 - b. If in the Rs-1 or Rs-2 District, any additional area under cover by an overhang that is greater than 2 feet from the exterior wall on three sides of a building, plus the area under cover by an overhang that is greater than 6 feet on the remaining side(s).

(c) The number, type, architecture and materials for all accessory buildings and structures in business and industrial zoning districts are subject to Site Plan review and approval by the Plan Commission.

- (2) **HEIGHT LIMITATION.** (Am. Ord. #8-96; Am. Ord. #42-99; Am. Ord. #15-07) Except in the Rs-1 and Rs-2 Zoning Districts, no detached accessory structure located in any single-family or 2-family residential district shall exceed 15 feet in height, except the total height of the structure may be increased to a maximum of 25 feet or the height of the principal dwelling unit on the property, whichever is less. In the Rs-1 and Rs-2 Zoning Districts, the maximum accessory building height is 25 feet.
- (3) **LOCATION REQUIREMENTS.** (Cr. Ord. #42-95) Except for accessory buildings located in the rear yard, all accessory buildings and attached garages shall be subject to side yard requirements of the principal building.
- (4) **DOG HOUSES.** (Cr. Ord. #44-98) Dog houses, kennels or dog runs, located in any single-family or 2-family residential district, shall have a minimum side yard and rear yard setback of 15 feet.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (5) **SWIMMING POOLS.** (Cr. Ord. #9-10) In addition to the Building Code requirements in [section 14.09](#), swimming pools are only allowed in the side or rear yard. The nearest point of a swimming pool, including any deck, platform or stair installed or used as part of the pool, shall meet the following minimum setbacks:
- (a) *Side Yard.* Equal to building setback in the applicable zoning district.
 - (b) *Rear Yard.* Five feet, or, for aboveground pools, a distance equal to or greater than the height of the deck above the finish yard grade, whichever is greater.
- (6) **RETAINING WALLS.** (Cr. Ord. #9-10) Retaining walls shall meet the following setbacks from all property lines:
- (a) *Side Yard.* The minimum distance equal to or greater than the height of the retaining wall above the lowest finish yard grade.
 - (b) *Rear Yard.* The minimum distance equal to or greater than the height of the retaining wall above the lowest finish yard grade.
- (7) **OUTDOOR ACTIVITY ACCESSORY STRUCTURES.** Arbors, pergolas, gazebos, BBQ shelters, sun shade, pavilion, outdoor kitchens, and other similar outdoor structures and landscaping features used primarily for seasonal, temporary space for outdoor activities, entertainment, shade and protection from outdoor weather (vs. the storage of vehicles, equipment, tools, toys, etc.) are considered to be accessory structures and not accessory buildings subject to the maximum number and area limitations set forth in the table above. Outdoor accessory structures shall meet all of the following requirements:
- (a) located in a side or rear yard only
 - (b) meet a minimum five (5) feet setback from all property lines, dwellings and other permanent buildings or structures
 - (c) must be free-standing and not attached to a dwelling, garage or other permanent building; if attached to a fence must meet all fence requirements
 - (d) may have a roof or ceiling that provides protection from sun, wind or rain but cannot have enclosed sides more than 25 percent of the potential side area below the roof or ceiling and between the support structure.
 - (e) Maximum height of fifteen (15) feet
 - (f) Not more than three (3) outdoor accessory structures per residential property with a maximum footprint or area for all structures not to exceed 625 sqft.

17.42 CONDITIONAL USES.

- (1) **PERMITS.** The Village Board may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and related structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community.
- (2) **APPLICATION.** Applications for conditional use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator or designated employees and shall include the following:
- (a) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record within 300 feet.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (b) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located.
 - (c) Plat of survey prepared by a registered land surveyor showing all of the information required under [section 17.07\(5\)](#) of this chapter for a building permit as well as the following: mean and historic high water lines and floodlands on or within 40 feet of the subject premises and existing and proposed landscaping.
 - (d) Additional information as may be required by the Plan Commission, Village Engineer, Zoning Administrator or Building Inspector.
- (3) **REVIEW.** The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or park requirements may be recommended by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter.
- (4) **VILLAGE BOARD ACTION.** After holding a public hearing, as provided in [section 17.53](#) of this chapter, and after careful consideration of the recommendation of the Plan Commission, the Village Board may grant the conditional use permit as applied for, grant the conditional use permit with conditions deemed appropriate by the Board, or deny the permit. 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. Variances shall only be granted as provided in [section 17.52](#) of this chapter.
- (5) **RECORDATION.** When a conditional use is approved, an appropriate record shall be made of the land use and building permits and such conditional use shall be applicable solely to the structures, use and property so described.
- (6) **PERMIT LAPSES.** (Am. Ord. #3-94; Am. Ord. #06-08)
- (a) Except under the following conditions, if substantial construction or other activities necessary to implement a use authorized by a conditional use permit and/or the use has not commenced within 12 months from the date approval is granted by the Village Board, and, continue toward completion in accordance with the proposed/approved timeframe, or, if said construction or use has commenced but subsequently is stopped or abandoned for a period of 12 consecutive or cumulative months, the conditional use permit shall be deemed to have lapsed and all other Village permits and/or approvals granted subsequent to such conditional use permit approval shall expire and be null and void.
 - 1. An extension has been granted pursuant to [section 17.42\(8\)](#); or
 - 2. Different project-specific commencement and/or completion deadlines and timeframes have been established as a condition of approval in the conditional use permit.
 - (b) If a conditional use permit has lapsed and the applicant/property owner submits an application to renew a conditional use permit for the same use, the Village Board may approve the permit as was originally approved, or, may require revisions to and/or additional conditions of approval as deemed necessary.
- (7) **TERMINATION.** (Am. Ord. #9-11) In the event that a permitted conditional use subsequently does not conform to the conditions of the original permit granted, the conditional use permit shall be terminated by action of the Village Board after a public hearing and may be considered by the Board as a violation of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (8) **EXTENSION OF DEADLINE FOR COMMENCEMENT OR COMPLETION.** (Cr. Ord. #06-08) At its discretion, for good cause and following consideration of a written request by the applicant/property owner, the Village Board may grant one or more extensions of the deadline to commence, complete or continue the use for which a conditional use permit was granted. The duration of each extension shall be determined by the Village Board but shall not exceed 12 months.
- (9) **EXPERIENCE-BASED MODIFICATIONS.** (Cr. Ord. #9-11) Where an approved conditional use falls out of conformity with the conditions of the original approval, or where there is a change in the nature, character, intensity or extent of the permitted conditional use which causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to ameliorate or eliminate harmful effects associated with the conditional use but are insufficient to do so, or for similar cause based upon consideration for the public comfort, safety and welfare, the conditional use permit may be modified by the Village Board by the amendment or additions of conditions after public hearing thereon.

17.43 SITE PLAN APPROVAL REQUIREMENTS.

- (1) **PURPOSE AND INTENT.** (Am. Ord. #10-12) For purposes of promoting compatible development and ensuring adequate public facilities, no person shall obtain a building permit or commence a use of land without first obtaining site plan approval from the Village subject to subsection (9). No approval is required for any site improvements or interior or exterior building improvements or remodeling that does not substantially change the appearance, character of use or add substantial floor area (greater than 2,000 square feet). No approval is required for construction in single-family and 2-family districts.
- (2) **PRELIMINARY CONSULTATION.** Prior to the preparation and official submittal of the site plan and supporting data, the applicant shall meet with the Plan Commission and/or its staff for a preliminary consultation. The purpose of this preliminary consultation is to have an informal discussion of the proposed project, a review of the regulations and policies applicable to the project and a discussion of the land use implications of the project.
- (3) **REQUIRED SITE PLAN INFORMATION.** The site plan shall be drawn to a scale not smaller than 30 feet to the inch, certified by a registered land surveyor, professional engineer, planner, architect or landscape architect and shall show the following:
 - (a) The dimensions of the land area and lot lines included in the project and the area of the site or lot(s) included in the project.
 - (b) Existing and proposed grades based on Village datum (U.S.C.G.S.), drainage systems and structures, and topographic contours at intervals not exceeding 2 feet.
 - (c) The shape, size, location, height, floor area and the finished ground and basement floor grades of all proposed buildings and structures.
 - (d) Natural features such as wood lots, streams and lakes or ponds, existing trees of 24 inches diameter at breast height (dbh) or greater, and man-made features such as existing roads and structures, with indication as to which are to be retained and which are to be removed or altered.
 - (e) A consolidated plan showing all proposed vegetated areas, landscaped areas and trees, drainage features and pathways, and stormwater management measures (including permeable surfacing where applicable).
 - (f) Adjacent properties and their uses and zoning classification shall be identified.
 - (g) Proposed sidewalks, paths, streets, driveways, parking spaces and loading spaces showing direction of travel for one-way drives.
 - (h) The width of streets, driveways and sidewalks and the total number of parking spaces shall be shown.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (i) Architectural renderings and general floor plans shall be provided for all new buildings. These drawings and plans should show sufficient detail to indicate the architectural design of the proposed building, but all design details are not required at this stage.
 - (j) A lighting plan describing fixtures and designating placement.
 - (k) The size and location of all existing and proposed public and private utilities.
 - (l) A vicinity sketch showing the location of the site in relation to the surrounding street system.
 - (m) The name, address and telephone number of the owner, developer and designer.
 - (n) The anticipated resident population contained within the project or the number of employees anticipated to determine the impact on public utilities, including estimates of average daily quantities of water usage, wastewater discharge and strengths and cooling water volumes, if any.
 - (o) The location of proposed snow storage areas. Unless specifically approved by the Plan Commission upon recommendation of the Village Engineer, snow storage areas may not be located within a bioretention area or immediately adjacent to a surface water or wetland.
 - (o) Any other information necessary to establish compliance with this chapter and chapter 14 of this Code.
- (4) **OFFICIAL SUBMITTALS REQUIRED.** Ten copies of the site plan, accompanied by a dated letter of submittal requesting action, shall be submitted to the Plan Commission for its review and action. The site plans shall be submitted to the Plan Commission at least 10 days prior to the Plan Commission meeting at which the site plan will be considered for approval unless an extension of time is mutually agreed upon.
- (5) **LANDSCAPE REQUIREMENTS AND PLAN REVIEW.** (Rep. & Recr. Ord. #32-02)
- (a) In the development of new subdivisions, commercial property, industrial, elderly housing, multifamily and institutional properties, the Village Forester and/or Village Plan Commission will review landscape plans provided by the developer and shall require that street trees be planted, or payment in lieu of planting (to be made in an amount to be determined by the Village Forester per tree), for any of the streets, parking lots, outlots, parks and other public places contained within or abutting lands henceforth developed and/or subdivided.

The developer will submit a tree removal plan that shows exact trees proposed to be removed in the new development, and such removals shall be subject to approval of the Forester and/or the Plan Commission. The developer will also provide a plan specifying methods of protecting trees not listed for removal.
 - (b) All developments subject to this section shall be required to comply with minimum landscaping standards, as follows:
 - 1. *Residential Development.*
 - i. All yards sodded or seeded on at least 4 inches of topsoil. Rain gardens as defined in this Chapter may be incorporated into lawn areas where planned and designed to receive drainage or runoff.
 - ii. Two trees and/or shrubs per dwelling unit. Trees shall be a minimum of 1½ inches in diameter at breast height and shrubs shall be a minimum of 3 years old, with placement according to the plan approved under subsection (a) above.
 - iii. The incorporation of vegetative stormwater control measures into landscaped areas is encouraged.
 - 2. *Nonresidential Development.*

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- i. All yards sodded or seeded on at least 4 inches of topsoil. Rain gardens as defined in this Chapter may be incorporated into lawn areas where planned and designed to receive drainage or runoff.
 - ii. Trees and shrubbery appropriate for the development, and according to the plan approved under subsection (a) above. The incorporation of amended soil areas, stormwater trees, and other vegetative stormwater control measures into landscaping plans is encouraged.
- (c) Parking Lot Landscaping.
1. Landscaping shall be provided on the perimeter and within the interior of all parking areas to provide screening, canopy cover, and stormwater treatment and management. The integration of vegetated stormwater management measures with parking lot landscaping is strongly encouraged. All landscaped areas shall be mulched or seeded in keeping with the overall landscaping plan. The Village may maintain a list of accepted species of trees and landscaping materials, including plants and trees suitable for use in vegetated stormwater management measures.
 2. In parking lots, at least 5% of the interior parking area shall be landscaped with plantings, and one tree of a minimum 2-inch caliper, for each 10 spaces, all as shall be submitted and approved as part of the plan provided for herein above. Planting required within the parking lot shall be in addition to, and not in lieu of, other planting requirements, such as for street trees. The planting plan may be varied to accommodate the design of vegetated stormwater control measures, so long as the total number of required trees is met within the overall parking area. The use of deciduous trees (which may function as stormwater trees, as defined in this Chapter) is encouraged to provide canopy shading within parking areas. Each interior landscaped area shall be a minimum of 75 SF in size.
 3. Parking lot street frontage screening and perimeter screening areas shall be a minimum of 5 feet wide.
 4. Parking lot landscaping shall be located in protected areas protected by curbing or wheel stops, with breaks to allow stormwater inflow into vegetated stormwater management measures, such as along walkways, in center islands, at the ends of bays, or between parking stalls. All landscaping in parking areas and on the street frontage shall be placed so that it will not obstruct sight lines and distances.
 5. A combination of fencing, decorative walls, and vegetation shall be used in perimeter landscaping areas to screen parking areas from adjacent properties. Screening features such as fencing or evergreens shall be sited away from the edge of the parking area in order to accommodate vegetated stormwater management measures.
 4. ~~A mixture of hardy flowering and/or decorative evergreen and deciduous trees which shall be selected by the developer from an approved list of types and species of plantings and trees to be provided by the Village, shall be planted. Evergreens shall be used along the perimeter of the lot for screening from adjacent properties, and the deciduous trees for shade within the lot. Areas between trees shall be mulched or planted with shrubs or ground cover. Any landscaped area that will be under the overhang of vehicles shall be mulched or covered with decorative paving material.~~
 6. Existing trees, shrubs and other natural vegetation within the parking area may be included in the required minimum landscape area, provided such vegetation is incorporated into the overall landscape plan for the parking area and suitably protected from damage by vehicles.
- (d) Notwithstanding the foregoing, this subsection shall not apply to development of lands and infrastructure by the Village in tax incremental financing districts. In such developments, the tax incremental financing district project plan shall be controlling.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (6) **DEVELOPERS AGREEMENT.** The Plan Commission may require a bond, letter of credit or a consent and waiver for special assessments, together with a signed developers agreement, in order to assure completion of the improvements provided for in the proposed site plan.
- (7) **REVIEW PROCEDURE.** Upon receipt of the site plan, the Plan Commission shall review it to determine whether it is in proper form, contains all of the required information, shows compliance with this and other ordinances and plans of the Village, and demonstrates the adequacy of utility services. Upon demand by the applicant of the site plan, the Plan Commission shall, within 30 days of its initial submittal, approve it, conditionally approve it or deny approval. Denial of approval shall be limited to any defect in form or required information, or any violation of any provision of this chapter or any ordinance, or the inadequacy of any utility. The Plan Commission's action shall be issued in writing by the Plan Commission Secretary stating, in detail, the reasons for the Plan Commission's actions.
- (8) **APPEAL.** The applicant may appeal any denial to the Board of Zoning Appeals.
- (9) **SITE PLAN REVISIONS.** (Am. Ord. #10-12) Any proposed site improvement or any interior or exterior building improvement to an existing building or developed property that received site plan approval from the Village in the past (except one- and 2-family residential dwellings) must be reviewed and approved by the Village prior to issuance of a building or zoning permit. Minor improvements may be approved by the Zoning Administrator with a zoning permit unless the Zoning Administrator determines that a proposed improvement would substantially change the appearance, change the characteristics of the use or integrity of the site or building, add substantial floor area, or otherwise require Plan Commission review and approval. Major improvements (as determined by the Zoning Administrator) shall be reviewed and approved by the Plan Commission.
- (10) **FEES.** Prior to site plan approval, the applicant for a site plan shall pay all professional fees incurred by the Village for review of a site plan by the Village Planner, the Village Attorney or the Engineering Department staff.
- (11) **LAPSE OF SITE PLAN APPROVAL; FAILURE TO COMMENCE CONSTRUCTION AND CONTINUE TOWARD COMPLETION.** (Am. Ord. #22-07)
- (a) Except under the following conditions, if construction or other activities necessary to complete a development project and/or land use have not commenced within 12 months from the date site plan approval has been granted and continue toward completion in accordance with the proposed/approved timeframe, or, said construction or other activities have commenced but subsequently are stopped or abandoned for a period of 12 consecutive or cumulative months, site plan approval shall be deemed to have lapsed and all Village permits and/or approvals granted subsequent to such site plan approval shall expire and be null and void.
1. An extension has been granted pursuant to subsection (11a); or
 2. Different project-specific commencement and/or completion deadlines have been established as a condition of approval in the site plan approval, in a conditional use permit, or in a PDD condition and restrictions resolution adopted by the Village Board (including but not limited to phased development).
- (b) If construction or other activities necessary to complete a development project and/or land use have not been completed within 2 years from the date site plan approval was granted or other deadlines established pursuant to the conditions under subsections (a)1. and 2. above, the site plan approval shall be deemed to have lapsed and there shall be no further development or construction unless and until a reapplication for the same or revised site plan has been re-approved by the Plan Commission.
- (c) If a site plan approval has lapsed and buildings or other improvements that are part of the development project for which said site plan approval was granted, the Plan Commission may require such buildings and/or improvements to be removed and the site restored to predevelopment conditions.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (d) If a site plan approval has lapsed and the applicant/property owner has submitted a subsequent application for site plan approval, the Plan Commission may approve the site plan as was originally approved, or, may require revisions or other conditions of approval as deemed necessary. Applications for site plans for which a previous approval has lapsed will be subject to all applicable application fees.
- (11a) **EXTENSION OF DEADLINE FOR CONSTRUCTION COMPLETION.** (Cr. Ord. #22-07) At its discretion, for good cause and following consideration of a written request submitted by the applicant/property owner to the Village prior to expiration of the previous deadline, the Plan Commission (and Village Board in the case of projects being developed in a PDD) may grant one or more extensions of the deadline to complete the project for which site plan approval was granted. The duration of each extension shall be determined by the Plan Commission (or Village Board in the case of PDD projects) but shall not exceed 12 months. A deadline extension request that is received prior to expiration of the current deadline will not be subject to any applicable application fees. Requests received after expiration of the current deadline will be subject to applicable application fees.
- (12) **CERTIFICATE OF OCCUPANCY.**
- (a) *Required.* No certificate of occupancy shall be granted until all improvements shown on an approved site plan have been completed in accordance therewith.
- (b) *Exceptions.* Upon a finding by the Zoning Administrator that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer and that temporary occupancy prior to completion will involve no health or safety hazard, the Zoning Administrator may issue a temporary certificate of occupancy bearing an expiration date, which date shall allow reasonable time for completion of all required improvements prior to the date of expiration of the temporary certificate of occupancy. No temporary certificate of occupancy shall be granted for a period longer than one year. No permanent certificate of occupancy shall be issued by the Zoning Administrator until all required improvements are completed.

17.44 RESERVED.

Editor's note—

Section V of Ord. No. 17-09, adopted July 20, 2009, repealed [§17.44](#), which pertained to erosion control. The user is directed to Ch. 29 for similar provisions.

17.441 PROTECTION OF TOPSOIL RESOURCE. (Cr. Ord. #19-00)

It is intended that native topsoil be treated as a natural resource of the Village of Germantown, and that to the extent possible it remain in its native location, it remain stable and protected from erosion, that it remain available for developers and lot owners, and that its transport off site in cases of development and land disturbing activity, be eliminated or minimized.

- (1) The mining of topsoil in the Village of Germantown shall be prohibited, except has hereinafter provided.
- (2) When any land disturbing activity is conducted, topsoil shall be stockpiled on site for eventual redistribution and regrading on the site after completion of the land disturbing activity and/or construction. Stockpiled topsoil shall be protected against erosion and run off in accordance with best management practices.
- (3) Every developed site, parcel, or lot shall have not less than 4 inches of topsoil on all landscaped areas.
- (4) In case of developments, the size, natural site features or topography of which render it infeasible or impractical to redistribute and regrade all native top soil on the site after development, the developer

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

may apply for and be issued a special permit to remove topsoil from the site. Such application must be accompanied by supporting engineering data as shall permit the requisite determination of infeasibility or impracticality. Application for such permit shall be made to the office of the Building Inspector upon forms prescribed for such purpose, and shall be accompanied by such administrative permit fee as shall be established from time to time.

- (a) If redistribution of on-site topsoil should result in a depth in excess of 12 inches the owner or developer may apply for a special exemption permit through the Public Works Committee, said special exemption permit may be granted if the following conditions are met:
 - 1. Twelve inches of topsoil must be redistributed on all pervious areas of the proposed site not exempt from construction activity.
 - 2. An as-built must be provided by an outside firm employed by the owner certifying the proper topsoil depth has been achieved.
- (5) The incidental removal of topsoil in the pursuit of a bona fide commercial or agricultural use, such as the commercial harvesting of sod, shall be exempt from the regulations of this ordinance.
- (6) **INSPECTION.** The Building Inspector shall inspect the site as often as deemed necessary for the enforcement of this section.
- (7) **ENFORCEMENT.**
 - (a) *Stop-Work Order.* The Building Inspector may post a stop-work order if:
 - 1. Any topsoil mining activity requiring a permit under this section is undertaken without a permit; or
 - 2. The topsoil removal plan is not being implemented in a good faith manner; or
 - 3. The conditions of the permit are not being met.
 - (b) *Permit Revocation.* If, within 10 days of the issuance of a stop-work order, any permittee does not cease the activity or comply with the topsoil removal plan, the Building Inspector may revoke the permit.
 - (c) *Cease and Desist Order.* In the event any person without a permit fails to obey a stop-work order or obtain a permit within 10 days, the Building Inspector may request the Village Attorney to obtain a cease and desist order.
 - (d) *Special Charge.* Ten days after posting a stop-work order, the Building Inspector may issue a notice of intent to the permittee or landowner or land user of his intent to perform work necessary to comply with this section. The Building Inspector may go on the land and commence the work after 14 days from issuing the notice of intent. The costs of the work performed by the Building Inspector shall be billed to the permittee or the landowner. In the event the permittee or landowner fails to pay the amount due, the Village Clerk shall enter the amount due on the tax rolls and collect as a special charge against the property, pursuant to §66.60(16), Wis. Stats.
- (8) **APPEALS.** Any person aggrieved by the grant or denial of a permit or any order issued by the Building Inspector may appeal to the Board of Zoning Appeals, pursuant to [section 17.52](#) of this chapter.

17.45 TRAFFIC, PARKING, LOADING AND ACCESS.

- (1) **PARKING REQUIREMENTS.** In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the following:
 - (a) The size of each parking space shall be not less than 180 9 feet wide and 162 square feet exclusive of the space required for ingress and egress.

Commented [BL1]: Only a recommendation, but required to meet parking space dimension barrier requirements

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (b) Unless authorized pursuant to [section 17.45\(5\)](#) below, the location of any off-street parking area shall be on the same lot or parcel (i.e., "on-site") as the principal use and no parking stall or driveway, except in residential districts, shall be closer than 50 feet to a residential district lot line; except churches, in which case the distance shall be no closer than 20 feet to a residential district lot line. Berming, [fencing or other screening](#) may be required with possible landscaping, as determined by the Plan Commission. (Am. Ord. #1-02; Am. Ord. #9-10)
- (c) All open off-street parking areas except parking spaces accessory to single-family and 2-family dwellings shall be surfaced with a [durable, dust-free hard surface bituminous or concrete pavement](#) in accordance with the Village standards and specifications. [The Plan Commission may waive this requirement for parking areas on property in the business, industrial and agricultural zoning districts that are used primarily for storage and not used for parking by customers or the general public.](#) Such parking areas shall be graded [and installed](#) so as to [drain or infiltrate](#) dispose of all surface waters and no significant surface waters shall be allowed to drain across public sidewalks. Such parking areas shall be so arranged and marked to provide for orderly and safe parking and storage of vehicles, and shall be so improved with wheel stops or bumper guards to prevent encroachment into adjacent lots or public ways. All public off street parking areas which are created or redesigned and rebuilt subsequent to the adoption of this section shall [include perimeter and interior landscaped areas meeting the standards and dimensional requirements set forth in Section 17.43\(5\) above.](#) ~~be provided with accessory landscape areas totaling not less than 5% of the surfaced parking area. The minimum size of each landscape area shall be not less than 75 square feet. Each such parking area shall be bounded by a greenbelt of at least 8 feet in width between the parking area and all property boundaries. The location of landscape areas and plant materials and the protection afforded the plantings, including curbing and provision for maintenance, shall be subject to approval by the Plan Commission.~~ All plans for such proposed parking areas shall include a topographic survey showing the grade and location of improvements. ~~Existing trees, shrubs and other natural vegetation in the parking area may be included in the required minimum landscape area. All of the requirements of this paragraph, including surfacing, shall be completed within one year after the occupancy permit is issued.~~
- (d) The following guide shall be used in the provision of parking spaces [subject to the inclusion of any off-site and shared parking alternatives provided herein.](#) [The actual number of required parking spaces will be determined by the Plan Commission:](#) (Renum. 3/01 jw)

Commented [BL2]: This addresses last 2 parking related GI barriers

	Use	Minimum Parking Required
1.	Automobile repair garages and service garages	1 space for each regular employee plus 1 space for each 500 250 -sq. ft. of gross leasable floor area used for repair work.
2.	Bowling alleys	3 spaces for each alley.
3.	Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 space for each 3 seats.

Commented [BL3]: Table needs updating to remove barrier regarding ULI ratios

Commented [BL4R3]: Village will clarify that table is a guide and not a minimum.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

4.	Colleges, secondary schools and elementary schools	1 space for each 2 employees plus 1 space for each 5 students of 16 years of age or over.
5.	Financial institutions; business, government and professional offices	1 space for each 275 200-sq. ft. of gross leasable floor area, plus 1 space for each 2 employees.
6.	Funeral homes	20 spaces for each viewing room
7.	Convenience stores and Fuel stations	3 spaces for each indoor stall or similar facility plus 1 space for each attendant.
8.	Hospitals, sanatorium, institutions, rest and nursing homes	1 space for each 3 beds plus 1 space for each 3 employees plus 1 space for each physician.
9.	Lodges and clubs	1 space for each 5 members.
10.	Light Industrial , Manufacturing and processing plants (including meat and food processing plants), laboratories and warehouses	1 space for each 500 sq. ft. of principal building area (see exclusions provided in section 17.08(34) of this chapter).
11.	Medical and dental	1 space for each 200 sqft of gross leasable floor area 7 spaces for each doctor.
12.	Motels and hotels	1 space for each guest room plus 1 space for each 2 employees.
13.	Motor vehicle sales (new and used)	1 space for each 500 sq. ft. of gross leasable floor area used plus 300 sq. ft. of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages. See subpar. 1., above.)
14.	Restaurants, bars, places of entertainment (Am. Ord. #33-98)	1 space for each 150 sq. ft. of gross leasable floor area plus 1 space for each 2 employees.
15.	Repair shops, retail commercial and other retail service stores (Cr. Ord. #33-98)	1 space for each 200 sq. ft. of gross leasable floor area plus one space for each 2 employees.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

16.	Retirement homes, orphanages, convents, and monasteries	1 space per 1,000 feet of gross leasable principal floor area.
17.	Rooming and boarding houses, fraternity and sorority houses, dormitories and rectories	1 space per room plus 1 space per employee bed.

- (2) **LOADING REQUIREMENTS.** On every lot on which a business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided on the premises as indicated in the district regulations for the loading and unloading of vehicles.
- (3) **TRAFFIC VISIBILITY.** No obstructions such as structures, automobile parking or vegetation shall be permitted in any district between the heights of 2½ feet and 10 feet above the mean curb grades within the triangular space formed by any 2 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. 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 from 15 to 50 feet.
- (4) **DRIVEWAYS.** (Am. Ord. #14-10) All driveways installed, altered, changed, replaced or extended after the effective date of this chapter shall meet the following requirements:
 - (a) Unless a shared driveway is installed pursuant to subsection (d) below, islands between driveway openings shall be provided with a minimum of 10 feet between all driveways and 5 feet at all lot lines. Except for lots with 200 or more feet of frontage, no more than one driveway shall be permitted for each single-family lot or parcel and no more than 2 driveways for each 2-family lot or parcel. The number and location of driveways located on multifamily, commercial and industrial parcels shall be subject to site plan review, pursuant to [section 17.43](#) of this chapter.
 - (b) Shared Driveways. The joint use of a single driveway may be allowed or required by the Village Plan Commission if such joint use is necessary to protect the public safety and/or maintain the function of the adjacent street or highway, **or where a shared driveway will promote improved traffic safety and access and reduced stormwater runoff.** Joint use of a single driveway shall not be granted based solely on the basis of economic gain or loss or self-imposed or created hardship. The installation and use of a shared driveway shall be allowed after a shared driveway easement agreement has been reviewed and approved by the Village and subsequently recorded with the county registrar of deeds for the affected properties. Such agreement shall, at a minimum, bind current and future owners of each lot served by the shared driveway to the responsibility for all maintenance, snowplowing and reconstruction of the driveway. Shared driveways shall meet the following:
 - 1. A shared driveway shall serve no more than 2 lots.
 - 2. The driveway shall not extend more than 300 feet in length from the street right-of-way.
 - 3. All driveways shall be a minimum of 16 feet in width to the point where the shared driveway splits into individual private driveways.
 - 4. Driveways shall have a maximum grade of 10% with the grade matching the existing shoulder with a minimum 25-foot landing approach with a grade +/- 2%.
 - 5. Shared driveways should be designed to prevent significant runoff directly into the public right-of-way.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

6. No parking, storage or other structures shall be located or allowed in the shared driveway easement area.
7. A permanent address marker listing all the addresses of each property served by a shared driveway shall be placed at the end of the shared driveway adjacent to the public right-of-way in accordance with Village requirements, and, where the shared driveway splits clearly indicating the correct address and location of each separate property.
- (c) Openings for vehicular ingress and egress shall meet County or State requirements where applicable, but in no case shall exceed 25 20 feet at the right-of-way line and 25 feet at the roadway in residential districts or 40 30 feet at the right-of-way line and 45 35 feet at the roadway in all other districts. (Am. Ord. #38-90)
- (d) Vehicular entrances and exits to drive-in banks, motels, funeral homes and vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or other place of public assembly.
- (e) The Plan Commission is authorized to vary the above requirements in appropriate situations.
- (5) **OFF-SITE PARKING.** (Cr. Ord. #9-10) When authorized by the Village through the issuance of a conditional use permit and site plan approval, off-street parking requirements for any new or existing commercial, industrial, or institutional use may be satisfied, in whole or in part, through the provision of parking stalls in one or more off-site parking areas (i.e., not located on the same parcel or lot as the subject use). Off-site parking area(s) shall meet the following requirements.
 - (a) *Location.*
 1. Off-site parking areas cannot be located within a residential zoning district;
 2. Off-site parking areas may be provided on a separate or non-adjacent parcel or lot provided that the parking stalls are located within 1,000 feet of the nearest building entrance used by the persons for whom the parking stalls are provided, and, the path between the parking area and use is not obstructed or unsafe for pedestrians.
 - (b) *Ownership or Agreement.*
 1. Off-site parking areas shall be held in fee simple ownership by the same owner as the use requiring the off-street parking area, or, under lease, rental, or other form of agreement satisfactory to the Village with respect to ensuring that the off-site parking area will be available for as long as it is needed by the use.
 - (c) *Development Standards.*
 1. Off-site parking areas shall be designed, constructed, landscaped, and otherwise developed in accordance with the minimum standards and requirements set forth herein, in [section 17.43](#) (site plan) and as set forth in any conditions of CUP and site plan approval.
 - (d) *Signage.*
 1. The Village may require off-site parking areas to be clearly marked and identified as the exclusive or for the use(s) it serves. All signage installed in an off-site parking area shall be approved by the Plan Commission.

(6) SHARED PARKING. (INSERT REF) When authorized by the Village through the issuance of a conditional use permit and site plan approval, parking requirements for any new or existing commercial, industrial, or institutional use may be satisfied, in whole or in part, through the provision of parking stalls in a parking area shared among multiple uses. A plan for shared parking shall meet the following standards and requirements.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (a) A Shared Parking Plan shall be submitted showing a complete and accurate description of the proposed uses, the floor area dedicated to each use, and the distance from each use to the proposed parking area. The principal entryway of each use participating in the shared parking plan must be located within one thousand (1,000) linear feet of the nearest point of the parking area.
- (b) A Shared Parking Analysis shall be submitted showing the parking demand for each individual use by time period, in the form of a matrix. The time periods shall include a weekday morning, weekday lunch time, weekday afternoon, weekday evening, Saturday midday and Saturday evening. If a use or uses experience significant seasonal variation, the analysis should be based on a peak period (i.e. summer, winter, special event). For each use, the matrix shall indicate the individual parking requirement corresponding to Section 17.45 or the applicable residential district standard, the expected demand for each time period analyzed (expressed as a percent of peak demand), and the resulting number of parking spaces required for that use at a particular time period. The largest number resulting shall be the maximum number of spaces required to be provided in the Shared Parking Plan. For example, in the Table below, the maximum period is the Weekday Afternoon, with 113 spaces required.

Shared Parking Analysis Format

Use	Standard Units, SF or Patrons	# of Employees @ Largest Shift	Required Parking (17.45 of Residential District Standard)	Weekday AM (9-11 AM)		Weekday Lunch (12-2 PM)		Weekday PM (3-5 PM)		Weekday Eve (7-9 PM)		Saturday Day (12-2 PM)		Saturday Eve (7-9 PM)		
				Spaces	% Use	Cars	% Use	Cars	% Use	Cars	% Use	Cars	% Use	Cars	% Use	Cars
Apartment	20 Units	n/a	2 per unit	40	.5	20	.5	20	.95	38	1	40	.95	38	.7	28
General Restaurant	2,100 SF	12	1 per 150 SF + 1 per 2 emps.	20	.3	6	.75	15	.5	10	.75	15	.75	15	.75	15
Office	10,000 SF	40	1 per 250 SF + 1 per 2 emps.	60	1	60	.9	54	1	60	.75	45	.5	30	.2	12
Total				120		86		89		108		100		83		55

- c. The Shared Parking Plan shall indicate any spaces that would be reserved or signed for a particular use (i.e. residential spaces within structures or garages, pick up and delivery vehicle spaces for restaurants, etc.). The locations of signed or reserved spaces shall be clearly related and proximate to the associated use, and shall be limited to the minimum number required to support the associated use. Sufficient spaces shall remain unmarked and unreserved to support the function of the Shared Parking Plan.
- d. The Shared Parking Plan and Matrix should be undertaken by a professional planner or engineer, and should be based on published shared parking guidance from the Urban Land Institute, Institute of Transportation Engineers, American Planning Association, or similar professional organization.
- e. Signed acknowledgement of the Shared Parking Plan, on a form prescribed by or sufficient to the City Attorney, shall be required for each tenant, owner or operator of a use subject to the Plan prior to issuance of a Certificate of Occupancy.
- f. In the event of any change of use, or a change in the area or size of any use, the Shared Parking Plan shall be updated to reflect the change of use or area. If the revised number of parking spaces is equal to or less than the number available, the Zoning Administrator shall have the authority to approve an amendment to the Shared Parking Plan. If the number of parking spaces must be increased, approval of the Plan Commission is required.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

17.46 SIGNS.

- (1) **INTENT AND PURPOSE.** (Am. Ord. #14-00) The intent of this section is to provide for and regulate the location and safe construction of signs in the Village in a manner that will ensure that signs are compatible with surrounding land uses, and to express the identity of individual proprietors and the community as a whole. No flashing or blinking signs other than traffic signs placed by a public agency shall be placed or erected within the Village. All signs, unless otherwise specified, shall be approved by the Plan Commission.

In considering a sign application, the Plan Commission shall consider the purpose of advertising; the appearance, location, lighting, height and size of the sign; safety of the operators of vehicles upon the adjoining streets and highways; the effect of the sign on property values within the immediate area; and the effect of the sign with respect to the scenic beauty of the vicinity in which the sign is proposed to be located.

- (2) **SIGN PERMIT.** (Am. Ord. #14-00; Am. Ord. #12-09; Am. Ord. #21-09) No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, structurally altered, nor shall the face of a sign be changed without a sign permit, except those signs exempted by subsection (3) below, and all signs shall fully conform to the requirements of this section. Applications for sign permits shall be filed with the Zoning Administrator who shall review them for completeness and approval or referral to the Plan Commission for their review and approval as may be required herein. A sign permit for a temporary sign, temporary real estate sign, or home occupation sign may be issued after review and approval by the Zoning Administrator. A sign permit shall become null and void if work authorized under the permit has not been completed within 60 days from the date of issuance (or renewed by the Zoning Administrator).

Applications for sign permits shall be made on forms provided by the Zoning Administrator, shall be submitted along with the necessary fees and removable bond (if applicable) as established by the Village Board, and shall contain or have attached thereto the following information:

- (a) Name, address and telephone number of the applicant and location of the building, structure or lot to which or upon which the sign is to be attached or erected.
 - (b) Name of person, firm, corporation or association erecting the sign.
 - (c) Written consent of the owner or lessee of the building, structure or land to which or upon which the sign is to be affixed.
 - (d) A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
 - (e) A scale drawing indicating the location and position of such sign in relation to property lines and to nearby buildings or structures.
 - (f) Copies of any other permit required and issued for said sign, including the written approval by the Building Inspector in the case of illuminated signs. The Building Inspector shall examine the plans and specifications, inspecting all wiring and connections to determine if the same complies with this Code.
 - (g) Additional information as may be required by the Building Inspector or the Plan Commission.
 - (h) A colored rendering, diagram or picture of the proposed sign(s). (Cr. Ord. #21-09)
 - (i) The 15-day time period(s), with beginning and ending dates, during which a temporary sign will be displayed and then removed (list all time periods if applying for multiple permits on one application). (Cr. Ord. #21-09)
- (3) **SIGNS PERMITTED IN INDIVIDUAL ZONING DISTRICTS WITHOUT A SIGN PERMIT.** The following signs are permitted without a sign permit, subject to the following regulations:

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (a) Memorial signs, tables, name of building and date of building erection signs in all zoning districts when cut into any masonry surface or when constructed of metal and affixed flat against a structure, and not illuminated.
 - (b) Name, home occupation, professional home office, on-site traffic control and directional signs, and warning signs in all zoning districts, provided that such signs shall not exceed 3 square feet in area. (Am. Ord. #21-09)
 - (c) Official ground signs such as parking restriction signs, information signs and notices in all zoning districts. Such signs may be placed at the curb line or pavement edge.
 - (d) Real estate signs temporarily advertising the sale, rental or lease of a lot, parcel of land, building, or part thereof, upon which the sign is located in all residential zoning districts, provided that such sign shall not exceed 4 square feet in area. In agricultural, business and industrial zoning districts, such real estate signs shall not exceed 32 square feet in area. All such signs shall be removed no later than 10 days after the date said lot, parcel, building, or part thereof, has been sold, rented or leased. All signs shall be located on private property and not on public property or in any public right-of-way. (Am. Ord. #21-09)
 - (e) Rummage sale signs. The display and placement of rummage sale signs shall comply with the same requirements as election campaign signs as set forth in [section 9.19](#) and [section 17.70\(4\)](#). (Cr. Ord. #21-09)
 - (f) Temporary signs advertising the need for or availability of employment opportunities (e.g., "Welders Wanted—Apply Within") except for residential districts that do not allow major home occupations. (Cr. Ord. #9-10)
- (4) **SIGNS PERMITTED IN ALL ZONING DISTRICTS WITH A SIGN PERMIT.** (Am. Ord. #9-10)
- (a) Bulletin boards, ground signs or wall signs for public, charitable or religious institutions, provided that such signs shall not exceed 8 square feet in area.
 - (b) Temporary signs as provided in [section 17.46\(7\)\(e\)](#).
- (5) **SIGNS PERMITTED IN ALL AGRICULTURAL DISTRICTS WITH A SIGN PERMIT.** Agricultural ground signs advertising farm products produced on the premises or the sale of farm equipment, stock and personal goods, provided that such signs shall not exceed 16 square feet in area.
- (6) **SIGNS PERMITTED IN RESIDENTIAL DISTRICTS WITH A SIGN PERMIT.** The following signs are permitted in all residential districts with a sign permit, subject to the following regulations:
- (a) Permanent real estate development signs located on private property or within the public right-of-way at entrances or along streets or highways which designate a particular development and which only include the name of the development. If located on private property, such signs shall be at least 5 feet from the outer edge of the street right-of-way. Such signs shall be constructed and properly maintained so as to be aesthetically pleasing to the surrounding development. Prior to the issuance of a sign to be located within the public right-of-way, a written agreement shall be provided which places all maintenance responsibility on the developer(s) or owner(s) and exempts the Village from all maintenance responsibilities. Drawings showing the size, location and design of such signs shall be submitted to the Plan Commission for review and approval prior to the issuance of a sign permit. (Am. Ord. #14-10)
 - (b) Temporary real estate development signs for the purpose of directing attention to the opening and location of a new building or a new residential subdivision or development, provided that such signs shall not exceed a total of 32 square feet in area, unless approved by the Plan Commission, and provided further that such signs shall be at least 5 feet from the outer edge of the street right-of-way. Sign permits for such signs may be issued by the Zoning Administrator for a period until such time as 90% of all lots, parcels, building or part thereof has been sold, rented or leased. Temporary real estate signs shall require an annual sign permit that is valid for the duration of the current calendar year and renewal for subsequent years provided that it is removed no later than

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

10 days after the date the lot, parcel, building or part thereof meeting the 90 percent removal requirement has been sold, rented or leased by the original subdivider/developer at least one time. (Am. Ord. #21-09)

(7) SIGNS PERMITTED IN BUSINESS, INDUSTRIAL AND INSTITUTIONAL DISTRICTS WITH A SIGN PERMIT. The following signs are permitted in all business, industrial and institutional districts, subject to the following restrictions:

- (a) Wall signs shall not exceed 1.5 square feet of signage per one linear foot of building frontage, up to 300 square feet for any individual use. Signage is only permitted on building frontage. However, the Plan Commission may approve signage on any facade of a building when deemed appropriate for the use. In addition to signage on a building frontage, the Plan Commission may also permit directional wall signage on any facade of a building when it is necessary and appropriate for the use. Wall signs shall not extend above the ceiling level of the top floor of the building upon which they are located. (Am. Ord. #24-06)
- (b) Projecting signs, awning signs, canopy signs and marquees shall not be externally lighted; shall not exceed 100 square feet in area for any one premises; shall not extend more than 5 feet into any required yard; shall not extend into any public right-of-way; shall be located not less than 10 feet from all side lot lines; shall not exceed a height of 20 feet above the mean center line grade of the abutting street; and shall not be less than 10 feet above the sidewalk nor 15 feet above a driveway or an alley.
- (c) Ground signs shall meet the requirements set forth in Table 1. One ground sign may be allowed along each road the subject property has at least 50 feet of road frontage. All ground signs shall be mounted on a decorative base constructed of the same or similar materials as the principal building, e.g. stone, decorative block. All single-tenant ground signs shall include the street address coordinates for the property mounted on the base of the sign (minimum 5-inch numbering). No ground sign shall be placed closer than 80 feet to another ground sign or projecting, awning, canopy or marquee sign. See also [section 17.46\(13\)](#). Any time the Plan Commission reviews a permit for a ground sign, landscaping shall be required according to the following provisions: (Am. Ord. #5-90; Am. Ord. #10-90; Am. Ord. #24-06; Am. Ord. #02-08)
 - 1. The landscaping shall extend a minimum of 3 feet from the outer edge of the sign base on all sides. Where the area around the base of a sign is insufficient in size to accommodate landscaping, the Plan Commission may permit installation of a portion of the required landscaping at an alternate location on the site or at their discretion waive the landscaping requirement.
 - 2. Ground signs shall be landscaped with small shrubs, ornamental grasses, and perennials a minimum of 2 to 4 feet in height at the time of planting, depending on the height of the sign. Shrubs shall include evergreen varieties to provide green plantings year round.
 - 3. The landscaping shall be placed and maintained as to not obstruct the view of an address placed on a monument sign.

TABLE 1. GROUND SIGN REQUIREMENTS

Building Type/Area and No. of Tenants	Maximum Sign Area (square feet)	Maximum Height (feet above mean centerline)	Minimum Setback (feet from property line)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

		of adjacent roadway)	
Single and Multi-Tenant (< 3 tenants and < 25,000 SF gross building area)	80 SF per side 160 SF total	10 feet	5 feet
Multi-Tenant (4 to 9 tenants and 25,000 to 50,000 SF gross building area)	120 SF per side 240 SF total	15 feet	5 feet or ½ total sign height whichever is greater
Multi-Tenant (> 10 tenants and > 50,000 SF gross building area)	160 SF per side 320 SF total (or as approved by Plan Commission)	20 feet (or as approved by Plan Commission)	5 feet or ½ total sign height whichever is greater (or as approved by Plan Commission)

- (d) Roof signs shall not exceed 10 feet in height above the roof, shall meet the height requirements for the zoning district in which they are located, and shall not exceed 300 square feet on all sides for any one premises.
- (e) Temporary signs (as defined in [section 17.08](#)) shall be permitted subject to the following requirements: (Am. Ord. #3-01; Am. Ord. #11-01; Am. Ord. #07-09; Am. Ord. #15-09; Am. Ord. #21-09)
1. Signs shall not exceed a total of 32 square feet in area (all sides).
 2. Signs shall not be displayed in public rights-of-way and be at least 5 feet from all property lines and the street right-of-way.
 3. Temporary signs may be displayed for a time period not to exceed 15 consecutive days per permit with a limitation of 12 permits issued per business address per calendar year.
 4. Signs shall not be attached to a utility pole, traffic sign, living vegetation, motor vehicle, trailer, or other moveable structure or object.
 5. Shall not be displayed above the roof line of a building.
 6. Signs may be displayed upon issuance of a sign permit and payment of a permit fee established by resolution by the Village Board, except that the fee shall be waived by the Zoning Administrator for nonprofit organizations or nonprofit purposes by organizations and businesses. (Am. Ord. #9-11)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

7. Signs shall be made, maintained and displayed in a neat, clean and hazard-free manner. Signs that are not neatly kept or maintained may be required to be repaired, replaced or removed by the Zoning Administrator.
 8. Signs should be designed (including the color, lettering style, symbols and material) to be compatible with the design of the establishment's primary sign, abutting properties, and the general streetscape in the immediate vicinity of the establishment.
 9. Signs displayed on days not authorized in a permit or without a permit are deemed to be a violation of the Zoning Code and subject to removal and/or municipal citation. Violations of the Zoning Code, terms or conditions of a permit, or complaints received by the Village regarding the use of temporary signs by a business operator or property owner may be grounds for not issuing subsequent temporary sign permits.
 10. In addition to the requirements above, "sandwich board" signs are subject to the following:
 - a. Sandwich board signs shall not exceed 2 feet in width and 4 feet in height;
 - b. Only one sandwich board sign shall be displayed per business;
 - c. Signs shall only be displayed during regular business hours for that business and removed overnight and during other nonbusiness hours;
 - d. Signs shall not obstruct the public right-of-way or any sidewalk or walkway;
 - e. Signs shall be freestanding, easily portable and internally weighted so that it is stable and windproof;
 - f. Signs may be temporarily anchored to the ground but shall not be roped, chained or otherwise secured to any pole, post, tree, fire hydrant, railing, or other structure;
 - g. Signs displayed at or within 15 feet of the storefront of the business for which the sign is used shall:
 - (i) Not count against the temporary sign area allowance;
 - (ii) Shall be exempt from the time period limitation imposed above; and
 - (iii) Shall not be subject to a permit fee.
 11. In addition to the requirements above, one "grand opening" and one "opening soon" sign shall be allowed for each new business establishment subject to the following:
 - a. "Grand opening" signs may be displayed up to 30 consecutive days within 3 months of the date of issuance of a certificate of occupancy;
 - b. "Opening soon" signs may be displayed up to 30 consecutive days before the first day a business is open for business;
 - c. A permit is required but no permit fee shall apply.
 12. Notwithstanding the above allowances and restrictions, the display of temporary signs on the day of all legal holidays and communitywide events, e.g., Maifest, Maxwell Street Days, etc., shall be allowed without a permit provided they are only displayed and removed that same day.
 13. Temporary signs shall not include any internal artificial lighting. (Cr. Ord. #4-10)
 14. Temporary signs shall not include changeable text or reader boards. (Cr. Ord. #4-10)
- (8) **ELECTION CAMPAIGN SIGNS.** See [section 9.19](#) of this Code.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (9) **FACING OF SIGNS.** No sign which is within 100 feet of a residential district shall be permitted to face the residential district unless it is a sign permitted by subsections (3), (4) and (6) above, or unless it is permitted by the Plan Commission.
- (10) **LIGHTING, COLOR AND PLACEMENT.** Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices. Signs shall not be placed so as to obstruct or interfere with traffic visibility, nor be lighted in such a way as to cause glare or impair driver visibility upon public ways. Signs may be illuminated, but nonflashing.
- (11) **RESERVED.** (Rep. Ord. #21-09)
- (12) **CONSTRUCTION AND MAINTENANCE STANDARDS.**
- (a) *Wind Pressure and Dead Load Requirements.* All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 40 pounds per square foot of area and shall be constructed to receive dead loads as required in the Building Code or other ordinance.
 - (b) *Protection of the Public.* The temporary occupancy of a sidewalk or street or other public property during construction is permitted, provided the space occupied is roped off, fenced off or otherwise isolated to prevent hazard to pedestrians and property.
 - (c) *Maintenance.* The owner of any sign shall keep it in good maintenance and repair which includes restoration, repainting or replacement of a worn or damaged sign to its original condition, and shall maintain the premises on which the sign is erected in a clean, sanitary and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds and grass.
 - (d) *Sign Supports.* Supporting members or braces of all signs shall be constructed of galvanized iron, properly treated wood, steel, copper, brass or other non-corrosive incombustible material. All projecting signs, if placed at an angle to the wall or roof of any building, shall be attached by such non-corrosive metal bolts, anchors, cable or other metal attachments as shall ensure permanent and safe construction and shall be maintained free from rust or other defects. Every means or device used for attaching any sign shall extend through a wall or roof of the building should the Building Inspector determine that the safe and permanent support of such sign so requires, and shall be securely anchored by wall plates and nuts to the inside of the wall or to bearings on the underside of 2 or more roof or ceiling joists in accordance with instructions given by the Building Inspector. Small flat signs containing less than 10 feet of area may be attached to a building by the use of lag bolts or other means to the satisfaction of the Building Inspector.
 - (e) *Fire Protection Consideration.* No sign or any part thereof or sign anchors, braces or guide rods shall be attached, fastened or anchored to any fire escape, fire ladder or standpipe, and no such sign or any part of such sign or any anchor, brace or guide rod shall be erected, put up or maintained so as to hinder or prevent free ingress or egress through a door, doorway or window or so as to hinder or prevent the raising or placing of ladders against a building by the Fire Department of the Village, as necessity therefor may require.
 - (f) *Removal Required.* (Cr. Ord. #21-09) Signs for existing businesses, institutions or other nonresidential operations shall be removed and/or the sign faces replaced, removed or modified within 60 days after said business or operation ceases operation.
- (13) **EXISTING SIGNS.** (Am. Ord. #21-09) Signs lawfully existing at the time of the adoption or amendment of this section may be continued even though the use, size or location does not conform with the provisions of this section; provided, however, that such signs shall be deemed a nonconforming use or structure where the provisions of [section 17.48](#) of this chapter shall apply except that the replacement of a sign face with the same or nearly identical sign face may be approved with a permit by the Zoning Administrator.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (14) **METHODOLOGY FOR MEASURING SIGN AREA.** (Cr. Ord. #3-98) The area of a sign shall be determined as follows:
- (a) The height multiplied by the width of any sign cabinet, fixture or placard used to convey any words, letters, figures, numerals, phrases, sentences, emblems or logos to the public.
 - (b) Where more than one cabinet, fixture or placard is used, the areas shall be measured by drawing a rectangle enclosing the entire perimeter of all cabinets and/or fixtures.
 - (c) Where no cabinet or fixture is used, e.g., individual 3-dimensional letters or symbols attached directly to a wall, the area shall be measured by drawing a single rectangular box around the extreme limits of the advertising message.
 - (d) Decoration, framing and other nonstructural embellishments shall not be included in the sign area, provided that no advertising copy or graphics are contained on such embellishments. The total area of the sign structure, including any embellishments, may not exceed twice the area of the sign or 160 square feet, whichever is greater.
 - (e) The permit fee shall be based on the area of the entire sign structure.
- (15) **OFF-PREMISES ADVERTISING SIGNS.** (Cr. Ord. #32-99; Am. Ord. #21-09; Am. Ord. #9-11)
- (a) All off-premises advertising signs, including temporary signs and billboards, are prohibited within the Village of Germantown except for the following:
 - 1. Official and temporary signs displayed within the Village for public agencies, charitable organizations and religious institutions;
 - 2. Election campaign signs and rummage sale signs;
 - 3. Temporary directional signs for businesses, residential developments, schools and institutions when adjacent streets are temporarily closed for repairs or similar reasons (subject to any other specific limitations set forth herein or other sections of the Village Code).

17.47 PERFORMANCE STANDARDS.

- (1) **COMPLIANCE.** This chapter permits specific uses in specific districts, and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. All structures, lands, air and waters shall hereafter, in addition to their use, site and sanitary regulations, comply with the following performance standards.
- (2) **AIR POLLUTION.** No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas nor any color visible smoke equal to or darker than No. 2 on the Ringelmann Chart described in the United States Bureau of Mine's Information Circular 7718; except for not more than 4 minutes during any 6-hour period, each stack or chimney may emit smoke of Ringelmann No. 3. No activity shall emit more than 10 units per hour per stack or no chimney may emit up to 20 smoke units when blowing soot or cleaning fires.
- (3) **FIRE AND EXPLOSIVE HAZARDS.** All activities involving the manufacturing, utilization, processing or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire fighting and fire suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system. The above ground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Closed Cup Flash Point	Gallons
Over 187° F.	400,000
105° F. to 187° F.	200,000
Below 105° F.	100,000

(4) **GLARE AND HEAT.** No activity shall emit glare or heat that is visible or measurable outside its premises except activities which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

(5) **WATER QUALITY PROTECTION.** No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life.

In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 for the Menomonee River and its use.

(6) **NOISE.** No activity in the M-2, M-3 and M-4 Manufacturing Districts shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

Octave Band Frequency	Sound Level
(Cycles Per Second)	(Decibels)
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

600 to 1,200	53
1,200 to 2,400	47
2,400 to 4,800	41
Over 4,800	35

No other activity in any other district shall produce a sound level outside its premises that exceeds the following:

Octave Band Frequency (Cycles Per Second)	Sound Level (Decibels)
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
Over 4,800	32

All noise shall be so muffled or otherwise controlled so as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

- (7) **ODORS.** No activity, with the exception of agricultural activity, shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside its premises. The guide for

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

determining odor measurement and control shall be Chapter 13, Air Pollution Abatement Manual, 1960, prepared by the Manufacturing Chemists Association, Inc., Washington, D.C.

- (8) **RADIOACTIVITY AND ELECTRICAL DISTURBANCES.** No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or would adversely affect the use of neighboring premises.
- (9) **VIBRATION.** No activity in any district shall emit vibrations that are discernible without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement measured with a 3-component measuring system:

Frequency	Displacement (Inches) (Cycles Per Second)	
	Outside the Premises	Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

- (10) **WIND ENERGY CONVERSION SYSTEMS.** (Cr. Ord. #1-91) Approved wind energy conversion systems shall be constructed and operated according to the provisions of this chapter.
 - (a) *Construction.* Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot of area.
 - (b) *Noise.* The maximum level of noise permitted to be generated by a wind energy conversion system shall be 50 decibels, as measured on the dB(A) scale, measured at the lot line.
 - (c) *Electromagnetic Interference.* Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit or building permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (d) *Location and Height.* Wind energy conversion systems shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this subsection; however, all such systems over 100 feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space. A copy of any FAA restrictions imposed shall be included as part of the application for a conditional use or building permit.
 - (e) *Fence Required.* All wind energy conversion systems shall be surrounded by a security fence not less than 6 feet in height or other acceptable safety feature. A sign shall be posted on the fence or tower warning of high voltage.
- (11) **SOLAR ENERGY CONVERSION SYSTEMS.** (Cr. Ord. #1-91) Approved solar energy conversion systems shall be constructed and operated according to the provisions of this chapter.
- (a) *Construction.* Solar energy conversion systems shall be constructed and installed in conformance with all applicable State and local building codes.
 - (b) *Location and Height.* Solar energy conversion systems shall meet all setback and yard requirements for the district in which they are located. Solar energy conversion systems shall conform to all height requirements of this chapter unless otherwise provided in the conditional use permit or building permit issued pursuant to this section.
 - (c) *Solar Access Easements or Agreements.* Copies of any solar access easements or agreements obtained by the applicant shall be provided to the Village at the time of application for the conditional use permit or building permit.

17.48 NONCONFORMING USES, STRUCTURES AND LOTS.

- (1) **EXISTING NONCONFORMING USES.** The lawful nonconforming use of a structure, land or water 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:
 - (a) Only that portion of the land or water 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 so as to comply with the provisions of this chapter.
 - (b) Total lifetime structural repairs or alterations shall not exceed 50% of the Village equalized value of the structure unless it is permanently changed to conform to the use provisions of this chapter.
 - (c) Substitution of new equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
- (2) **ABOLISHMENT OR REPLACEMENT.** If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than 50% of its current assessed value, it shall not be restored, except so as to comply with the use provisions of this chapter. A file of all nonconforming uses shall be maintained by the Zoning Administrator listing the following:
 - (a) Owner's name and address.
 - (b) Use of structure, land or water.
 - (c) Assessed value at the time of its becoming a nonconforming use.
- (3) **EXISTING NONCONFORMING STRUCTURES.** (Am. Ord. #2-97)

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (a) *General.* 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, such a structure 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.
- (b) *Historic Building Exception.* (Am. Ord. #9-10)
1. Except for legal nonconforming agricultural buildings located within existing or proposed Village, County or State rights-of-way, legal nonconforming agricultural buildings, excluding corn cribs, which exceed 200 square feet and were constructed prior to 1930 may be repaired and reconstructed at a cost exceeding 50% of the assessed value of the building. It shall be the responsibility of the property owner to provide proof of the age and location of the building.
 2. Other regulations pertaining to nonconforming historic buildings and structures are found under Chapter 26 (Historic Preservation).
- (c) *Restoration of Certain Nonconforming Structures.* (Cr. Ord. #24-10)
1. Except as provided under subsection 2. below, damaged or destroyed nonconforming structures may be reconstructed and/or restored if the structure will be restored to the same size, location, and use that it had immediately before the damage or destruction occurred if all of the following apply:
 - a. The nonconforming structure was damaged or destroyed on or after March 2, 2006.
 - b. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
 2. The size of a nonconforming structure that is reconstructed or and/or restored pursuant to subsection 1. above may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.
- (4) **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 Board of Zoning Appeals has permitted the substitution of a more restrictive non conforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all conditions required by the Board of Zoning Appeals.
- (5) **NONCONFORMING CHARACTERISTICS OF RESIDENTIAL STRUCTURES.** (Am. Ord. #24-10)
- (a) Subject to subsection (3)(c) above, residential structures which encroach upon setback and other yard requirements, but which met setback and yard requirements at the time of construction, may be structurally altered and expanded provided that:
1. Said structure is not located in any right-of-way;
 2. Such alteration or expansion does not create a greater degree of encroachment;
 3. The extent or size of any such alteration or expansion (measured in square feet), either separately or cumulatively when combined with a previous alteration or expansion, does not exceed 50% of the footprint (in square feet) of the structure at the time said structure became nonconforming.
- (6) **EXISTING SUBSTANDARD LOTS.** (Cr. Ord. #19-90)
- (a) *Individual Lots.* An existing single lot which does not contain sufficient area to conform to the dimensional requirements of this chapter, but which is at least 50 feet wide and 7,200 square feet in area, may be used as a single-family building site provided that the use is permitted in the zoning district; provided the lot is of record in the County Register of Deed's office prior to the

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

effective date of this chapter; and provided that the lot is in separate ownership from abutting lands. Substandard lots shall be required to meet the setbacks and other yard requirements of this chapter. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after approval of a variance by the Board of Zoning Appeals.

- (b) *Adjoining Lots.* If 2 or more substandard lots with continuous frontage have had the same ownership as of the effective date of this chapter, the classification and use of such lots shall be governed as follows:
1. When such lots are vacant, they shall be treated as being combined into one or more lots which comply with the lot size, building and yard requirements of the zoning district where located. In the event the district requirements cannot be met by combining such vacant lots, then the resulting lot shall be subject to the requirements of paragraph (a) above.
 2. When 2 such lots have been used as one lot, i.e., by the placement of an accessory building on the adjacent lot or by the encroachment of setback requirements, they shall be treated as one lot.
 3. When one developed lot abuts one undeveloped lot, the undeveloped lot may be treated as a separate lot, provided that both lots meet the requirements of paragraph (a) above.

State law references-nonconforming uses and structures, Wis. Stats. §§ 61.35, 62.23(7)(h), (7)(hf).

17.49 ARCHITECTURAL CONTROL.

- (1) **ARCHITECTURAL REVIEW BOARD.** The Plan Commission shall act as the Architectural Review Board for the purposes of this chapter.
- (2) **RESERVED.** (Rep. Ord. #8-96)
- (3) **PRINCIPLES.** To implement and define criteria for the purpose set forth in this chapter, the following principles are established:
 - (a) No building shall be permitted, the design or exterior appearance of which is of unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
 - (b) No building shall be permitted, the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.
 - (c) No building shall be permitted where any exposed facade is constructed or faced with a finished material which is aesthetically incompatible with the other facades and which presents an unattractive appearance to the public and to surrounding properties.
 - (d) No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
 - (e) Accessory structures for single-family and 2-family buildings, which exceed 200 square feet in footprint shall be of a similar architectural appearance and material as the primary building on the property. For those buildings greater than 200 square feet the Plan Commission may, in circumstances which it deems appropriate, grant a variance to the requirements to structures up to 400 square feet in size. (Cr. Ord. #8-96; Am. Ord. #34-05)
- (4) **ADMINISTRATION.** The Building Inspector shall require that each building permit application be accompanied by plans and a plat or survey showing the exterior elevations of all existing and proposed

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

structures on the property, a description of the proposed materials to be used, and proposed floor elevations of the structures. The Building Inspector shall review the application together with the plans and plat or survey. In the event the Building Inspector determines that the structure, as planned, will not conflict with the principles set forth in subsection (3) above, he shall approve the plans. However, if the Building Inspector finds that the proposed structure may not comply with said principles, he shall transmit the application and accompanying plans, together with his comments and recommendations, to the Plan Commission for its review.

- (5) **REVIEW AND FINDINGS.** The Plan Commission shall review the referred plans and the comments and recommendations of the Building Inspector and approve or disapprove the plans not more than 40 days from the date the original application for a building permit was submitted. In the event the Plan Commission does not act within said 40 days, the plans shall be automatically approved. The Plan Commission shall not approve any building plans unless it finds, by a preponderance of the evidence after viewing the application, that the structure, as planned, will not violate the principles set forth in subsection (3) above.
- (6) **APPEALS.** Any person aggrieved by any decision of the Plan Commission related to architectural control may appeal the decision to the Board of Zoning Appeals. Such appeal shall be filed with the Village Clerk within 30 days after filing of the decision with the Building Inspector.

17.50 MODIFICATIONS.

- (1) **HEIGHT.** The Plan Commission may permit, after review at a regularly scheduled Plan Commission meeting, the height limit to be exceeded, but such modification shall be in accordance with the following:
 - (a) Agricultural structures such as barns, silos and windmills shall not exceed in height the actual distance from the nearest lot line.
 - (b) Architectural projections such as spires, steeples, belfries, parapet walls, cupolas, domes, flues and chimneys may be exempted from the height limitations of this chapter.
 - (c) Signal sending, receiving and relaying structures such as radio and television transmission and relay towers, not including those structures regulated in [section 17.56](#), Germantown Code of Ordinances, and power generating structures such as windmills, shall not exceed in height the equivalent of ½ the distance to the nearest lot line. (Am. Ord. #5-02)
 - (d) Essential services such as utilities, water towers and electrical power and communication transmission lines may be exempted from the height limitations of this chapter.
 - (e) Public or semipublic facilities such as schools, churches, hospitals, monuments, sanatorium, libraries, governmental offices and stations may be erected to a height of 60 feet provided all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.
 - (f) **Rooftop cisterns for rainwater harvesting, as defined in this Chapter. The Plan Commission may require architectural screening of such structures.**
 - (g) The height of a ground sign may be increased to 75 feet measured from the mean base elevation of the subject property, but in no case shall the sign be more than 25 feet above the topographically highest roadway, within 200 feet of the approved sign location. In addition, the size of the ground signs may be increased from 80 square feet with a maximum of 160 square feet on all sides, to 144 square feet per side or 288 square feet on all sides. Prior to granting approval the Plan Commission must determine the following criteria have been met: (Cr. Ord. #13-05)
 - 1. The property shall be located within a 500 feet corridor extending from either side of the right-of-way of U.S. Highway 41/45; and

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

2. The property must have the B-5 Highway Business District zoning designation; and
 3. The businesses operated on such parcels, or seeking conditional use or other approval to operate on such parcels, are intended to serve, and are economically dependent upon, traffic traveling upon U.S. Highway 41/45; and
 4. Exceptional, extraordinary or unusual circumstances or conditions exist where a literal enforcement of the sign code requirements would result in severe hardship. Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that the sign code be changed; and
 5. Preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity will not be adversely affected; and
 6. The modification will not materially impair or be contrary to the purpose and spirit of the sign code or public interest.
- (h) An applicant whose request for a sign height modification under subparagraph (f) above is denied, or granted but at a lower height than requested by applicant, may seek a de novo review of the decision of the Planning Commission by the Village Board at a regularly scheduled meeting thereof. Such request shall be made by filing the same in writing with the Village Clerk within 7 days of the Planning Commission decision to be reviewed. (Cr. Ord. #13-05)
- (2) **YARDS.** The Plan Commission may permit, after review at a regularly scheduled Plan Commission meeting, certain yard requirements to be modified, but such modifications shall be in accordance with the following:
- (a) Accessory structures and vegetation used for **rain gardens and other vegetated stormwater management measures, other** landscaping and decorating may be placed in the required street yard and side yards. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sundials, bird baths, **rain barrels as defined in this Chapter**, trees, shrubs and flowers.
 - (b) Accessory uses and detached accessory structures are permitted in the rear yard only; they shall not be closer than 10 feet to the principal structure; and shall not exceed 15 feet in height.
 - (c) Architectural projections such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard, but such projections shall not exceed 3 feet. **Rain barrels and planter boxes designed for rainwater harvesting or stormwater management may project up to five (5) feet into any required yard.**
 - (d) Essential services, utilities and electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.
 - (e) Off-street parking is permitted in all yards of the districts, but shall not be closer than 25 feet to the right-of-way of streets when in a residential district or when abutting a residential district.
 - (f) Fences in Residential Districts. (Am. Ord. #34-89; Rep. & Recr. Ord. #30-97; Am. Ord. #15-06)
 1. All fences shall be subject to review and approval of the Building Inspector prior to the issuance of a building permit.
 2. Fences in rear or side yards may be up to 6 feet in height.
 3. Fences in front yards may not exceed 4 feet in height, except a maximum height of 6 feet on approval of the Plan Commission after consideration of visibility, privacy and access concerns.
 4. No fence shall be closer than 2 feet to a public right-of-way.
 5. Fences that contain a finished side and an unfinished side, shall be installed in a manner in which the finished side faces the adjacent property. In case of a discrepancy, the Village

Commented [PR5]: Increasing this to ten (10) feet would allow for other potentially-useful practices.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Building Inspector shall determine which side of the fence is the finished side. (Cr. Ord. #33-99)

6. Fences and easements. (Cr. Ord. #33-99)
 - (i) Fences shall not be located within any type of easement, provided however, the Planning Commission may authorize the encroachment by a fence into a drainage easement where the owner of the land encumbered by the easement shows to the satisfaction of the Planning Commission that, considering the proposed location, design and materials of the proposed fence, the encroachment of the fence into the easement will not materially interfere with drainage flow within the easement, and, in the case of a subdivision, the homeowners association consents in writing to the encroachment, or if not in a subdivision, the adjacent landowners consent in writing.
 - (ii) If the Planning Commission deems it necessary in order to make its decision to authorize an encroachment into a drainage easement by a fence, it may require that the applicant provide a report by a professional engineer providing an opinion that the encroachment will not impair drainage flow within the easement.
 - (iii) If the applicant whose property abuts the drainage way shall be aggrieved by the decision of the Planning Commission, such aggrieved person may appeal the decision to the Village Board by filing a request for appeal review of the record below within 14 days of the date of the Planning Commission's decision.
7. It is the property owner's responsibility for any lawn maintenance of lands that lie between a fence and the property line.
8. Should it be necessary that the Village or its agent, remove the fence, the material costs (materials and labor) would be borne by the owner of the fence.
- (g) Landscaping and vegetation are exempt from the yard requirements of this chapter, except as provided in [section 17.45\(3\)](#) of this chapter. (Am. Ord. #30-97)
- (h) Fences in Commercial and Industrial Districts. (Rep. & Recr. Ord. #3-97)
 1. All fences shall be subject to review and approval of the Building Inspector prior to the issuance of a building permit. (Am. Ord. #14-03)
 2. Fences in rear or side yards may be up to 10 feet in height.
 3. Fences in front of the building or within the front yard setback are only permitted after approval by the Plan Commission.
 4. Fences that contain a finished side and an unfinished side, shall be installed in a manner in which the finished side faces the adjacent property. In case of a discrepancy, the Village Building Inspector shall determine which side of the fence is the finished side. (Cr. Ord. #33-99)
 5. Fences shall not be located within any type of easement. It is the property owners responsibility for any lawn maintenance of lands that lie between a fence and the property line. (Cr. Ord. #33-99)
- (i) Uncovered stairs, landings and fire escapes may project into any yard, but may not exceed 6 feet and may not be closer than 5 feet from any lot line.
- (3) **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.
- (4) **AVERAGE STREET YARDS.** The required street yards may be decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side, but may, in no case, be less than 15 feet in any residential district and 5 feet in any business district.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (5) **CORNER LOTS.** The side yard requirement for corner lots shall be the same as the street yard requirement for the next adjacent lot fronting on the street that the side yard of the corner lot faces.
- (6) **RESERVED.** (Rep. Ord. #19-90)
- (7) **NOISE.** Sirens, whistles and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this chapter.
- (8) **ENVIRONMENTAL ENHANCEMENT.** The Plan Commission may, after reviewing appropriate building and site plans, grant limited increases in density and floor area ratio where, in the judgment of the Plan Commission, such increases are justified by the enhancement and the increases would not adversely affect the value or enjoyment of surrounding property, the provisions of municipal services, or the safe and efficient flow of traffic on neighborhood streets. The increases in density and floor area ratio shall be limited to the following:
- (a) *Plazas, Malls, Etc.* Plazas, malls and other pedestrian promenades or gathering places, provided they are specifically designed and appropriately developed to enhance the pleasure and comfort of the pedestrian and the aesthetic appearance of the development. Upon the approval of such plans and the provision of appropriate assurances, the Plan Commission may permit one additional percent of floor area ratio for each 100 square feet of the aforementioned enhancements in a business or manufacturing district; or one additional dwelling unit for each 2,000 square feet of the aforementioned enhancements in a residential district; however, such residential increase shall not exceed 10% of the base allowable density for the aforementioned enhancements.
 - (b) *Recreation Facilities.* Recreation facilities intended for the free use of residents or patrons such as children's playgrounds, tennis courts and swimming or wading pools. Upon the approval of such plans and the provision of appropriate assurances, the Plan Commission may permit one additional percent of floor area ratio for each 100 square feet of the aforementioned enhancements in a business or manufacturing district; or one additional dwelling unit for each 1,000 square feet of the aforementioned enhancement in a residential district; however, such residential increases shall not exceed 20% of the base allowable density for the aforementioned enhancements.
 - (c) *Landscaping in a Business or Manufacturing District.* Upon approval of landscaping plans and the provision of appropriate assurances, the Plan Commission may permit ~~0.5%~~ 4% of additional floor area ratio for each 250 square feet of landscaping in excess of that required, or 1% of additional floor area ratio for each 250 SF of landscaping in excess of that required where an equivalent amount of the site's landscaping is designed as a vegetated stormwater management measure.
 - (d) *Underground Parking or Underground Truck Service Areas.* Upon approval of plans and the provision of appropriate assurances, the Plan Commission may permit up to 3% of additional floor area ratio for each underground public parking space, or for each underground service area, which provides space for 3 vehicles in a business or manufacturing district in excess of that required; or one additional dwelling unit for each 3 additional underground parking spaces in a residential district provided that such dwelling unit increase does not exceed 10% of the base allowable density for the provision of underground parking.
 - (e) Stormwater Management Measures. Upon approval of a Site Specific Stormwater Management Plan and associated architectural, landscaping and site plans, the Plan Commission may permit 1% of additional floor area ratio for every 100 SF of green roof treatment (as defined in this Chapter); and 1% of additional floor area ratio for every 250 SF of permeable surfacing used in a required parking area.
 - (f) In no case shall the cumulative increase in density from all enhancements under this Section exceed [25%] of the base density allowable in the underlying zoning district.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

(9) **OUTDOOR VENDING MACHINES AND PRODUCT DISPENSERS.** (Cr. Ord. #24-10) The Village of Germantown prefers that all vending machines and product dispensers be located inside a building. In the event that vending machines and product dispensers cannot be located within a building, such items may be allowed outside of a building in accordance with the following standards and requirements (if not already approved by the Village Plan Commission as part of a previous Site Plan approval):

(a) *Approval.*

1. The vending machines and product dispensers regulated under these provisions include, but are not limited to: propane tank dispensers, Automatic Teller Machines (ATM), media dispensers (e.g., RedBox DVD dispensers), food and beverage dispensers, bag/block ice dispensers, newspaper dispensers, clothing donation drop-off containers, etc. These regulations do not apply to the temporary display of seasonal products or merchandise.
2. The placement and use of vending machines and product dispensers that meet all of the requirements set forth herein may be approved by the Zoning Administrator through the issuance of a zoning permit.
3. The placement and use of vending machines and product dispensers outside of a building that cannot comply with one or more of the requirements set forth herein may only be approved by the Plan Commission through a Site Plan approval.
4. Vending machines and product dispensers that require new electrical or plumbing require a building permit.
5. All vending machines require a license from the Village Clerk's Office.

(b) *Location and Accessibility.*

1. Vending machines and product dispensers shall be located on the exterior of a building abutting an exterior wall.
2. Vending machines and product dispensers shall not be located so as to impede pedestrian access, block parking areas or create an unsafe condition. A minimum of 5 feet of clearance is required in front of a vending machine or product dispenser. The Village may require the installation of bollards or other protective measures to ensure the maintenance of a safe environment around a vending machine or product dispenser.
3. Public access to vending machines and product dispensers shall meet applicable ADA accessibility requirements.

(c) *Number.*

1. The number of vending machines and product dispensers allowed to be used is limited by the maximum amount of "display area" vending machines and/or product dispensers will occupy and shall not exceed one square foot of the footprint of the display area for every 2 feet of linear building frontage, or, 50 square feet per business, whichever is greater.

(d) *Use and Appearance.*

1. All vending machines and product dispensers selling entertainment media must comply with applicable "adult use" business and zoning regulations.
2. The placement or use of vending machines and product dispensers shall not create an attractive nuisance.
3. The placement and display of vending machines and product dispensers shall be coordinated with the architecture of a building and not cover up windows, landscape planters and/or decorative trim or other architectural features.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

4. Outdoor vending machines and product dispensers may be externally illuminated for security with lighting approved by the Village Planner. Internal illumination of any product display area integrated into the vending machine or product dispenser may be used as long as it does not cause glare.
5. The use of signage on or integrated into a vending machine or product dispenser may be used provided that it only identifies and/or advertises the products available from the vending machine or product dispenser and does not constitute excessive advertising.

17.51 CHANGES AND AMENDMENTS.

- (1) **AUTHORITY.** Whenever the public necessity, convenience or general welfare or good zoning practice require, the Village Board may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be submitted to the Plan Commission for review and recommendation.
- (2) **INITIATION.** A change or amendment may be initiated by the Village Board or the Plan Commission or by a petition of one or more of the owners of property within the area proposed to be changed.
- (3) **PETITIONS.** (Am. Ord. #19-96) Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Planner, describe the premises to be rezoned by a metes and bounds description or the regulations to be amended, list the reasons justifying the petition, specify the proposed use, and have attached the following:
 - (a) 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 200 feet of the area proposed to be rezoned.
 - (b) Owners' names and addresses of all properties lying within 300 feet of the area proposed to be rezoned.
 - (c) Additional information required by the Plan Commission or the Village Board.
- (4) **RECOMMENDATIONS.** The Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made in writing to the Village Board. The Plan Commission shall make its recommendation within 30 days of the referral unless such time is extended by the Village Board.
- (5) **HEARINGS.** The Village Board shall hold a public hearing upon each recommendation and shall give notice, as specified in [section 17.53](#) of this chapter.
- (6) **VILLAGE BOARD ACTION.** Following such hearing and after careful consideration of the Plan Commission's recommendations, the Village Board shall vote on the passage of the proposed change or amendment.
- (7) **PROTEST.** In the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged either by the owners of 20% or more of the areas of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent to the land included in the proposed change, or by the owners of 20% or more of land extending 100 feet from the street frontage of such opposite land, such a change or amendment shall not become effective except by the favorable vote of $\frac{3}{4}$ of the full Village Board.

State law references—Zoning amendments, Wis. Stats. §§ 61.35, 62.23(7)(d).

17.52 BOARD OF ZONING APPEALS.

- (1) **MEMBERSHIP.** See [section 1.30](#)(1) of this Code.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (2) **ORGANIZATION.** The Board of Zoning Appeals shall organize and adopt rules and procedure for its own government in accordance with the provisions of this chapter.
- (a) *Meetings.* Meetings shall be held at the call of the chairman and shall be open, to the public.
 - (b) *Minutes.* Minutes of the proceedings and a record of all actions shall be kept by the secretary showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the Board and shall be a public record.
 - (c) *Concurring Vote.* (Am. Ord. #12-09) The concurring vote of a majority of the quorum of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a utility, temporary, unclassified or substituted use.
- (3) **POWERS.** The Board of Zoning Appeals shall have the following powers:
- (a) *Errors.* To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 - (b) *Variances.* To hear and grant appeals for variances as will not be contrary to the public interest when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (c) *Interpretations.* To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (d) *Substitutions.* To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided 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.
 - (e) *Permits.* The Board may reverse, affirm wholly or partly modify the requirements appealed from, and may issue or direct the issuance of a permit.
 - (f) *Assistance.* The Board may request assistance from other Village officers, departments, commissions and boards.
 - (g) *Oaths.* The Chairman may administer oaths and compel the attendance of witnesses.
- (4) **APPEALS.** (Rep. & Recr. Ord. #2-94; Am. Ord. #19-96) Appeals of any administrative determination of the Zoning Administrator, the Building Inspector or the Plan Commission concerning the literal enforcement of this chapter and chapters 14 and 18 of this Code may be made by any person aggrieved or by any officer, department or board of the Village. Such appeals shall be filed with the Secretary within 30 days after receiving actual or constructive notice of the administrative decision or order or the granting of a permit by the Zoning Administrator, Building Inspector or Plan Commission. Such appeals and applications shall include the following:
- (a) Name and address of the applicant.
 - (b) What administrative determination is being appealed and the basis for the appeal.
- (5) **HEARINGS.** The Board shall fix a reasonable time and place for the required public hearing and shall give notice as specified in [section 17.53](#) of this chapter including providing notice of the appeal to the owners or occupants of all properties lying within the Village of Germantown 300 feet outward from the exterior boundary of and abutting the property subject of the appeal. At the hearing, the appellant or applicant may appear in person or be represented by an agent or attorney.
- (6) **FINDINGS.** No variance to the provisions of this chapter shall be granted by the Board unless it finds, beyond a reasonable doubt, that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (a) *Preservation of Intent.* No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or conditional use in that particular district.
 - (b) *Exceptional Circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that this chapter should be changed.
 - (c) *Hardships Not Grounds for Variance.* No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 - (d) *Preservation of Property Rights.* The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (e) *Absence of Detriment.* No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (7) **DECISION.** The Board shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, the Zoning Administrator and the Plan Commission.
- (a) *Conditions.* Conditions may be placed upon any zoning permit ordered or authorized by the Board.
 - (b) *Variations, Substitutions or Use Permits.* Variations, substitutions or use permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.
- (8) **REVIEW BY COURT OF RECORD.** Any person aggrieved by any decision of the Board 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 office of the Board.

State law references—Zoning board of appeals, Wis. Stats. §§ 61.35, 62.23(7)(e).

17.521 NOTICE OF GRANTING OF PERMITS REQUIRING ADMINISTRATIVE DETERMINATION. (Cr. Ord. #2-94)

Upon the issuance of any permit provided for in this Code by the Village Board or the Plan Commission which requires an administrative determination, the Village Clerk shall, upon the request of the grantee of such permit, prepare a public notice suitable for publication and providing the following:

- (1) A brief description of the permit granted and the date of issuance.
- (2) The governmental body which issued the permit.
- (3) The name of the grantee and the address where the activity permitted under the permit will take place.
- (4) A reference to the 30-day appeal period provided under [section 17.52\(4\)](#) of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

17.53 PUBLIC HEARINGS.

Notice of any public hearing which the Village Board, the Plan Commission or the Board of Zoning Appeals is required to hold under the terms of this chapter shall specify the date, time and place of said hearing and shall state the matter to be considered at said hearing. Notice shall be published in a newspaper of general circulation at least once each week for 2 consecutive weeks and the hearing shall not be held until at least 7 days following the last publication. The Village Clerk shall also give at least 10 days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed action.

17.54 VIOLATIONS.

It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this chapter. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In case of any violation, the Village Board, the Plan Commission, the Zoning Administrator, the Building Inspector or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this chapter.

17.55 PENALTY. (Am. Ord. #43-98)

Any person who violates or fails to comply with the provisions of this chapter shall, upon notice by the Village Administrator or his duly appointed deputy, pay a fee of twice the regular fee as set forth in [section 17.07](#)(8) of this chapter or, upon conviction thereof, shall be subject to a penalty as provided in [section 25.04](#) of this Code and shall remove any structure or use placed in violation of this chapter. Each day a violation exists or continues shall constitute a separate offense.

17.56 WIRELESS COMMUNICATION FACILITIES. (Cr. Ord. #37-99)

(1) STATEMENT OF PURPOSE AND INTENT.

- (a) The purpose of this section is to provide standards and criteria for the placement, construction and maintenance of wireless communication facilities in the Village of Germantown. The intent of this section is to:
1. Strike a balance between the interests of the wireless communication service providers, the consumers of those services and the Village of Germantown.
 2. Restrict the location of towers to nonresidential areas and minimize the total number of towers throughout the Village.
 3. Protect residential areas and land uses from potential adverse impacts of towers and antennas.
 4. Encourage location and co-location of new antennas on existing towers and other appropriate structures.
 5. Encourage users of towers and antennas to configure them in a way that minimizes their adverse visual impact by careful design, siting, landscaping, screening and camouflaging techniques.
 6. Protect property values and the public health, safety and welfare.
 7. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the impact on the community is minimal.
 8. Avoid potential damage to adjacent properties from tower failure through careful engineering and siting of tower structures.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

9. Enable wireless communication service providers to provide their services to their customers in a prompt, effective and efficient manner.
10. Create clear and objective approval criteria for towers and accessory structures.
11. Ensure that all wireless communication providers are given an equal opportunity to compete in the local market.

(2) **DEFINITIONS.**

(a) For the purpose of this section, the following definitions shall be used:

1. *Alternative Tower Structure.* An existing man-made structure which is used as an alternative to a tower and to which an antenna and/or an antenna support structure is attached.
2. *Antenna.* Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic magnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.
3. *Antenna Support Structure.* A structure which is attached to a tower or an alternative tower structure and which is designed to support an antenna at a height sufficient to permit effective receipt or transmission of wireless communications.
4. *Co-location.* The provision of multiple antennas or more than one commercial wireless communication service provider or government entity on a single-tower or structure.
5. *Equipment Facility.* A building, cabinet, or other enclosure used to house and protect the electronic equipment necessary for processing wireless communications at a wireless communications facility.
6. *FAA.* Federal Aviation Administration.
7. *FCC.* Federal Communications Commission.
8. *Height.* The distance from the ground at the base of the tower or alternative tower structure to the highest point on the tower or alternative tower structure or any fixture attached thereto, whichever is highest.
9. *Operator.* A person, corporation, partnership, association or other organization which:
 - a. Provides wireless communication services, either directly or through one or more agents, employees, subsidiaries or affiliates; or
 - b. Controls or is responsible for the management and operation of a wireless communications facility.
10. *Points of Visual Interest.* Views of waterways, open spaces, historic buildings, architecturally significant structures or other scenic views.
11. *Preexisting Towers and Antennas.* Any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date of this section (October 4, 1999).
12. *Tower.* Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term includes the structure and any support thereto.
13. *Tower Site.* The parcel of land where a tower and associated wireless communication structures, fixtures and equipment are located.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

14. *Wireless Communications Service.* The provision of wireless communication services for a consideration. Wireless communication services include, but are not limited to, Cellular Communications Service (CCS), Personal Communication Service (PCS), Specialized Mobile Radio Service (SMR), Enhanced Specialized Mobile Radio (ESMR), paging services and other similar wireless communication services.

(3) **APPLICABILITY OF REGULATIONS.**

(a) *Facilities Regulated by this Section.* Except as provided in subsection (3)(b) of this section, the regulation contained in this chapter shall apply to all wireless communication facilities in the Village of Germantown.

(b) *Facilities Exempt from this Section.* The following wireless communication facilities are exempt from the provisions of this section, except the regulations contained in subparagraph (c) of this subsection.

1. A ground or building mounted receive-only radio or television antenna which does not exceed 25 feet in height and which is used solely by the occupants of a dwelling located in a residential zoning district.
2. A ground or building mounted receive-only radio or television satellite dish which does not exceed 36 inches in diameter; which does not project beyond the roof line and which is used solely by the occupants of a dwelling located in a residential zoning district.
3. A citizen band radio tower and antenna which does not exceed 35 feet in height.
4. A ham radio tower and antenna which does not exceed 75 feet in height.
5. Microwave dishes for private home use.
6. Governmentally owned and operated receive and/or transmit telemetry station antenna for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, stormwater, pump stations and/or irrigation systems, with heights not exceeding 35 feet.
7. Towers, equipment facilities and antennas that existed prior to the effective date of this chapter (October 4, 1999).

(c) *Regulation of Exempt Facilities.* Notwithstanding subparagraph (a) of this subsection, exempt facilities shall be subject to the following rules and regulations.

1. In residential districts there shall be no more than one antenna support structure per tax parcel.
2. Towers shall be designed to prevent children and trespassers from climbing on those structures. Ladder rungs shall be at least 20 feet above the ground.
3. Towers and antennas constructed and maintained in the Village of Germantown shall comply with all other applicable local, State and Federal laws.
4. Pre-existing towers and equipment shall not be exempt from the conditional use permit on file and the licensing requirements of [section 22.06](#) of this Code.

(4) **COMPLIANCE WITH ZONING REGULATIONS.**

(a) *Permitted Uses.* The following uses are deemed permitted uses that require Village Plan Commission approval.

1. *Antennas on Existing Towers.* The attachment of a new antenna on an existing tower may be allowed, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that:

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- a. A tower which is modified or reconstructed to accommodate the location of an additional antenna shall be of the same type and height as the existing tower.
 - b. An existing tower may be modified or rebuilt to accommodate the colocation or additional antenna and may be moved onsite within 50 feet of its existing location, but the relocation may only occur one time per communication tower.
 - c. After a tower is rebuilt to accommodate co-location, only one tower may remain on site.
 - d. When relocating a tower on-site, the revised location of the tower shall be a minimum distance of the height of the tower, to the property line of residential units or residentially zoned lands.
2. *Public Safety Communication Facilities.* (Cr. Ord. #29-07) The construction of a new or the replacement of an existing wireless communication facility owned by the Village of Germantown, Washington County, or other municipal government that will be used primarily for public safety communication systems provided that plans for such facilities meet the following requirements of this section:
- a. Subsection (4)(b)1. through 3.
 - b. Subsection (5)(c), (d), and (f) through (m).
 - c. Subsection (6).
- (b) *Conditional Uses.* The installation of towers and antennas, including the placement of accessory buildings or equipment, may be allowed by Conditional Use Permit in all agricultural, institutional, business and industrial zoning districts. The applicant shall submit a conditional use permit in accordance with the application procedure described in [section 17.42](#) of this chapter. In addition to the requirements detailed in [section 17.42](#) of this chapter, the conditional use permit shall not be granted until each of the following requirements are met.
1. *Antennas or Towers on Existing Structures.* An antenna or tower may be situated on the roof of a commercial, industrial, professional, institutional or municipal structure provided that such device is installed and maintained in accordance with applicable state or local building codes, and complies with current standards of the FAA, FCC and any other agency of the State or Federal government with the authority to regulate antennas.
 2. *Plans, Specifications and Statements.* The applicant for a permit to construct a new tower or equipment facility shall provide the following:
 - a. Wisconsin Professional Engineer stamped Plans and Specifications for construction of the tower.
 - b. A written statement by an electrical engineer licensed to practice in the State of Wisconsin that the reception and transmission functions of the proposed tower, antenna or equipment facility will not interfere with the usual and customary transmission and reception of radio, television or other services on adjacent properties.
 - c. A copy of the FAA determination, the FCC license and the State of Wisconsin Department of Commerce building plan approval indicating that the proposed tower, antenna or equipment facility complies with rules administered by those agencies.
 - d. For towers, a written statement from the applicant's engineer indicating:
 1. The types of antennas that may be accommodated by the tower.
 2. The tower's capacity for such antennas.
 3. The failure characteristics of the tower.
 4. The adequacy of its setback in event of failure.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

3. *Site and Landscaping Plans.* The applicant shall provide the Plan Commission and Village Board with site plans and landscaping plans drawn to scale of 1" = 20'. Those plans should specify the location of any tower, building, parking, landscaping, fencing and other accessory uses. The landscape plan shall indicate the size, number and type of planting for the proposed site.
 4. *List of Other Antenna Facilities.* The applicant shall provide the Plan Commission and Village Board with a list of the applicant's existing towers and antennas located in the Village of Germantown and within 10 miles of the Village limits. The list should identify the location, height and design of each tower and location of each antenna. The Plan Commission and Village Board may share such information with other applicants applying for a Conditional Use Permit to construct, install or alter wireless communication facilities.
 5. *Affidavit Regarding Other Towers.* The applicant for a Conditional Use Permit to construct a new tower shall execute an affidavit stating whether any other wireless communication tower is located within any portion of the area of a radius of 2,000 feet from the location of the proposed new tower, which lies outside of the corporate limits of the Village of Germantown.
 6. *Co-location Statement for Towers.* The applicant shall demonstrate, to the reasonable satisfaction of the Plan Commission and Village Board, that no existing tower or alternative tower structure can accommodate the applicant's proposed antenna. Upon a showing by the applicant that any one of the following circumstances enumerated below exist, the applicant shall be deemed to have satisfactorily demonstrated the need for a new tower. In evaluating such circumstances, the Village may employ the services of a consulting expert. The expense for which shall be compensated to the Village by the applicant as an administrative cost of processing the application.
 - a. No tower or alternative tower structure exists in a geographic area where it is necessary to place an antenna in order to provide effective wireless communication services.
 - b. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or alternative tower structures do not have sufficient strength to support applicant's proposed antenna and related equipment.
 - d. Applicant's proposed antenna would cause interference with another antenna already located on an existing tower or structure or that the antenna on the existing tower or structure would cause interference with applicant's proposed antenna.
 - e. The charges for the use of an existing tower or alternative tower structure are unreasonable. Charges for use of an existing tower or structure shall be deemed unreasonable if those charges exceed the (cost of constructing a wireless communication facility) (then reasonable market rates for co-location).
 - f. The applicant demonstrates that there are other reasonable factors that render an existing tower or alternative tower structure unsuitable.
 7. *Reservation of Antenna Space on Towers.* Unless, specifically waived by the Village, new towers shall be designed to accommodate at least 2 other wireless communication service providers at market rate.
 8. *Liability Insurance Coverage.* The applicant shall annually furnish a certificate of general liability insurance coverage for a minimum of \$1,000,000.00 for the tower site. The insurance coverage may be reviewed by the Plan Commission and Village Board to determine the sufficiency of such amount. The proof of insurance shall be placed on file with the Village Clerk's office.
- (5) **OTHER REQUIREMENTS.** (Am. Ord. #29-07) Except as may otherwise be provided in subsection (4)(a) herein, all wireless communication facilities shall meet the following requirements:

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (a) *Tower and Antenna Height.* No tower shall exceed 150 feet in height. No antenna support structure, including any antenna or other device attached thereto, shall extend more than 20 feet above the highest point of the building or structure to which the antenna support structure is attached.
- (b) *Tower Separation.* No new tower shall be constructed within 2,000 feet of an existing tower. The distance shall be measured in a straight line between the base of the existing tower and the proposed location for the base of the new tower.
- (c) *Advertising Signs.* No person shall place any advertising sign on any tower, antenna support structure or antenna. Nor, shall anyone place a flag, decorative sign, streamer, pennant, ribbon, spinner or other moving object on a tower, antenna support structure or antenna, unless such object is an integral part of the facility design which is calculated to screen, conceal or camouflage the nature of the structure, such as a flag on a flag pole which is itself a camouflaged wireless communications facility, or in which such a facility is concealed.
- (d) *Lighting.* No tower, antenna support structure or antenna shall be artificially illuminated. This subsection does not prohibit the use of motion detectors and associated lighting nor the use of outdoor lights when the wireless communication provider's personnel are present. This subsection is not intended to prohibit any lighting required by any local, State or Federal law, rule or regulation. If lighting is required by such law, rule or regulation, the operator and owner shall choose the lighting which causes the least disturbance to the occupants of the adjacent properties.
- (e) *Points of Visual Interest.* No wireless communication facility shall be located so as to obstruct the view of a point of visual interest from a residential zoning within 1,000 feet of the wireless communication facility.
- (f) *Tower Color.* The tower shall have a galvanized steel finish or shall be painted in a neutral color so as to reduce visual obtrusiveness or to camouflage the tower. Antennas and antenna support structures shall be of a neutral color which is identical to, or closely compatible with, the color of the tower or alternative support structure.
- (g) *Ladders.* Towers shall be designed to prevent children and trespassers from climbing on those structures. Ladder rungs on towers shall be placed a minimum of 20 feet above the ground.
- (h) *Fencing.* A wireless communications facility shall be enclosed by a security fence not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area as determined by the Plan Commission and Village Board. Electrical fencing is prohibited within the Village of Germantown.
- (i) *[Conditional Use Permit.]* A conditional use permit for siting a wireless communications facility in lands carrying an agricultural zoning classification shall provide conditions requiring sufficient screening or camouflage so as to eliminate visual obtrusiveness.
- (j) *Landscaping.* A buffer of plant materials of sufficient maturity and size to immediately and effectively screen the equipment cabinets, structures or buildings from public view and from adjacent properties shall be provided.
 - 1. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the entire perimeter of the wireless communications facility.
 - 2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived with the approval of the Plan Commission and Village Board.
 - 3. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

4. All landscaping requirements detailed here shall be properly maintained in perpetuity.
- (k) *Buildings, Enclosures and Associated Devices.*
1. All buildings, enclosures, equipment and other associated devices shall be placed in close proximity to the base of the tower located on the wireless communications site. If the wireless communications facility does not have a tower, the buildings, equipment and other associated devices shall be placed in close proximity to the alternative tower structure. If the wireless communications facility has a roof mounted antenna support structure, an equipment enclosure may be located on the roof provided that such enclosure is placed as unobtrusively as possible and in compliance with all applicable building and zoning rules and regulations.
 2. All buildings and enclosures shall be kept locked at all times. Each building and enclosure shall have a label attached to it the label shall give the name, address and telephone number of the person who should be contacted in the event of an emergency.
 3. The aggregate floor area of all buildings and enclosures shall not exceed 400 square feet per tower. The total height of the structures shall not exceed 15 feet in height. A greater height and size, may be approved by the Village Board, if necessary to fulfill special considerations of the tower site. The construction materials shall consist of a brick exterior on all sides of the structures, However, different materials may be approved by the Village Board if they are determined to be more compatible with the surrounding land uses. (Am. Ord. #5-02)
- (l) *Building Permit Required.* After the conditional use permit and final site plans are approved, no tower or any type of structure shall be constructed until a building permit is reviewed, approved and issued from the Village Building Inspection Department.
- (m) *Setbacks.* All wireless communications facilities regulated by this section shall meet the required setback as determined by the Village Board and made a condition of the approved site plan. (Cr. Ord. #5-02)
- (6) **MAINTENANCE AND OPERATIONAL REQUIREMENTS.**
- (a) *General Requirements.* The wireless communication facility shall be maintained in accordance with all applicable local, State and Federal regulations. If the Building Inspector concludes that a tower or any other part of a wireless communication facility fails to comply with such codes and constitutes a danger to persons or property in the vicinity, the Village Building Inspector shall notify the owner or operator of the wireless communication facility of such fact. The notice shall be in writing and shall require the owner or operator to bring the facility into compliance with such codes within 30 days of the date of service of the notice. If the owner or operator fails to bring the wireless communication facility into compliance within the time provided, the Village Building Inspector may order the tower or other wireless communication facility to be removed to the extent necessary to protect persons or property in the vicinity. The cost of removing the tower or other portion of the wireless communication facility shall be at the owner's expense. The owner and the operator shall be responsible to maintain the premises upon which the wireless communication facility is located in a clean and sanitary condition.
 - (b) *Operator Interference.* Operation of a tower facility shall be undertaken so as not to interfere with any other form of wireless communication. In the event any complaints of interference are received, and they are reasonably suspected by the Village to be caused by the tower, the Village shall notify the applicant and property owner. The applicant shall have a period of 30 days to investigate said complaints and respond to the Village of Germantown. In the event that it is determined that the tower is the source of interference, the applicant shall have 10 days to correct all problems.
 - (c) *Outdoor Storage Prohibited.* No person shall store any vehicles, equipment or other goods on the site of the wireless communication facility except in an enclosed building. This section does not

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

apply to overnight storage of vehicles or equipment necessary for the construction or repair of the wireless communication facility.

(7) **ABANDONED TOWERS AND ANTENNAS.**

- (a) *Evidence of Abandonment.* An antenna or tower shall be deemed abandoned if any of the following shall occur:
 - 1. The antenna or tower is not operated for 6 continuous months.
 - 2. The owner or operator has notified the Village of Germantown that it has ceased operations of the antenna or tower.
- (b) *Notification of Abandonment.* The owner or operator of a wireless communication facility shall notify the Village Planning Department in writing whenever an antenna or tower is abandoned or its use discontinued. Such notice shall be given to the Planning Department within 30 days of such abandonment or discontinuance.
- (c) *Removal of Abandoned Towers and Antennas.* The owner and operator of an abandoned tower or antenna shall remove it from the wireless communications facility within 6 months after the tower or antenna is abandoned or its use discontinued. If the owner fails to remove the antenna, tower, or any other structure within that time, the Village shall remove the antenna, tower or any other structure at the owner's and operator's expense. In the event that the cost of removal is not paid, the Village may assess the cost of such removal against the property upon which the wireless communications facility is located.
- (d) *Site Restoration.* Whenever a tower is removed from a wireless communications facility, the remainder of the site shall be restored to its preexisting condition and all buildings, equipment and other devices accessory to the tower shall be removed from the site.
- (e) *[Irrevocable Letter of Credit.]* An applicant shall provide, as a condition of issuance of a conditional use permit, an irrevocable letter of credit or cash in the amount of \$25,000.00 to guaranty facilities removal and site restoration.

(8) **LEGAL NONCONFORMING FACILITIES.** Preexisting towers, antenna support structures, antennas or wireless communication facilities which do not conform to the requirements of this chapter, shall be permitted to continue in accordance with the provisions of the zoning code of the Village of Germantown which deals with nonconforming buildings, structures and uses.

(9) **ENFORCEMENT.** The provisions of this chapter shall be enforced by the Planning Department and the Village Building Inspector. Any person who violates any provision of this chapter shall, upon a conviction be subject to a penalty as detailed in [section 25.04](#) of the Germantown Municipal Code.

State law references—Regulation of antennas, Wis. Stats. §§ 61.35, 62.23(7)(he), (7)(hf).

17.57 BERMS. (Cr. Ord. #4-03)

- (1) **PURPOSE.** This section regulates the location, design and visual appearance of new berms to discourage excessive length and height, provide for ease of maintenance, assure proper stormwater drainage, avoid interfering with safe visual sight distance for motorists, and promote the attractive aesthetic appearance of areas where berms are located.
- (2) **BERM DEFINED.** A "berm" is a man-made landscape feature consisting of mounded soil. Rock or concrete rubble may be included in a berm if completely covered with topsoil.
- (3) **APPLICABILITY.** These requirements shall not apply to the following:
 - (a) Minor berms not vertically higher than 3 feet above the average ground grade along both sides of the berm.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (b) Landscaping areas lower than 3 feet in height.
 - (c) Landscape areas not meeting the berm definition in subparagraph (b) above.
 - (d) Temporary topsoil or fill piles on active construction sites.
- (4) **APPROVAL REQUIRED.**
- (a) *Plan Commission Approval Required.* Berms exceeding 3 feet in vertical height above the average grade of the ground along both sides of the berm shall require review and approval by the Plan Commission prior to any construction or alteration thereof.
- (5) **APPLICATION.** Applications to construct or alter a berm shall be made on forms provided by the Village. The application and review fee shall be submitted to the Planning Department. The application shall include the following information:
- (a) Name, address and telephone number of the applicant, and location of building, structure, or lot where the berm is to be constructed.
 - (b) Name of person, firm, corporation, or business that is constructing or altering the berm.
 - (c) Written consent of the owner or lessee of the land upon which the berm is proposed to be located.
 - (d) Plans and attachments.
 - 1. Berm plan depicting its location, setbacks, property lines, proposed and existing grade contours, any related drainage facilities, and any existing easements on the subject property.
 - 2. Proposed type of fill material and cover material.
 - 3. Landscaping plan including grasses or groundcover, shrubbery, and tree types specifying the spacing and size of all plantings.
 - 4. Proposed schedule for all phases of work.
 - (e) Additional information as may be required.
- (6) **DESIGN REQUIREMENTS.**
- (a) *Location.*
 - 1. Berms shall not be located within any existing or future public road right-of-way, Village utility easements or drainage easements. Berms shall be located at least 5 feet from a road right-of-way line, and at least 10 feet from a side or rear lot line. The offset requirements from a side or rear lot line may be waived where a berm is being constructed jointly by adjacent property owners. If berm straddles a lot line, a landscape easement shall be recorded and attached as a deed restriction to the property, evidence of owner's agreement and easement to be provided to the Village prior to issuance of an Erosion Control Permit.
 - 2. Minor berms less than 3 feet high may be located within 5 feet of a road right-of-way line if integral with peripheral edge landscape screening.
 - 3. Berms shall not be constructed to obstruct the view of vehicular traffic for ingress and egress to any public or private road, private driveway, walkway or bike trail.
 - 4. Berms shall not be placed in drainage ways, floodplains, wetlands, or conservancy-zoned areas.
 - 5. Berms shall not be located within any drainage or utility easement.
 - (b) *Slope, Shape, Measurement, and Maximum Height.* The vertical height shall be measured from an average of the existing ground grade along both sides of the berm. Berms shall be designed and graded to have an undulating and serpentine shape, and long continuous straight berms may not be acceptable. The width and length of berms shall be measured along their base line or toe

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

of slope. The maximum height of berms shall be determined by the Plan Commission on a case-by-case basis.

- (c) *Landscaping.* Berms shall be covered with at least 6 inches of topsoil, and shall be landscaped with turf or groundcover. In addition, it is recommended that landscape plantings be spaced randomly on the berm to enhance its appearance. Berm maintenance shall be by the owner in perpetuity.
- (d) *Drainage.* All berm construction shall not impede surface water drainage or disturb existing drain tile systems. The provisions of this ordinance shall apply to prevent berms from interfering with surface drainage and public utility easements and drainage easements.
- (e) *Fencing.* Fencing shall not be placed on a berm unless approved by the Plan Commission.
- (f) *Erosion Control.* All berm construction shall adhere to the Village's construction and erosion control ordinance where applicable. The property owner shall obtain an Erosion Control Permit prior to grading activities.
- (g) *Completion.* All berms shall be completed, including all landscaping, in accordance with the schedule approved by the Plan Commission.
- (h) *Approval Conditions.* Approval conditions shall require the applicant to:
 - 1. Notify the Village when the berm is finally graded, but prior to installing any landscaping to provide for a pre-final inspection of the berm.
 - 2. Obtain approval from the Plan Commission to modify the berm after completion.
 - 3. Maintain all road drainage systems, stormwater drainage systems, best management practices and other facilities identified in the berm plan.
- (7) **INSPECTION.** Berms shall be inspected by the Engineering Department and/or the Planning Department. If berm development or berm activities are being carried out without a permit, Village personnel shall enter the land pursuant to the provisions of §§66.122 and 66.123, Wis. Stats.
- (8) **FEES.** Fees referred to in this section shall be the fee for a minor Plan Commission review.
- (9) **GRANDFATHER CLAUSE.** Berms existing prior to the adoption of this amendment that do not comply with the requirements in this amendment shall be considered a nonconforming berm. Such nonconforming berms may be maintained and continued, but any changes or substitutions thereto shall comply with the provisions in this amendment.

17.58, 17.59 RESERVED.

17.60 TREES. (Cr. Ord. #31-02)

- (1) **PURPOSE AND INTENT.** This section establishes policies, regulations, and standards necessary to ensure that the Village of Germantown will continue to realize the benefits provided by its urban forest. The provisions of this chapter are enacted to:
 - (a) Establish and maintain the maximum amount of tree cover on public and private lands in the Village of Germantown.
 - (b) Maintain trees in a healthy and nonhazardous condition through good arboricultural practices.
 - (c) Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.
- (2) **DEFINITIONS.**

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (a) *Park Trees.* Park trees are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the Village, or to which the public has free access as a park.
 - (b) *Private Trees.* Any and all trees growing on private property within the Village limits as of or after the effective date of the ordinance from which this section or successful sections derives and which are not defined or designated in this chapter as street trees, park trees, or public trees.
 - (c) *Public Nuisance.* Any tree or shrub or part thereof growing upon private or public property which is: interfering with the use of any public area; infected with an infectious pest; or endangers the life, health, safety, or welfare of persons or property can be declared a public nuisance.
 - (d) *Public Utility.* Any public, private or cooperatively owned line, facility, or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, waste or stormwater, which directly or indirectly serves the public or any part thereof within the corporate limits of the Village.
 - (f) *Street Trees.* Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, roads, medians, avenues, or ways within the Village. **A Street Tree may function as a Stormwater Tree where specifically selected and installed as a component of a stormwater management plan.**
 - (g) *Tree Topping.* The severe cutting back of limbs to stubs larger than 3 inches in diameter with the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.
 - (h) *Vision Corner.* The space formed by any 2 existing or proposed intersection street or alley right-of-way lines (property lines) and a line joining points on such lines located a minimum of 15 feet from their intersection. In the case of arterial streets intersection with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased from 15 feet to 50 feet.
- (3) **VILLAGE COMPREHENSIVE TREE PLAN.** A Comprehensive Tree Plan for the Village of Germantown shall be developed by the Director of Public Works, Parks and Recreation Director, Buildings and Grounds Foreman, Village Planner and Village Forester. The Plan shall be forwarded to the Public Works Committee for its recommendation, and adopted by the Village Board.
- (a) *Development of the Tree Plan.*
 - 1. It shall be the responsibility of the plan to study, investigate, counsel, and develop and/or update, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public places. Such plan will be presented to the Village Board upon their acceptance and approval shall constitute the official comprehensive city tree plan for the Village of Germantown.
 - 2. The plan shall consider, investigate, make finding, report, and recommend upon any special matter or question coming with the scope of its work.
 - 3. The plan shall consist of a list of desirable trees for the planting along streets in 3 size classes based on mature height: small (under 20 feet), medium (20 to 40 feet), and large (over 40 feet). Lists of trees not suitable for planting will also be included within the plan.
- (4) **PLANTING OF TREES ON PUBLIC RIGHT-OF-WAY ALONG ROADS.** The Village shall have jurisdiction, direction, authority, control, and supervision over that part of every street, the grade of which has been established lying between the lot line and the curb, or curb line, and trees on any property, which may in any way have effect upon public property, and upon the public welfare of the Village of Germantown, and for the planting, care, maintenance, protection and removal thereof. The Village Board shall have the authority to make such rules and regulations as it may deem applicable for carrying out the purpose of this section.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (a) *Permit Required.* No tree shall be planted on the public right-of-ways within the Village of Germantown until a permit shall first have been obtained by the owner of the property abutting on the frontage thereof, or his authorized agent. Such permit shall be obtained from the Building and Grounds Foreman, and shall be issued only after the Buildings and Grounds Foreman has received a validated application for said permit.
 - (b) *Application for Permit.* Application for the permit shall be obtained from the Village Clerk and validated by the Building and Grounds Foreman or Village Forester. A separate application and a separate permit and a fee are required for each tree intended to be planted.
 - (c) *Compliance with Vision Clearance.* No application shall be validated or permit issued unless the provisions of the Municipal Code of the Village of Germantown requiring vision clearance on corner lots shall have been complied with.
 - (d) *Fee.* Any person, firm, or corporation intending to plant a tree on the public right-of-way shall submit an application for a permit and pay a fee of \$5.00 for each tree to be planted.
 - (e) *Inspection.* The owner/applicant/developer shall provide written notice to the Village of the dates to start and finish planting. An inspection by the Village is to be done 30 days from the finish date.
 - (f) *Specifications.* Applications for street tree permits must comply with the specifications for planting as promulgated by the Village.
- (5) **PLANTING OF TREES ON PRIVATE PROPERTY.** It is hereby declared to be the policy of the Village of Germantown to regulate or control all trees, shrubs, or other like obstructions growing or to be planted in or upon any private premises which shall threaten the lives, health, safety, and welfare of the public or of the property owned or controlled by the Village. It is the intent of the Village that the provisions of this section shall apply to all trees, shrubs, or plants growing or hereafter planted in or upon private property, which threatens the lives, health, safety, and welfare of the public.
- (a) *Planting and Maintaining.* No person shall maintain, plant, or permit to remain on any private premises situated at the intersection of 2 or more streets or alleys in the Village any hedge, tree, shrub, or other like obstruction within the vision corner of any street or alley intersection, which may obstruct the view of the operator of any motor vehicle approaching such intersection, to the extent that such operator is unable to observe other vehicles or pedestrians approaching or crossing said intersection. Any such hedge, tree, shrub, sign, or other like obstruction is hereby declared to be a public nuisance.

Specifically, it must be 2½ feet and 10 feet above the mean curb grades within the triangular space formed by vision corner.
 - (b) *Failure to Remedy Public Nuisance.* If the owner of such premises shall fail to remedy the situation upon receipt of a 30-day written notice, either personal or by publications, from the Village, the Village shall treat or remove such obstruction or part thereof as hereinafter provided and the expense thereof shall be a charge against the property upon which the tree or shrub is located.
 - (c) *Removal of Hazardous Trees.* Any tree or part thereof which the Village, upon examination, shall find to be infected or hazardous so as to be injurious or to endanger the public or shall be injurious to sewers, curbs, sidewalks, or other public improvements, if growing upon a private premises shall be removed by the property owner. If the owner shall fail to remedy the situation upon receipt of a 14-day written notice, either personally from the Village, or by publication in the Villages newspaper, the Village shall treat or remove such tree or part thereof. The Village shall keep a record of the labor and cost of treatment or removal of the tree or part thereof and charge the same against the property owner or owners and the cost thereof shall be entered as an assessment against the property.

Any property owner given a notice as heretofore provided may, by a written notice to the Village within 7 days of the notice, postpone the treatment or removal of the tree or part thereof by the Village, and he shall have the right to appeal the order to the Board of Appeals. No damage shall

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

be awarded to any property owner for the destruction of a tree or a part thereof pursuant to this section.

- (d) *Delay of Interference.* No person shall delay or interfere with the Village Board or any of the Village employees following lawful directions of the Board in compliance with orders heretofore stated.

(6) **MAINTENANCE OF STREET TREES.**

- (a) *Trimming, Pruning and Corner Clearance.* Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above street surface or 10 feet above the sidewalk surface. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street light, or interferes with visibility of any traffic control device or sign or sight triangle at intersections. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company of jurisdiction in compliance with any applicable franchise agreements.
- (b) *Tree Topping.* It shall be unlawful as a normal practice for any person, firm, or Village department to top any street tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Village Forester.
- (c) *Removal of Stumps.* All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

- (7) **DEAD OR DISEASED TREE.** The Village shall have the right to cause the remedy or removal of any dead or diseased trees on private property within the Village, when such trees constitute a hazard to life and property, or harbor insects or disease, which constitute a potential threat to other trees with the Village.

The Director of Public Works or Village Forester shall notify in writing the owners of such trees. Removal or corrective action shall be done by said owners at their own expense not more than 30 days of the receipt of notice, as determined by the Village Forester based on the seriousness of the tree's condition, and the danger to public safety. In the event of a failure of owners to comply with such provisions, the Village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice. The Village must be sure that the tree is diseased before removal.

It shall be unlawful for any person to carry or transport into the Village any trees, logs, or branches known to be affected with any communicable disease or insect, which may affect trees. Any such material brought in the Village shall be disposed of by the parties responsible for bringing the diseased or infected trees, logs, or branches into the Village in the manner and in a location designated by the Director of Public Works or Village Forester.

- (8) **ADJACENT LANDOWNER RESPONSIBILITY.** No person shall remove, trim, cut roots, or disturb any public tree on any street, park, or other public place without a permit. The person receiving the permit shall abide by the standards set forth in this ordinance and by the Village Forester.
- (9) **APPEALS.** Any person who receives a determination or order from the Village and objects to all or any part thereof may appeal to the Tree Board within 7 days of receipt of the order, and the Board shall hear such appeal within 45 days of receipt of written notice of the appeal. After such hearing, the Board may reverse, affirm, or modify the order of determination appeal. The grounds for its decision shall be stated in writing. The Board shall by letter notify the party appealing the order or determination of its decision within 10 days after the hearing has been concluded and file its written decision with the Village Clerk.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (10) **SEVERABILITY.** If any provision of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate any other provision of this section.
- (11) **INTERFERENCE WITH VILLAGE.** It shall be unlawful for any person to prevent, delay, or interfere with the Village, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized by this section.
- (12) **PENALTY.** Any person violating any provision of this section shall be, upon conviction or a plea of guilty, subject to a fine not to exceed those provided in section 18 [sic] of the Municipal Code.

	Total Fine
1st Offense	\$ 250.00/day until corrected
2nd Offense	\$1,000.00/day until corrected

17.61 HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES. (Cr. Ord. #24-07)

(1) **PURPOSE AND INTENT.**

(a) The purpose of this section is to establish the requirements and criteria for permitting the use of and/or activities from residential dwellings located in residential and agricultural zoning districts for home-based occupations, businesses, professions, or trades where such uses and activities are:

- 1. Accessory and subordinate to the primary residential or agricultural use of the property;
- 2. Conducted in a manner that is compatible with the residential premises and agricultural zoning districts within such residential premises are located; and
- 3. Not detrimental to the residential character, appearance and livability of the surrounding properties and neighborhood within which such uses and activities are to be conducted.

(b) With respect to existing nonconforming residential dwellings and properties located in commercial or industrial zoning districts, the provisions of this article apply only to the extent that such occupations or businesses are accessory and subordinate uses and are not a principal or conditional use that may be allowed in those districts through the site plan review and/or conditional use permitting procedures specified in the Zoning Code.

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

(a) *Home Occupation* means a business, occupation, profession or trade use or activity conducted for financial gain or profit on a reoccurring basis within or from a residential dwelling and/or accessory building by one or more occupants residing in the dwelling where the conduct of such use or activity is clearly incidental and subordinate to the primary or principal use of the dwelling and property for residential purposes, and, does not change the residential character or appearance of the dwelling or accessory building.

(b) *Professional Home Office*, for purposes of this section, shall be the same as a home occupation. See definition of "home occupation".

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (c) For purposes of this section, "nonresident employee" shall mean an employee of a home occupation who does not reside on the property from which the home occupation is operated. (Cr. Ord. #18-09)
- (3) **HOME OCCUPATION CLASSIFICATIONS.** A home occupation shall be classified as either a minor or major home occupation based on the specific characteristics of and activities associated with the home occupation. The determination as to whether a home occupation is to be classified as a minor or major home occupation shall be made by the Village Planner/Zoning Administrator as set forth in this section.
- (a) *Minor Home Occupation.* Minor home occupations are occupations that, by their nature, appearance and inherent operational activities and characteristics, are potentially less intensive and less likely to have a noticeable and negative impact on the residential or agricultural character of the subject property and surrounding neighborhood. Minor home occupations are allowed "by right" as a permitted accessory use. Minor home occupations are allowed in the following agricultural and residential zoning districts:
1. A-1, A-2.
 2. Rs-1, Rs-2, Rs-3, Rs-4, Rs-5, Rs-6, Rs-7, Rd-2, Rm-1, Rm-2, Rm-3.
 3. B-3.
- (b) *Major Home Occupation.* Major home occupations are occupations that, by their nature, appearance and inherent operational activities and characteristics, are potentially more intensive in character and activity and are, therefore, more likely to have more noticeable and potentially negative impacts on the residential or agricultural character of the subject and surrounding properties. Major home occupations are allowed as a conditional use and require the granting of a conditional use permit by the Village Board. Major home occupations are only allowed in the following agricultural and larger lot, lower density residential zoning districts:
1. A-1, A-2.
 2. Rs-1, Rs-2 and Rs-3. (Am. Ord. #18-09).
 3. B-3.
- (4) **GENERAL REQUIREMENTS AND PERFORMANCE CRITERIA.** All home occupations, including those classified as both minor and major home occupations, shall comply with all of the following requirements prior to or as a result of compliance with any conditions of approval required for issuance of a home occupation permit:
- (a) All applicable State, Federal and local business and/or occupational licenses and any other approvals required shall be obtained as necessary and kept up-to-date throughout the duration of the home occupation. All activities associated with a home occupation and the residential dwelling, accessory building, structure, and overall property from which such home occupation is being conducted shall comply with all local, county, and state building, fire, sanitary, health and other applicable requirements and regulations including homeowner's association, subdivision and other recorded property restrictions and covenants. Noncompliance with any applicable requirement and/or regulations may be grounds for issuing a notice of zoning code violation, denial of a home occupation permit application, or revocation of a home occupation permit.
- (b) The owner/proprietor of a home occupation shall be responsible for notifying the Village Planner/Zoning Administrator of any changes in the conduct of the home occupation that are different from that included in the description provided as part of the application or from any conditions or restrictions imposed as part of the permit. Such changes may result in the need for reclassification of the home occupation.
- (c) The owner/proprietor of a home occupation shall reside in the dwelling from which the home occupation is being conducted.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (d) Activities associated with a home occupation shall not generate any traffic, parking, solid or liquid waste, water consumption, noise, vibrations, smoke, dust, odor, heat, glare, disturbance or interference with the provision of electrical, television or other utility services, or create any safety hazards exceeding those which are typically and customarily produced by and/or associated with a residential dwelling and residential uses in the zoning district and surrounding neighborhood within which the subject property and home occupation is located.
- (e) The total area used to conduct activities associated with a home occupation shall not exceed one-third of the total gross floor area of the residential dwelling, including basements or other similar areas.
- (f) The residential dwelling, accessory buildings and structures, and overall property shall remain residential in character and appearance that are typical and customary for residential property located in the zoning district within which the home occupation is located. Structural and other alterations and alterations in the exterior or interior appearance that will make the dwelling, buildings, and/or the site appear or function similar to a commercial operation are prohibited. Prohibited alterations may include, but not be limited to the creation of a separate or exclusive entrance for business purposes, use of signage or other advertising other than that allowed as set forth in this section and commercial-like exterior lighting.
- (g) Wholesale or retail sales from within a residential dwelling, accessory building or structure, or from a residential property on a regular or year round basis, or in a substantial volume, or as a primary activity or function of the home occupation shall be prohibited except for sales conducted entirely via the mail, telephone or internet. No goods or products intended for sale shall be displayed outside of a dwelling, accessory building or structure, or elsewhere on the property. This provision is not intended to limit or prohibit "rummage sales" as defined and regulated under [section 17.70](#) of the Zoning Code nor the occasional and/or seasonal sale, resale or purchase of goods or products from a residential or agricultural property nor the occasional sale of items, e.g., Amway, Avon, Tupperware, Schwanns, etc., or the occasional conduct of home-based parties or gatherings where friends, family and other nonresident attendees are asked to sit through presentations or view products for purchase.
- (h) Truck deliveries or pick-up of supplies or products associated with a home occupation shall be limited to the type of vehicles and pick-up/delivery hours that are typical and customary for residential dwellings and uses located in the zoning district within which the home occupation is located.
- (i) In order to ensure that a home occupation does not become a nuisance to the surrounding properties and property owners, the Village Planner/Zoning Administrator, Plan Commission, and Village Board may impose reasonable conditions as deemed necessary and made part of a home occupation permit (if applicable) to protect the health, safety and welfare of such properties, property owners, and general public.
- (j) Multiple home occupations may be permitted from a single residence provided that the general requirements and specific performance criteria set forth in this section can be met based on an accumulation of the activities, characteristics, etc., of all home occupations conducted from such dwelling.
- (k) Except as otherwise provided in [section 17.46](#) of the Zoning Code, the use of exterior signs shall be limited to one sign not greater than 3 square feet in area, mounted to the residential dwelling, and if illuminated, internally illuminated or illuminated with a full cut-off fixture where the light source is completely shielded from view from adjacent property and public roads. If the residential dwelling is set back more than 100 feet from the abutting public road or otherwise obstructed from view due to topography or landscaping, the area of the sign may be increased up to 6 square feet, or, not greater than 2 square feet in area but allowed to be located at the driveway access along the property line.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (l) Owners/proprietors of a "major" home occupation shall permit a reasonable inspection of the premises by the Zoning Administrator, Village Board, or other duly authorized agent of the Village Board or other agency having jurisdiction or responsibility for enforcing applicable laws, requirements, and regulations at the time of application or after the home occupation has commenced operation in order to determine compliance with the requirements of this article and/or the conditions of the permit.
 - (m) Reserved.
 - (n) All major home occupation permits shall be deemed valid for a period of time not to exceed 4 years unless:
 - 1. Otherwise provided for as a condition of the approval of the permit;
 - 2. If changes occur in the activities or character of the home occupation being conducted that warrant additional review and approval by the Village Planner/Zoning Administrator, Plan Commission or Village Board;
 - 3. The provisions of subsection (4)(n) or (o) apply.
 - (o) Whenever the Village Planner/Zoning Administrator or Village Board has reasonable cause to believe that any of the general or specific requirements and/or performance criteria set forth in this article, or, that conditions imposed as part of the home occupation or conditional use permit are being or have been violated, the Village Planner/Zoning Administrator or Village Board shall have the right to issue a notice of zoning code violation and pursue appropriate remedies, or, revoke or modify the home occupation permit, including but not limited to, imposing stricter conditions upon operation of the home occupation and/or owner/proprietor.
 - (p) The granting of a home occupation permit shall not constitute a covenant running with the property from which such home occupation is being conducted. A home occupation permit shall not be transferable to another property and shall automatically and immediately terminate and become null and void upon the sale, lease, or transfer of the property to a party different than to whom the home occupation permit was originally granted.
 - (q) Failure to comply with the provisions of this article, including failure to obtain a home occupation permit as provided for herein, shall constitute a violation of the Village Zoning Code and be subject to the penalties set forth therein.
- (5) **SPECIFIC REQUIREMENTS AND PERFORMANCE CRITERIA.**
- (a) Minor home occupations shall comply with all of the following performance criteria:
 - 1. Activities associated with a home occupation shall be conducted entirely within a residential dwelling (including an attached garage, or one detached garage when no attached garage exists);
 - 2. The display, storage or parking of materials, goods, supplies or equipment outside of the dwelling or within an accessory building (excluding an attached garage) is prohibited; and
 - 3. The number of part-time or full-time nonresident employees working upon the residential property for which a home occupation permit has been granted shall not exceed the following:
 - a. Two nonresident employees for home occupations in the Rs-1, Rs-2 or Rs-3 Zoning Districts;
 - b. One nonresident employee for home occupations in the Rs-4, Rs-5, Rs-6 or Rs-7 Zoning District.
 - c. No nonresident employees in the Rd-2, Rm-1, Rm-2, Rm-3, or B-3.
 - (b) Major home occupations shall comply with all of the following performance criteria:

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

1. Activities associated with a home occupation shall be conducted entirely within the residential dwelling and/or in an enclosed accessory building or structure;
2. The display, storage or parking of materials, goods, supplies, or equipment outside of the dwelling is permitted in an enclosed accessory building, or in the side or rear yard of the subject property provided the yard area used for such display, storage or parking is completely screened from view from all public streets and adjacent property. Screening shall be accomplished through the use of natural landscaping materials (i.e., trees, plants, berms, rocks), or, a combination of natural landscaping and other manmade or fabricated screening materials (e.g., fencing, etc.) provided that all screening shall be instantaneous and continuously maintained; and (Am. Ord. #18-09)
3. The number of part-time or full-time nonresident employees working upon the premises for which a home occupation permit has been granted shall not exceed the following: (Am. Ord. #18-09)
 - a. Five nonresident employees for home occupations in the Rs-1 Zoning District;
 - b. Two nonresident employees for home occupations in the Rs-2 or Rs-3 Zoning Districts.

(6) HOME OCCUPATIONS PROHIBITED.

- (a) Any occupation involving the repetitive purchase and resale, exchange, production, refinement, packaging or handling of explosives, or hazardous materials or substances, as defined pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 USC §960, as amended by the Superfund Amendments and Reauthorization Act (SARA), and including any judicial interpretation thereof by any person who devotes time or attention to such items as a regular or part-time course of trade or business with the objective of livelihood or principle means of profit is prohibited. (Am. Ord. #3-12)
- (b) Any home occupation involving the on-site sale, resale, repair of automobiles, trucks, boats, trailers, or other motorized vehicles is prohibited.

(7) APPLICATION PROCEDURES.

- (a) Application for a major home occupation permit shall be made to the Village Planner/Zoning Administrator on a form provided by the Administrator and shall be accompanied by all supporting information required therein and an application fee established by the Village Board for such permits.
- (b) The Village Planner/Zoning Administrator shall make a determination as to whether a home occupation qualifies as a major home occupation within 20 days after the date the application has been received. In the event that the Administrator determines that the home occupation for which an application has been received does not conform to one or more of the general requirements and performances criteria, the Administrator has the right to deny the application.
- (c) Minor home occupations are allowed as an accessory use by right and do not require the issuance of a permit.
- (d) An application for a home occupation that has been determined to be a major home occupation shall be reviewed and processed as a conditional use permit as set forth in [section 17.42](#) of the Village Zoning Code.
- (e) Copies of all major home occupation applications shall be forwarded to the appropriate Village, County, State, and Federal agencies for review and comment concerning applicable laws, regulations, and requirements and whether or not a proposed occupation complies with such laws, regulations, or requirements, or under what conditions compliance can be met.
- (f) Variances from the provisions of this article or an appeal of any decision of the Zoning Administrator, Plan Commission or Village Board shall be processed and considered by the Board of Zoning Appeals as set forth in [section 17.52](#) of the Village Zoning Code.

- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

- (g) The owner/proprietor of all existing major home occupations already being conducted from residential and agricultural property on the effective date of this article shall have a period of 6 months from the effective date to apply or reapply for the necessary home occupation permit required under this section. The owner/proprietor of any such home occupation may continue to conduct such occupations pending final action by the Administrator and/or Village Board on his home occupation permit application. If the Administrator or Village Board denies a home occupation permit application for a major home occupation being conducted on the effective date of this article, the conduct of such home occupations shall cease within 3 months from the date such application is denied.

17.62—17.69 RESERVED.

17.70 RUMMAGE SALES. (Cr. Ord. #38-04)

- (1) **PURPOSE AND INTENT.** This section establishes policies, regulations, and standards for the acceptable operation of estate, yard, rummage or garage sales, within the Village. Failure to comply with the provisions of the section will subject the property owner or occupant to penalties, and possible enforcement action for the creation of a public nuisance under Village Code [section 10.06](#)
- (2) **DEFINITIONS.**
- (a) *Rummage/Garage Sale.* Any sale of personal property conducted on any residentially zoned property within the Village, irrespective of what the sale is designated as by the seller, e.g., estate, yard, rummage, garage, etc.
- (b) *Personal Property.* Any property, other than real estate, which is acquired in the course of living in or maintaining a dwelling unit.
- (3) **RESTRICTIONS.**
- (a) It shall be unlawful for any person or entity to dispose of personal property by rummage/garage sale on more than 6 calendar days, whether or not consecutive, within any calendar year.
- (b) It shall be unlawful for any person or entity to hold or permit to be held a rummage/garage sale during the hours of 8:00 p.m. to 8:00 a.m. on any day.
- (c) It shall be unlawful for any person or entity to sell, offer or display for sale items other than personal property at a rummage/garage sale.
- (4) **SIGNS.** Signs pertaining to rummage sales regulated by this section shall not require a sign permit under [section 17.46](#). Any such sign shall be unlighted, not more than 4 square feet in size, and may only be displayed on a day on which the rummage/garage sale is being conducted. All signs must be located on private property.
- (5) **PENALTY.** Any person or entity who shall violate any provision of this section, or any regulation, rule or order made hereunder, shall be subject to a penalty as provided in Village Code [section 17.55](#)

FOOTNOTE(S):

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- SUPPLEMENT HISTORY TABLE

CHAPTER 17 ZONING CODE

Cross reference— Historic preservation, Chapter 26. [\(Back\)](#)

State Law reference— Zoning, Wis. Stats. §§ 61.35, 62.23. [\(Back\)](#)

CHAPTER 18 SUBDIVISION AND PLATTING [\[1\]](#)

[18.01 INTRODUCTION.](#)

[18.02 GENERAL PROVISIONS.](#)

[18.03 LAND DIVISION AND DEVELOPMENT PROCEDURES.](#)

[18.04 PRELIMINARY PLAT.](#)

[18.05 FINAL PLAT.](#)

[18.06 CERTIFIED SURVEY MAP.](#)

[18.061 PLANNED DEVELOPMENT PROCEDURE.](#)

[18.07 DESIGN STANDARDS.](#)

[18.08 REQUIRED IMPROVEMENTS.](#)

[18.09 CONSTRUCTION.](#)

[18.10 FEES AND ASSESSMENTS.](#)

[18.105 DEVELOPMENT AGREEMENT REQUIRED. \(Cr. Ord. #4-01\)](#)

[18.11 DEFINITIONS. \(Renum. 2/02 jaw\)](#)

[18.12 VIOLATIONS.](#)

[18.13 PENALTIES. \(Am. Ord. #43-98\)](#)

18.01 INTRODUCTION.

- (1) **AUTHORITY.** These regulations are adopted under the authority granted by §236.45, Wis. Stats.
- (2) **PURPOSE.** The purpose of this chapter is to regulate and control the division and development of land within the limits of the Village of Germantown in order to promote the public health, safety, morals, prosperity, aesthetics and general welfare of the Village.
- (3) **INTENT.** It is the general intent of this chapter to regulate the division and development of land within the jurisdiction of the Village so as to:
 - (a) Obtain the wise use, conservation, protection and proper development of the Village's soil, water, wetland, woodland and wildlife resources and attain a proper adjustment of land use and development to the supporting and sustaining natural resource base.
 - (b) Lessen congestion in the streets and highways.
 - (c) Further the orderly layout and appropriate use of land.
 - (d) Secure safety from fire, panic and other dangers.
 - (e) Provide adequate light and air.
 - (f) Facilitate adequate provision for housing, transportation, water supply, stormwater, wastewater treatment, schools, parks, playgrounds and other public facilities and services.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (g) Secure safety from flooding, water pollution, disease and other hazards.
 - (h) Prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control projects.
 - (i) Prevent and control erosion, sedimentation and other pollution of surface and subsurface waters.
 - (j) Preserve natural vegetation and cover and promote the natural beauty of the community.
 - (k) Restrict building sites on areas covered by poor soils, or in other areas poorly suited for development.
 - (l) Facilitate the further division of larger tracts into smaller parcels of land.
 - (m) Ensure adequate legal description and proper survey monumentation of subdivided land.
 - (n) Provide for the administration and enforcement of this chapter.
 - (o) Provide penalties for its violation.
 - (p) Implement those municipal, county, watershed or regional comprehensive plans or their components adopted by the Village, and in general to facilitate enforcement of development standards as set forth in the adopted regional, county and local comprehensive plans, adopted plan components, building and sanitary codes of the Village.
- (4) **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to law; however, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.
- (5) **INTERPRETATION.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (6) **NONLIABILITY.** The Village does not guarantee, warrant or represent that only those soils listed as being unsuited for specific uses are the only unsuited soils within the Village and thereby asserts that there is no liability on the part of the Village Board, its agencies or employees for sanitation problems or structural damages that may occur as a result of reliance upon, and conformance with, this chapter.

18.02 GENERAL PROVISIONS.

- (1) **JURISDICTION.** Jurisdiction of these regulations shall include all lands within the corporate limits of the Village and those lands within the extraterritorial jurisdiction of the Village as established in §§62.23(2), 61.35 and 66.32, Wis. Stats. The provisions of this chapter, as it applies to divisions of tracts of land into less than 5 parcels, shall not apply to:
- (a) Transfers of interests in land by will or pursuant to court order.
 - (b) Leases for a term not to exceed 10 years, mortgages or easements.
 - (c) Sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by these regulations, the Zoning Code or other applicable laws or ordinances.
- (2) **COMPLIANCE.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, minor land division or a replat as defined herein; no such subdivision, minor land division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this chapter and the following:
- (a) Chapter 236, Wis. Stats.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (b) Rules of the Wisconsin Department of Health and Social Services, Division of Health regulating lot size and lot elevation if the land to be subdivided is not served by a public sewer and provisions for such service have not been made.
 - (c) Rules of the Wisconsin Department of Transportation relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts on a State trunk highway or connecting street.
 - (d) Duly approved comprehensive plan or comprehensive plan component of the Village.
 - (e) Zoning Code and other applicable codes and ordinances of the Village.
- (3) **DEDICATION AND RESERVATION OF LANDS.**
- (a) Whenever a tract of land to be divided within the jurisdiction of the Village encompasses all or any part of an arterial or collector street, drainage way or other public way which has been designated on a duly adopted Village, County or regional comprehensive plan or comprehensive plan component, said public way shall be made a part of the plat and dedicated or reserved by the subdivider in the locations and dimensions indicated on said plan or map and as set forth in [section 18.07](#) of this chapter.
 - (b) Whenever a tract of land to be subdivided within the Village encompasses all or any part of a park, parkway, public school site, drainage way or playground which has been designated on a duly adopted Village comprehensive plan or comprehensive plan component, said park, parkway, public school site, drainage way or playground shall be made a part of the plat and reserved by the subdivider in the locations and dimensions indicated on said plan or map and as set forth in [section 18.07\(9\)](#) of this chapter.
- (4) **IMPROVEMENTS.** Before final approval of any plat or planned development located within the corporate limits of the Village, the subdivider or developer shall install street and utility improvements as hereinafter provided. If such improvements are not installed as required at the time that the final plat is submitted for approval, the subdivider shall, before the recording of the plat, or, in the case of a planned development, the developer, enter into a contract with the Village agreeing to install the required improvements and shall file with said contract a bond meeting the approval of the Village Attorney or a certified check in an amount equal to the estimated cost of the improvements. The estimate of cost is to be made by the Village Board after review and recommendation by the Village Engineer as a guarantee that such improvements will be completed by the subdivider or the developer not later than one year from the date of recording of the plat or, in the case of a planned development, the approval of the Village Board, and as a further guarantee that all obligations to subcontractors for work on the development are satisfied. In addition:
- (a) Contracts and contract specifications for the construction of street and utility improvements on dedicated street rights-of-way, as well as the contractors and subcontractors providing such work, shall be subject to the approval of the Village Engineer.
 - (b) Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.
 - (c) Survey monuments shall be installed by the subdivider before final approval of any plat within the Village and such survey monuments shall be placed in accordance with the requirements of §236.15, Wis. Stats., and as may be required by the Village Engineer.
- (5) **VARIANCES.** Where, in the judgment of the Plan Commission, it would be inappropriate to apply literally the provisions of sections [18.07](#) and [18.08](#) of this chapter because of the proposed subdivision being located outside of the corporate limits of the Village or because exceptional or severe hardship would result, the Plan Commission may waive or modify any requirements to the extent deemed just and proper. No variance to the provisions of this chapter shall be granted, however, unless the Plan

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

Commission makes a specific finding based on documented evidence that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- (a) Exceptional, extraordinary or unusual circumstances or conditions exist where a literal enforcement of the requirements of this chapter would result in severe hardship. Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that this chapter should be changed.
- (b) Preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity will not be adversely affected.
- (c) Detriment to adjacent property will not be created and the variance will not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

A majority vote of the entire membership of the Plan Commission shall be required to grant any modification of this chapter. The Village Board may waive the placing of monuments, required under §236.15(b), (c) and (d), Wis. Stats., for a reasonable time period on condition that the subdivider execute a surety bond to insure the placing of such monuments within the required time limits established by the statute.

- (6) **LAND SUITABILITY.** No land shall be subdivided or developed which is determined to be unsuitable for its proposed use by the Plan Commission for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the Village. In addition:
 - (a) No lot or parcel 2 acres or less in area shall include floodplain or wetlands, and all lots or parcels more than 2 acres in size shall contain not less than one acre of land which is at an elevation at least 2 feet above the elevation of the 100-year floodplain or, where such data is not available, 5 feet above the maximum flood of record. Generally, floodplain and wetlands within a parcel of land subject of a subdivision plat or certified survey map "minor" land division and the area within any required setbacks extending outward from any such floodplain or wetlands should be platted so as to be included in open space or other outlots and not within or part of a developable lot or parcel. (Cr. Ord. #09-08)
 - (b) Lands made, altered or filled with non-earth materials within the preceding 20 years shall not be divided into building sites.
 - (c) Lands made, altered or filled with earth within the preceding 7 years shall not be divided into building sites which are to be served by on-site soil absorption sanitary sewage disposal systems.
 - (d) No lot proposed to be served by an on-site soil absorption sanitary sewage disposal system shall have less than 20,000 square feet in slopes of 10% or less. A grading plan showing both existing and proposed contours shall be submitted with any plat on which it is proposed to alter the natural topography in order to meet this requirement.
 - (e) Lands having bedrock within 6 feet of the natural undisturbed surface shall not be divided into building sites to be served by on-site soil absorption sanitary sewage disposal systems.
 - (f) Lands having ground water within 6 feet of the natural undisturbed surface shall not be divided into building sites to be served by on-site soil absorption sanitary sewage disposal systems.

Table 1
SOILS HAVING SEVERE OR VERY SEVERE LIMITATIONS^a FOR
INSTALLATION AND OPERATION OF ON-SITE SOIL ABSORPTION
SANITARY SEWAGE DISPOSAL FACILITIES
IN GERMANTOWN, WISCONSIN

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

SOILS TYPE CODE		SOILS TYPE CODE		SOILS TYPE CODE	
SEWRPC; ^{sup} \sup;	U.S.-S.C.S. ^c	SEWRPC; ^{sup} \sup;	U.S.-S.C.S. ^c	SEWRPC; ^{sup} \sup;	U.S.-S.C.S. ^c
5W	Ot	203	MmA	326	Dt
7	JuA	206	Rk	328	RaA
11W	Ww	208	Kw	332	MmA
29	Cw	212	Ph	340	Cw
36	YrA	212R	KwB	360R	Kw
38	MzfA	213	Ph	362R	Kw
38R	KwB	213R	KwB	363R	KwB
42	MgA	215	Ph	364	LmA
42R	KwB	217	Mzb	369	Az
42V	MzfA	218	Mzb	398	AtA
63	BsA	218Y	Mzb	399	MtA
64	BsA	231	BsA	450	Hu
76	Sm	233	MrnA	451	Hu
82	JuA	278	K1A	452	Ak
87	VsA	298	AtA	453	Ak
109	FaA	299	MtA (or) Ou	454	Pc
125	Rk	306	KwB	455	Pc

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

126	Dt			457	Pc
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^a For one or more of the following reasons: High or fluctuating water table, flooding, groundwater contamination, silting, slow permeability, steep slopes, or proximity to bedrock.

^b As shown in Southeastern Wisconsin Regional Planning Commission Planning Report No. 8, Soils of Southeastern Wisconsin, and on SEWRPC 1" = 1,000' and 1" = 2,000' photo maps.

^c As shown in the United States Department of Agriculture, Soil Conservation Service Soils Survey of Washington County, Wisconsin, published in June, 1971.

- (g) Lands covered by soils having a percolation rate slower than 60 minutes per inch, or faster than 10 minutes per inch in shoreland areas, shall not be divided into building sites to be served by on-site soil absorption sanitary sewage disposal systems.
- (h) The soil types shown on Table 1, identified by both their numerical and alphabetical symbols as used by the Southeastern Wisconsin Regional Planning Commission and the U.S. Soil Conservation Service, respectively, are soils which have either very severe or severe limitations for residential development served by on-site soil absorption sanitary sewage disposal systems, and shall not be divided into building sites.

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 unsuitable for residential use and afford the subdivider or developer an opportunity to present evidence in rebuttal to such findings of unsuitability if he so desires. Thereafter the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

- (7) **APPEALS.** Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal such objection or failure as provided in §236.13(5) and Ch. 68, Wis. Stats., within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.
- (8) **CONDOMINIUMS.** (Cr. Ord. #35-93; Readopted Ord. #4-94) This chapter of this Code is applicable to condominiums having more than one principal building, as defined in [section 17.08](#)(14) of this Code, on a single lot or parcel of land. Such condominiums are treated as planned developments and, in accordance with [section 17.27](#)(10) of this Code, the public site fee provisions of [section 18.07](#)(9)(b) of this chapter are applicable.

18.03 LAND DIVISION AND DEVELOPMENT PROCEDURES.

- (1) **PREAPPLICATION.** It is recommended that, prior to the filing of an application for the approval of a preliminary plat, the subdivider consult with the Village staff including the Zoning Administrator, the Building Inspector, the Engineer and the Planner in order to obtain their advice and assistance. This consultation is neither formal nor mandatory, but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components, and duly adopted plan implementation devices of the Village and to otherwise assist the subdivider in planning his development. In so doing, both the subdivider and the Village staff may reach mutual conclusions regarding the general program and objectives of the proposed development and its

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.

- (2) **PRELIMINARY PLAT REVIEW.** (Am. Ord. #5-01) Before submitting a final plat for approval, the subdivider shall prepare a preliminary plat and a letter of application. The preliminary plat shall be prepared in accordance with this chapter, and the subdivider shall file an adequate number of copies of the plat and the application with the Village Clerk at least 35 days prior to the meeting of the Village Board at which action is desired. In addition:

- (a) The Village Clerk shall, within 3 work days after filing, transmit 2 copies to the County Planning and Park Department; 4 copies to the Director of the Planning Function in the State Department of Agriculture, Trade and Consumer Protection for retransmission of copies to the State Department of Transportation if the subdivision abuts or adjoins a State trunk highway or a connecting street, the State Department of Health and Social Services if the subdivision is not served by a public sewer and provision for such service has not been made, and the State Department of Natural Resources if shorelands are contained within the proposed subdivision; and an adequate number of copies to the Plan Commission.

The County Planning and Park Department, the State Department of Agriculture Trade and Consumer Protection, the State Department of Transportation, the State Department of Health and Social Services, and the State Department of Natural Resources shall hereinafter be referred to as objecting agencies and, within 20 days from the date of receiving the preliminary plat, must transmit to the Village Clerk any objections to the plat. The Village Board is hereby designated as approving authority for all preliminary plats.

- (b) The Village Clerk shall also transmit a copy of the preliminary plat to all affected Village boards, commissions or departments, the school board, the Washington County Land Conservation Department, and all affected local utility companies for their review and comments and recommendations concerning matters within their jurisdiction. Their comments and recommendations shall be transmitted to the Plan Commission/Village Board within 20 days from the date the plat is received from the Village Clerk.
- (c) Following receipt of all objections and review comments, the Plan Commission shall then review the preliminary plat for conformance with this chapter and all affected ordinances, rules, regulations, comprehensive plans and comprehensive plan components, and any comments and recommendations received.
- (d) The Plan Commission shall within 60 days of the date of the filing of a Preliminary Plat with the Village Clerk (or other Village Board authorized agent), recommend to the Village Board, approval, conditional approval or rejection of the Preliminary Plat and shall transmit the Preliminary Plat and application along with its recommendation to the Village Board.
- (3) **PRELIMINARY PLAT APPROVAL.** The objecting agencies shall, within 20 days of the date of receiving their copies of the preliminary plat, notify the subdivider, the Plan Commission and all other objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Village Clerk. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the plat. In addition:
- (a) The subdivider shall pay all applicable fees, as set forth in [section 18.10\(2\)](#), (7) and (8) of this chapter, at the time of application for preliminary plat approval.
- (b) The Village Board, within 90 days of the date of filing of the preliminary plat with the Village Clerk, unless the time is extended by mutual agreement, shall approve, approve conditionally, or reject such plat. One copy of the plat shall thereupon be returned to the subdivider with the date and action endorsed thereon; and, if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. One copy each of the plat and letter shall be placed in the Plan Commission's permanent file.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (c) Failure of the Village Board to act within 90 days, unless the time is extended by mutual agreement, shall constitute approval.
 - (d) Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within 36 months of preliminary plat approval and conforms substantially to the preliminary plat layout as indicated in §236.11(1)(b), Wis. Stats., the final plat shall be entitled to approval with respect to such layout. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat which will be subject to further consideration by the Village Plan Commission at the time of its submission. Preliminary plats must comply with the subdivision regulations that were in effect on the date when the plat was submitted to the Village. (Am. Ord. #20-99; Am. Ord. #24-10)
 - (e) If permitted by the Village Board, the approved preliminary plat may be final platted in phases with each phase encompassing only that portion of the approved preliminary plat which the subdivider proposes to record at one time; however, it is required that each such phase, when final platted, be designated as a "phase" of the approved preliminary plat.
- (4) **FINAL PLAT REVIEW.** The subdivider shall prepare a final plat of all or a designated "phase" of an approved preliminary plat along with a letter of application in accordance with this chapter and shall file an adequate number of copies of the plat and the application with the Village Clerk at least 60 days prior to the meeting of the Village Board at which action is desired. In addition:
- (a) The Village Clerk or subdivider shall, within 3 days after filing, cause to be transmitted 2 copies of the final plat to the Washington County Planning and Park Department and 4 copies to the Director of the Planning Function in the State Department of Agriculture, Trade and Consumer Protection for retransmission of copies to the State Department of Transportation if the subdivision abuts or adjoins a State trunk highway or a connecting street, the State Department of Health and Social Services if the subdivision is not served by a public sewer and provision for such service has not been made, and the State Department of Natural Resources if floodlands are contained within the proposed subdivision; and the original final plat and adequate copies to the Plan Commission.
 - (b) Following receipt of all objections or comments, the Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat; any conditions of approval of the preliminary plat; this chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it, objections and review comments, and shall recommend approval, conditional approval or rejection of the plat to the Village Board. The Plan Commission shall consider the recommendation of the Village Planner and Village Engineer to approve or deny the preliminary plat based on their determination that the final plat substantially conforms to the preliminary plat. (Am. Ord. #24-10)
- (5) **FINAL PLAT APPROVAL.** The objecting agencies shall, within 20 days of the date of receiving their copies of the final plat, notify the subdivider, the Plan Commission and all other objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Plan Commission. If any objecting agency fails to act within 20 days, it shall be deemed to have no objection to the plat. In addition:
- (a) Failure of a subdivider to submit a final plat of all or designated phases of an approved preliminary plat within 36 months of the last required approval of the preliminary plat shall constitute a rescinding of the preliminary plat approval. The subdivider may resubmit the previously approved preliminary plat or other plat in accordance with subsection (2) above. If no preliminary plat is submitted, final plats must comply with the subdivision regulations that were in effect on the date when the plat was submitted to the Village. (Am. Ord. #20-99; Am. Ord. #24-10)
 - (b) At the time of application for final plat approval, the subdivider shall pay all applicable fees as set forth in [section 18.10](#) of this chapter.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (c) The Plan Commission shall, within 30 days of the date of filing of the final plat with the Village Clerk, recommend approval, conditional approval or rejection of the plat and shall transmit the final plat and application along with its recommendations to the Village Board.
- (d) The Plan Commission shall, at the time that it recommends approval of a plat to the Village Board, give at least 10 days written notice of its recommendation to the clerk of any other municipality within 1,000 feet of the plat.
- (e) The Village Board shall, within 60 days of the date of filing the original final plat or "phase" with the Village Clerk, approve or reject such plat unless the time is extended by mutual agreement with the subdivider. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Village Board may not inscribe its approval on the final plat unless the Village Clerk certifies on the face of the plat that the copies were forwarded to objecting agencies as required herein, the date thereof, and that no objections have been filed within 20 days, or, if filed, have been met.
- (f) Failure of the Village Board to take action on the plat within 60 days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.
- (g) After the final plat has been approved by the Village Board and required improvements either installed or a contract and sureties insuring their installation is filed, and all applicable fees have been paid to the Village, the Village Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat recorded with the County Register of Deeds. The subdivider may construct a development in phases as the Village approves, which approval may not be unreasonably withheld. If the development will be constructed in phases, the amount of any surety or other financial security required by the Village shall be limited to the phase of the project that is currently being constructed. The Village may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements. (Am. Ord. #24-10)
- (h) The Register of Deeds shall not record the plat unless it is offered within 12 months after the date of the last approval of the plat and within 36 months after the first approval. (Am. Ord. #19-03; Am. Ord. #24-10)
- (i) The subdivider shall file one reproducible positive film copy of the final plat with the Village Clerk for copying and distribution to the Village Engineer, Building Inspector, Assessor and other affected departments for their files.

- (6) **REPLAT.** When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in §§236.40 through 236.44, Wis. Stats. The subdivider, or person wishing to replat, shall then proceed as specified in subsections (1) through (5) above.

In addition, the Village Clerk shall schedule a public hearing before the Plan Commission when a preliminary plat of a replat of lands within the Village is filed, and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 200 feet of the exterior boundaries of the proposed replat.

- (6a) **CONFLICTS WITH STATE STATUTES.** (Cr. Ord. #24-10) To the extent that this chapter contains time limits, deadlines, notice requirements or other provisions that are more restrictive than the time limits, deadlines, notice requirements or other provisions that provide protections for a subdivider contained in Ch. 236, Wis. Stats., the time limits, deadlines, notice requirements or other provisions that provide such protections contained in Ch. 236, Wis. Stats., shall apply.

(7) **MINOR LAND DIVISION.**

- (a) *Certified Survey Map Required.* (Am. Ord. #26-94; Am Ord. #21-99) When it is proposed to divide land into not more than 4 building parcels or lots, any one of which is less than 20 acres in size,

CHAPTER 18 SUBDIVISION AND PLATTING

or when it is proposed to create by land division not more than 4 lots within a recorded subdivision plat without changing the boundaries of said block, lot or outlot, the subdivider may subdivide by use of a certified survey map. The subdivider shall prepare the certified survey map in accordance with this chapter and shall file 6 copies of the map and a letter of application with the Village Planner at least 15 days prior to the meeting of the Plan Commission.

(b) *Procedure.*

1. The Village Planner shall transmit the copies of the map and letter of application to the Plan Commission at its next regular scheduled meeting.
- 1a. If the certified survey map abuts a state trunk highway, it shall conform to Trans 233, Wisconsin Department of Transportation's Administrative Rule. The subdivider shall submit written documentation from the Department of Transportation of conformance to Trans 233.04 to 233.10, inclusive, prior to any action by the Village of Germantown.
2. At the time of application for approval of a minor land division, the subdivider shall pay all applicable fees as set forth in [section 18.10](#)(6), (7), (8), (9), (10) and (11) of this chapter.
3. The Village shall also transmit a copy of the map to all affected Village boards, commissions or departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Plan Commission within 10 days from the date the map is filed. The map shall be reviewed by the Plan Commission for conformance with this chapter and all affected ordinances, rules, regulations, comprehensive plans and comprehensive plan components. The Plan Commission shall, within 30 days from the date of filing of the map, recommend approval, conditional approval or rejection of the map, and shall transmit the map along with its recommendations to the Village Board.
4. The Village Board shall approve, approve conditionally or reject such map within 60 days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider.
5. If the map is approved and all applicable fees, as set forth in sections [18.07](#) and [18.10](#) of this chapter, have been paid to the Village, the Village Board shall cause the Village Clerk to so certify on the face of the original map and record the map with the County Register of Deeds.
6. The Village Clerk shall record the map with the County Register of Deeds within 30 days of its approval by the Village Board. The subdivider shall pay for the cost of recording.
7. The Village Clerk shall file one reproducible copy of the certified survey map and distribute copies to the Village Engineer, Building Inspector, Assessor and other affected departments for their files.

(8) **PLANNED DEVELOPMENT.** See [section 17.27](#) of this Code.

State law reference—Plat approval, Wis. Stats. § 236.10 et seq.

18.04 PRELIMINARY PLAT.

(1) **GENERAL.** A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat shall be prepared on tracing cloth, reproducible drafting film or paper of good quality at a map scale not larger than 100 feet to the inch and shall show correctly on its face the following information:

- (a) Title or name under which the proposed subdivision is to be recorded.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (b) Proper location of proposed subdivision by government lot, quarter section, town, range, county and state.
 - (c) General location sketch showing the location of the subdivision within the U. S. Public Land Survey section.
 - (d) Date, graphic scale and north point.
 - (e) Names and addresses of the owner, subdivider and land surveyor preparing the plat.
 - (f) The entire area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development. The Plan Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and severe hardship would result from strict application thereof.
- (2) **PLAT DATA.** All preliminary plats shall show the following:
- (a) Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in U. S. Public Land Survey and the total acreage encompassed thereby.
 - (b) Existing and proposed contours at vertical intervals of not more than 2 feet where the slope of the ground surface is less than 10% and of not more than 4 feet where the slope of the ground surface is 10% or more. Elevations shall be marked on such contours based on National Geodetic Datum of 1929 (mean sea level).
 - (c) Water elevations of adjoining lakes and streams at the date of the survey and approximate high and low water elevations, all referred to mean sea level (1929) datum.
 - (d) Limits and elevation of the 100-year recurrence interval flood as shown on the floodland maps supplemental to the Village Zoning District Maps, or where such data is not available, a line 5 feet above the maximum flood of record.
 - (e) Location, right-of-way width and names of all existing streets, alleys or other public ways, easements, railroad and utilities rights-of-way and all U. S. Public Land Survey section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
 - (f) Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto together with any legally established centerline elevations, all to mean sea level (1929) datum.
 - (g) Location and names of any adjacent subdivision, parks and cemeteries and owners of record of abutting unplatted lands.
 - (h) Location, size and invert elevation of any existing sanitary or storm sewers, culverts, and drain pipes, the location of manholes, catch basins, hydrants, power and telephone poles and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sanitary or storm sewers or water mains are located on or immediately adjacent to the lands being platted, major drainage pathways on the site and the nearest such sewers or mains which might be extended to serve such lands shall be indicated by their direction and distance from the nearest exterior boundary of the plat and their size and invert elevations noted on the plat.
 - (i) Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes rock outcrops, wooded areas, individual trees of 24 inches diameter at breast height, railroad tracks and other similar significant natural or manmade features within the tract being subdivided or immediately adjacent thereto.
 - (j) Location, width and names of all proposed streets and public rights-of-way such as alleys and easements.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (k) Approximate dimensions of all proposed building lots together with proposed lot and block numbers.
 - (l) Location and approximate dimensions and size of any sites to be reserved or dedicated for parks, playgrounds, drainage ways, schools or other public use or sites which are to be used for group housing, shopping centers, church sites or other private uses not requiring lotting.
 - (m) Approximate radii of all curves.
 - (n) Existing zoning on and adjacent to the proposed plat.
 - (o) Any proposed lake and stream access.
 - (p) Any proposed lake and stream improvement or relocation.
 - (q) Soil type, slope and boundaries as shown on the detailed operational soil survey maps prepared by the U. S. Soil Conservation Service.
 - (r) Location of soil boring tests, where required by Wis. Adm. Code H 65.06(2), made to a depth of 6 feet, unless bedrock is at a lesser depth. The number of such tests shall be adequate to portray the character of the soil and the depths of bedrock and ground water from the natural undisturbed surface. To accommodate this purpose, a minimum of one test per 3 acres shall be made. Two copies of all test results shall accompany the preliminary plat.
 - (s) Location of soil percolation tests, as required by and conducted in accordance with Wis. Adm. Code H 65.06(3), taken at the location and depth in which on-site soil absorption sanitary sewerage disposal systems are to be installed. The number of such tests shall not be less than one test per 3 acres or one test per lot, whichever is greater. Two copies of all test results shall accompany the preliminary plat.
- (3) **STREET PLANS AND PROFILES.** The Village Engineer may require that the subdivider provide street plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested. All elevations shall be based upon mean sea level (1929) datum, and plans and profiles shall meet the approval of the Village Engineer.
- (4) **TESTING.** The Village Engineer may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table. Where the proposed land division will not be served by public sanitary sewer service, the provisions of Wis. Adm. Code H 65 shall be complied with, and the appropriate data submitted with the preliminary plat.
- (5) **SOIL AND WATER CONSERVATION.** The Village Engineer, upon determining from a review of the preliminary plat that the soil, slope, vegetation and drainage characteristics of the clearing, grading, filling and other earth moving operations in the development of the land division or otherwise entail a severe erosion and sedimentation hazard, may require the subdivider to provide an erosion control plan as provided in [section 17.44](#) of this Code.
- (6) **COVENANTS.** The Plan Commission may require submission of a draft of protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development.
- (7) **AFFIDAVIT.** The survey preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this chapter.

State law reference—Preliminary plat, Wis. Stats. § 236.11.

CHAPTER 18 SUBDIVISION AND PLATTING

18.05 FINAL PLAT.

- (1) **GENERAL.** A final plat prepared by a registered land surveyor shall be required for all subdivisions and shall comply in all respects with the requirements of §236.20, Wis. Stats.
- (2) **ADDITIONAL INFORMATION.** The plat shall show correctly on its face, in addition to the information required by §236.20, Wis. Stats., the following:
 - (a) Exact length and bearing of the center line of all streets.
 - (b) Exact street width along the line of any obliquely intersecting street.
 - (c) Railroad rights-of-way within and abutting the plat.
 - (d) Setbacks or building lines required by the Plan Commission or other Village ordinances.
 - (e) Utility and drainage easements.
 - (f) All lands dedicated for public use, reserved for future public acquisition, or reserved for the common use of property owners within the plat.
 - (g) Special restrictions required by the Plan Commission relating to access control and along public ways or to the provision of planting strips.
- (3) **DEED RESTRICTIONS.** The Plan Commission may require that deed restrictions be filed with the final plat.
- (4) **SURVEY ACCURACY.** The Village Engineer shall examine all final plats within the Village and may make, or cause to be made by a registered land surveyor under the supervision or direction of the Village Engineer, field checks for the accuracy and closure of survey, the proper kind and location of monuments, and the legibility and completeness of the drawing. In addition:
 - (a) Maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed, in horizontal distance or position, the ratio of one part in 10,000 (1:10,000), nor in azimuth, 4 seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure is obtained. When a satisfactory closure of the field measurements has been obtained, the survey of the exterior boundary shall be adjusted to form a closed geometric figure.
 - (b) All street, block and lot dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey. If field checks disclose an error for any interior line of the plat greater than the ratio of one part in 5,000 (1:5,000), or an error in measured angle greater than one minute of arc for any angle where the shorter side forming the angle is 300 feet or longer, necessary corrections shall be made. Where the shorter side of a measured angle is less than 300 feet in length, the error shall not exceed the value of one minute multiplied by the quotient of 300 divided by the length of the shorter side; however, such error shall not in any case exceed 5 minutes of arc.
 - (c) Where the plat is located within a U.S. Public Land Survey one-quarter section, the corners of which have been relocated, monumented and coordinated by the Village, Washington County or the Southeastern Wisconsin Regional Planning Commission, the tie required by §236.20(3)(b), Wis. Stats., shall be expressed in terms of grid bearing and distance; and the material and Wisconsin State plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error or closure herein specified for the survey of the exterior boundaries of the subdivision.
 - (d) The Village Board shall receive the results of the Village Engineer's examination prior to approving the final plat.

CHAPTER 18 SUBDIVISION AND PLATTING

- (5) **SURVEYING AND MONUMENTING.** All final plats shall meet all the surveying and monumenting requirements of §236.15, Wis. Stats.
- (6) **STATE PLANE COORDINATE SYSTEM.** Where the plat is located within a U.S. Public Land Survey ¼ section, the corners of which have been relocated, monumented and coordinated by the Village, Washington County or the Southeastern Wisconsin Regional Planning Commission, the plat shall be tied directly to one of the section or quarter section corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin State plane coordinates of the monument marking the relocated section or quarter section corner to which the plat is tied shall be indicated on the plat. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the Village's control survey.
- (7) **CERTIFICATES.** All final plats shall provide all the certificates required by §236.21, Wis. Stats., and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter.

18.06 CERTIFIED SURVEY MAP.

- (1) **GENERAL.** A certified survey map prepared by a registered land surveyor shall be required for all minor land divisions as defined herein. It shall, comply in all respects with the requirements of §236.34, Wis. Stats. The minor land division shall comply with the design standards and improvement requirements set forth in sections [18.07](#) and [18.08](#) of this chapter.
- (2) **ADDITIONAL INFORMATION.** The map shall show correctly on its face, in addition to the information required by §236.34, Wis. Stats., the following:
 - (a) All existing buildings, watercourses, drainage ditches and other features pertinent to proper land division.
 - (b) Setbacks or building lines required by the Plan Commission or other Village ordinances.
 - (c) Utility and drainage easements.
 - (d) All lands dedicated for public use or reserved for future public acquisition.
 - (e) Limits and elevations of the 100-year recurrence interval flood as shown on the floodland maps supplemental to the Village Zoning District Maps or where such data is not available, a line 5 feet above the maximum flood of record.
 - (f) Date of the certified survey map.
 - (g) Graphic scale and north point.
 - (h) Name and address of the owner, subdivider and surveyor.
 - (i) Soil boring and soil percolation test locations as required by [section 18.04\(2\)](#) of this chapter. The results of such tests shall be submitted with the certified survey map.
 - (j) The new parcel or parcels created, including proper survey ties to the quarter corners as set forth in paragraph (3) below. (Am. Ord. #3-97)
- (3) **STATE PLANE COORDINATE SYSTEM.** See [section 18.05\(6\)](#) of this chapter.
- (4) **CERTIFICATES.** The surveyor shall certify on the face of the map that he has fully complied with all the provisions of this chapter. The Plan Commission and the Village Board shall each certify its approval on the face of the map. Dedication of streets and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by §236.21(2)(a), Wis. Stats.
- (5) **RECORDATION.** The certified survey map shall be recorded by the Village Clerk with the County Register of Deeds only after the certificates of the Plan Commission, the Village Board and the

CHAPTER 18 SUBDIVISION AND PLATTING

surveyor are placed on the face of the map and after all applicable fees have been paid in accordance with [section 18.10](#) of this chapter.

State law reference—Survey requirements, Wis. Stats. § 236.15.

18.061 PLANNED DEVELOPMENT PROCEDURE.

See [section 17.27](#)(3) of this Code.

18.07 DESIGN STANDARDS.

- (1) **STREET ARRANGEMENT.** In any new subdivision, or in any planned development, if applicable, the street layout shall conform to the arrangement, width and location indicated on the Official Map, County Jurisdictional Highway Plan, comprehensive plan or plan component, or detailed neighborhood unit development plan of the Village. In areas for which detailed neighborhood unit development plans have not been completed, the street layout shall conform to the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, to existing or planned utilities, and to the most advantageous development of adjoining areas. The subdivision shall be designed so as to provide each lot with satisfactory access to a public street. In addition:
- (a) *Arterial Streets.* Arterial streets, as hereafter defined, shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of arterial streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
 - (b) *Collector Streets.* Collector streets, as hereafter defined, shall be arranged so as to provide for the collection of traffic from residential and other high intensity use areas and conveyance of such traffic to the arterial street and highway system and shall be properly related to the mass transportation system, to special traffic generators such as schools, churches and shopping centers and other concentrations of population and to the arterial streets to which they connect.
 - (c) *Minor Streets.* Minor streets, as hereafter defined, shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm drainage, water supply and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.
 - (d) *Private Streets.* (Cr. Ord. #04-08) Private streets are a type of "minor street" that shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm drainage, water supply and sanitary sewerage systems, and provide the minimum street area necessary to provide safe and convenient access to abutting property. Private streets include shared driveways, private lanes, and private streets intended to serve 2 to 15 single-family residential lots or parcels (as well as condominium-type development) and may be allowed by the Village in accordance with all of the following:
 - 1. Private street are intended to retain rural character, reduce construction and maintenance costs, serve relatively larger and more rural lots, and allow more control, security and sense of identity where public streets or roads are not planned or needed for public traffic circulation and accessibility;
 - 2. Private streets are only allowed at the discretion of the Village Board as approved as part of a subdivision plat, certified survey map (CSM) or condominium plat;

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

3. Private streets may be allowed in any single-family residential zoning district, however, the Village Board may require private streets to be developed as part of a Planned Development District (PDD);
 4. Private streets shall NOT be allowed under any circumstances when:
 - a. The proposed private street will replace or otherwise conflict with a designated public street set forth in the Village's official map, Comprehensive Plan, or other official state, regional, county, or village transportation plan;
 - b. The Village determines that construction of a public street would be in the best interest of the Village and that a public (vs. private) street is determined to be needed for: (1) providing access to adjacent lands having the potential for future development; or (2) public circulation by way of connecting to or extending from an existing or future public street;
 - c. The proposed private street connects 2 or more public streets or highways where the connection would further the pattern and function of the public street system; or
 - d. The proposed street will or has the potential to provide access to more than 15 residential lots, or, has the potential to provide (or is needed for) access to future development of adjacent land.
 5. Private streets shall be owned and maintained by the property owners of the lots or parcels having access to and served by such private streets and/or a legal entity (e.g., Homeowner's Association, Condominium Association, etc.) established prior to or concurrent with Village approval of the subdivision plat or Certified Survey Map. Ownership and maintenance responsibilities shall be set forth in deed restrictions or covenants reviewed and approved by the Village. The arrangement, design, and construction (including arrangements for construction inspection by qualified engineers) of private streets shall be approved by the Village as set forth in a Development Agreement with the Village as required under this section.
 6. These standards and the design requirements in Table 3 are intended to be minimums that may be modified by the Village, including the requirement for a higher or different standard regardless of the private street classification, as determined on a case-by-case basis through the Planned Development District (PDD) review process or as specified in a Development Agreement required under this section.
 7. The construction of private streets and the development and use of land that includes private streets shall comply with all zoning, land development and other applicable Village codes and requirements, including but not limited to, the Village's stormwater management regulations.
- (e) *Proposed Streets.* (Rltd. Ord. #04-08) Proposed streets shall extend to the boundary lines of the tract being subdivided or developed unless prevented by topography or other physical conditions or unless, in the opinion of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision or development or for the advantageous development of the adjacent tracts. Where an existing dedicated or platted half street is adjacent to the tract being subdivided or developed, the other half of the street shall be dedicated by the subdivider or developer.
- (f) *Protection and Limited Access.* (Rltd. Ord. #04-08) Whenever the proposed subdivision contains or is adjacent to an arterial street or highway, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reversed frontage lots, screen planting contained in a nonaccess reservation along the rear property line, or by the use of frontage streets.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (g) *Stream or Lake Shores.* (Rltd. Ord. #04-08) Stream or lake shores shall have a minimum of 60 feet of public access platted to the low water mark at intervals of not more than ½ mile as required by §236.16(3), Wis. Stats.
 - (h) *Reserve Strips.* (Rltd. Ord. #04-08) Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is placed with the Village under conditions approved by the Plan Commission.
 - (i) *Alleys.* (Rltd. Ord. #04-08) Alleys shall be provided in commercial and industrial areas for off-street loading and service access unless otherwise required by the Plan Commission, but shall not be approved in residential districts. Dead end alleys shall not be approved and alleys shall not connect to an arterial street or highway.
 - (j) *Street Names.* (Rltd. Ord. #04-08) Street names shall not duplicate or be similar to existing street names on nonconnecting streets elsewhere in the Village and existing street names shall be extended wherever possible.
- (2) **LIMITED ACCESS HIGHWAY AND RAILROAD RIGHT-OF-WAY TREATMENT.** Whenever the proposed subdivision contains or is adjacent to a limited access highway or railroad right-of-way, the subdivision shall include the following design restrictions:
- (a) When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway or a railroad, a planting strip at least 30 feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be a part of the platted lots, but shall have the following restriction lettered on the face of the plat: "this strip reserved for the planting of trees and shrubs; the building of structures hereon is prohibited."
 - (b) Commercial and industrial properties fronting on the right-of-way of an existing or proposed limited access highway or railroad shall have provided, on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 200 feet.
 - (c) Streets parallel to a limited access highway or railroad right-of-way, when intersecting an arterial street, highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of 250 feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
 - (d) Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided and location of minor streets immediately adjacent to arterial streets and highways and to railroad rights-of-way shall be avoided in residential areas.
- (3) **PUBLIC STREET AND PUBLIC WAY DESIGN STANDARDS.** (Am. Ord. #38-05; Am. Ord. #04-08) The minimum right-of-way and roadway width of all proposed public streets and alleys shall be as specified by the comprehensive plan, comprehensive plan component, official map, neighborhood development study; or the standard cross-section adopted by the Village (see Table 2 or Table 2a); or if no width is specified therein, the minimum widths shall be as set forth in Table 2.

Arterial street sections are for standard arterial streets only. Cross-sections for freeways, expressways and parkways should be based upon detailed engineering studies. In addition all minor streets that are planned and designed to not be extended or connected to another street at the time of development or at any time in the future (i.e., a "dead end" street) shall include a cul-de-sac or other suitable turn-around meeting the following requirements:

- (a) All non-cul-de-sac streets designed having one end permanently closed, shall not exceed 500 feet in length. Cul-de-sac streets not exceeding 500 feet in length are permitted as a matter of course.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (b) Where a cul-de-sac street is designed so that its bulb right-of-way abuts the subdivision perimeter property line, making future extension of the roadway, or connection to another roadway feasible; the Plan Commission may approve a design of up to 1,200 feet in length.
- (c) Other cu-de-sac roads may be approved at lengths greater than 500 feet but not exceeding 1,200 feet in length depending upon such factors as:
 - 1. The zoning classification and resultant lot size, with larger lots abutting the cu-de-sac street justifying and permitting the approval of a proportionately longer cul-de-sac street;
 - 2. The number, and proximity to Village arterials roads, of entry points into the subdivision, including those feasible for extension and connection in the future.
- (d) Except in section 27-9-20 of the Village, as set forth in Table 2a, all cul-de-sac streets shall terminate in a circular turnaround having a minimum right-of-way radius of ~~60~~ 50 feet and a minimum face of curbs radius of ~~30~~ 40 feet on urban sections and 40 feet on ~~and~~ rural sections (see Table 2).
- (e) The length of a cul-de-sac shall be defined as the distance from the nearest intersecting right-of-way from the subject cul-de-sac street along the centerline of said cul-de-sac to the point at the bulb right-of-way furthest from the connecting street.

**TABLE 2
REQUIRED STREET CROSS SECTIONS
IN THE VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN**

Type of Street or Public Way	Urban Street Section		Rural Street Section	
	Minimum Right-of-Way to be Dedicated	** Minimum Dimensions	Minimum Right-of-Way to be Dedicated	Minimum Dimensions
Arterial Streets	120 feet	* Dual 36-foot pavement (face of curb to face of curb) * 20-foot median * 8-foot tree banks (curb lawn) * 5-foot sidewalks * 1-foot outside sidewalks	120 feet	* Dual 24-foot pavement * 8-foot median * 6-foot inside shoulders * 10-foot outside shoulders * 16-foot roadside ditches
Collector Streets	80 feet	* 40-foot pavement (Face of curb to face of curb) * 14-foot tree banks (curb lawn)	NONE	NONE

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

		* 5-foot sidewalks * 1-foot outside sidewalks		
Minor Streets	60 feet	* 30-foot pavement (face of curb to face of curb) * 9-foot tree banks (curb lawn) * 5-foot sidewalks * 1-foot outside sidewalks	60 feet	* 24-foot pavement * 2-foot shoulders * 14-foot roadside ditches
Cul-de-Sac (Turn-around)	60 foot radius	* 40-foot outside face of curb radius * 10-foot inside pavement radius * 14-foot tree banks (curb lawn) * 5-foot sidewalks (if required) * 1-foot outside sidewalks	60 foot radius	* 40-foot outside pavement radius * 17-foot Inside pavement radius * 6-foot shoulders * 13-foot roadside ditches
Service Alleys	30 feet	* 28-foot pavement (if required)	NONE	NONE
Pedestrian Ways	20 foot average	* As required by the Village Engineer	20 foot average	* As required by the Village Engineer

** NOTE: Not applicable in Section 27-9-20 of the Village. See Table 2a on next page.

(Am. Ord. #31-88)

TABLE 2a
REQUIRED STREET CROSS SECTIONS
IN THE VILLAGE OF GERMANTOWN,
WASHINGTON COUNTY, WISCONSIN

Type of Street or Public Way	Urban Street Section	
	Minimum Right-of-Way to be Dedicated	(Note: Applicable only in Section 27-9-20 of the Village) Minimum Dimensions
Arterial Streets	120 feet	* Dual 36-foot pavement (face of curb to face of curb) * 20-foot median

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

		<ul style="list-style-type: none"> * 8-foot tree banks (curb lawn) * 5-foot sidewalks * 1-foot outside sidewalks
Collector Streets	80 feet	<ul style="list-style-type: none"> * 48-foot pavement (face of curb to face of curb) * 10-foot tree banks (curb lawn) * 5-foot sidewalks * 1-foot outside sidewalks
Minor Streets	60 feet	<ul style="list-style-type: none"> * 36-foot pavement (face of curb to face of curb) * 6-foot tree banks (curb lawn) * 5-foot sidewalks * 1-foot outside sidewalks
Cul-de-sac (Turn-around)	60 foot radius	<ul style="list-style-type: none"> * 48-foot outside face of curb radius * 12-foot inside pavement radius * 6-foot tree banks (curb lawn) * 5-foot sidewalks (if required) * 1-foot outside sidewalks
Service Alleys	30 feet	<ul style="list-style-type: none"> * 28-foot pavement (if required)
Pedestrian Ways	20 foot average	*As required by the Village Engineer

(Cr. Ord. #31-88)

TABLE 3
PRIVATE STREET DESIGN
STANDARDS AND REQUIREMENTS

	Private Street Classification		
Design Standard/ Requirement	Shared Driveway	Private Lane	Private Street
Ownership	Private (all lot owners and/or legal association);	Private (all lot owners and/or legal association);	Private (all lot owners and/or legal association);

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

	subject to access easement agreement	subject to access easement agreement	subject to access easement agreement
Construction, Inspection and Maintenance Responsibility	Private access and maintenance responsibilities established in Development Agreement and legal association covenants and deed restrictions; may also be subject to PDD Conditions and Restrictions (if required by the Village)	Private access and maintenance responsibilities established in Development Agreement and legal association covenants and deed restrictions; may also be subject to PDD Conditions and Restrictions (if required by the Village)	Private access and maintenance responsibilities established in Development Agreement and legal association covenants and deed restrictions; may also be subject to PDD Conditions and Restrictions (if required by the Village)
Max. # Lots Served (typical)	Up to 3 lots	Up to 7 lots	Up to 15 lots
Length (max.)	>1,200 w/ Village Board approval	>1,200 w/ Village Board approval	>1,200 w/ Village Board approval
Permanent Closure (Turnaround)	Cul-de-sac (30' to 60' min. radius to be determined by Village Board)	Cul-de-sac (30' to 60' min. radius) <u>or other suitable design such as a "T" turnaround or "hammerhead"</u> to be determined by Village Board	Cul-de-sac (30' to 60' min. radius to be determined by Village Board)
Easement or Right-of-Way Width Required (min.)	30' easement or outlot	40' outlot or private right-of-way	60' outlot or private right-of-way
# Lanes and Width (min. total width)	1 lane 16' wide 16' total width	2 lanes 9' each 18' total width	2 lanes 11' each 22' total width
Vertical Clearance (min.)	14'	14'	14'

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

Grade (max.)	10%; Grade to match existing shoulder (uncurbed) or intersecting street pavement (curbed) with min. 25' landing approach at grade +/- 2%	10%; Grade to match existing shoulder (uncurbed) or intersecting street pavement (curbed) with min. 25' landing approach at grade +/- 2%	10%; Grade to match existing shoulder (uncurbed) or intersecting street pavement (curbed) with min. 25' landing approach at grade +/- 2%
Curve Radius	N/A	100'	See Sec. 18.07 (100-300')
Base Course (type/thickness)	Lift 1: 9" of 1.5" TB; Lift 2: 5" of .75" TB	Lift 1: 9" of 1.5" TB; Lift 2: 5" of .75" TB	Lift 1: 9" of 1.5" TB; Lift 2: 5" of .75" TB
Surface Course (type/thickness)	Asphalt concrete surface course is OPTIONAL as determined by the Village Board.	Asphalt concrete surface course is OPTIONAL as determined by the Village Board.	Asphalt concrete surface course is OPTIONAL as determined by the Village Board.

(Cr. Ord. #04-08)

- (4) **STREET INTERSECTIONS.** Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit. In addition:
- (a) The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than 2.
 - (b) The number of intersections along arterial streets and highways shall be minimized. Wherever practicable, the distance between such intersections shall not be less than 1,200 feet.
 - (c) On all streets where sidewalks are required, ramps or openings to accommodate handicapped individuals or vehicles shall be provided in accordance with §66.616, Wis. Stats.
 - (d) Minor and collector streets shall not necessarily continue across arterial streets. If the distance between the center line intersections of any street with any other intersecting street is less than 250 feet, measured along the center line of the intersecting street, then the location shall be so adjusted that the distance is increased or the adjoinment across the intersecting street is continuous and a jog is avoided.
- (5) **BLOCKS.** The widths, lengths and shapes of blocks shall be suited to the planned use of the land; zoning requirements; need for convenient access, control and safety of street traffic; and the limitations and opportunities of topography. In addition:
- (a) Blocks in residential areas shall not, as a general rule, be less than 600 feet nor more than 1,200 feet in length unless otherwise dictated by exceptional topography or other limiting factors of good design.
 - (b) Pedestrian ways of not less than 20 feet in average width may be required near the center and entirely across any block over 900 feet in length where deemed essential by the Plan Commission to provide adequate pedestrian circulation or access to schools, parks, shopping centers, churches or transportation facilities.
 - (c) Block widths shall be sufficient to provide for 2 tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic, railroads or natural

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

barriers. Width of lots or parcels designated for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.

- (d) All general service electric power, telephone and cable TV lines shall be placed on mid-block easements of not less than 15 feet in width centered on rear lot lines for underground installation.
- (6) **LOTS.** The size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated. In addition:
 - (a) Side lot lines shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
 - (b) Double frontage or "through" lots shall be prohibited, except where necessary to provide separation of residential development from arterial traffic or to overcome specific disadvantages of topography and orientation.
 - (c) Every lot should front or abut for a **minimum** distance of at least ~~30~~ **60** feet on a public street **provided reasonable building setback can be provided within odd-shaped lots on cul-de-sacs ; but may, in extenuating circumstances, be reduced to no less than 30 feet.**
 - (d) Area and dimensions of all lots shall conform to the requirements of the Zoning Code. Those building sites not served by a public sanitary sewerage system or other approved system shall be sufficient to permit the use of an on-site soil absorption sewage disposal system designed in accordance with Wis. Adm. Code H 62.20.
 - (e) Excessive depth of lots in relation to width shall be avoided and a proportion of 2:1 shall be considered a maximum ratio under normal conditions. Depth of lots or parcels designated for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated.
 - (f) Four-sided rectangular lots shall be considered standard, odd-shaped lots should be avoided and lots with more than 5 sides will be allowed only in extenuating circumstances.
 - (g) The width of lots within the interior of a block shall conform to the requirements of the Zoning Code or other applicable ordinance and in no case shall a lot have a minimum average width of less than 80 feet.
 - (h) Corner lots shall have an additional width of 10 feet to permit adequate building setbacks from the side streets.
 - (i) Lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be dedicated to the public in any plat abutting a lake or stream.
- (7) **BUILDING SETBACK LINES.** Building setback lines appropriate to the location and type of development contemplated which are more restrictive than the regulation of the zoning district in which the plat is located may be required by the Plan Commission.
- (8) **EASEMENTS.** The Plan Commission may require utility easements of widths deemed adequate for the intended purpose, but not less than 7.5 feet on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for electric power and communication wires and conduits; storm and sanitary sewers; and gas, water and other utility lines.

Where a subdivision is traversed by a watercourse, drainageway channel or stream, an adequate drainageway or easement shall be provided as may be required by the Plan Commission. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the Village Engineer; and parallel streets or parkways may be required in connection therewith. Where necessary, stormwater drainage shall be maintained by landscaped open channels of adequate

CHAPTER 18 SUBDIVISION AND PLATTING

size and grade to hydraulically accommodate maximum potential volumes of flow. These design details are subject to review and approval by the Village Engineer.

- (9) **PUBLIC SITES AND OPEN SPACES.** (Rep. & Recr. Ord. #43-95) In the design of the plat or planned development, due consideration shall be given to the preservation of suitable sites of adequate area for future parks, playgrounds, public school sites, drainageways and other public purposes. If designated on the comprehensive plan, comprehensive plan component, official map or detailed neighborhood unit development plan, such areas shall be made a part of the plat or planned development as stipulated in [section 18.02](#)(3) of this chapter. If not so designated, consideration shall be given in the location of such sites to the preservation of scenic, scientific and historic sites, trees, marshes, lakes and ponds, watercourses and ravines. Accordingly, each subdivider or developer of residential land in the Village shall reserve public sites and open-space lands designated on the Village comprehensive plan or plan component. The proposed public lands shall be made a part of the plat or development and reserved at the time of final plat approval or site plan approval for a period not to exceed 3 years, unless extended by mutual agreement, for acquisition at undeveloped land prices by the public agency having jurisdiction. If the land is not acquired within the 3-year period or the time extended by mutual consent, as set forth herein, the land shall be released by the Village from reservation to the owner.

18.08 REQUIRED IMPROVEMENTS.

- (1) **SURVEY MONUMENTS.** The subdivider shall install survey monuments placed in accordance with the requirements of §236.15, Wis. Stats., and as may be required by the Village Engineer (see [section 18.02](#)(5) of this chapter).
- (2) **GRADING.** (Am. Ord. #17-09) After the installation of temporary block corner monuments by the subdivider and establishment of street grades by the Village Board, the subdivider shall grade the full width of the right-of-way of all streets proposed to be dedicated in accordance with the plans and standard specifications approved by the Village engineer. The subdivider shall grade the roadbeds in the street rights-of-way to subgrade. Cut and filled lands outside of street rights-of-way shall be graded to a maximum slope of 25% or the soils angle of repose, whichever is the lesser. All graded lands, with the exception of the roadbeds of streets, shall be treated for sediment and erosion control purposes as set forth in Chapter 29 of this Code. Where applicable, this subsection shall apply to planned development.
- (3) **STREET SURFACING.** After the installation of all utility and stormwater drainage improvements, the subdivider or developer shall surface all roadways in streets within the subdivision or development proposed to be dedicated to the widths prescribed by these regulations and the comprehensive plan or comprehensive plan components of the Village. Said surfacing shall be done in accordance with plans and standard specifications approved by the Village Engineer.
- (4) **CURB AND GUTTER.** In all urban subdivisions, as defined herein, the Village Board shall, and in all rural subdivisions or planned developments may, require the subdivider or developer to construct concrete curb and gutter in accordance with plans and standard specifications approved by the Village Engineer. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts. [Streets with curb and gutter profiles may include provisions for vegetated stormwater management measures as defined in \[Chapter 17/Chapter 27\] of the Municipal Code.](#)
- (5) **RURAL STREET SECTIONS.** When permanent rural street sections have been approved by the Village Board, the subdivider or developer shall finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the Village Board.
- (6) **SIDEWALKS.** In all subdivisions or developments, the Village Board may require the subdivider or developer to construct a concrete sidewalk on either or both sides of arterial and collector streets within or adjacent to the subdivision or development. The Village Board may also require the subdivider or

CHAPTER 18 SUBDIVISION AND PLATTING

developer to construct ~~concrete~~ **hard-surfaced** sidewalks on either or both sides of minor street which are in excess of 500 feet in length. The construction of all sidewalks shall be in accordance with plans and standard specifications approved by the Village Engineer. In addition, wider than standard sidewalks may be required by the Village Board in the vicinity of schools, commercial areas and other places of public assemblage.

- (7) **PUBLIC SANITARY SEWERAGE SYSTEMS.** When public sanitary sewerage facilities are available to the subdivision or planned development, such facilities shall be designed and constructed in accordance with all applicable rules and regulations of Wis. Adm. Code NR 110, the rules and regulations of the Milwaukee County Metropolitan Sewerage District and the Village Sanitary Sewer System Plan. The subdivider shall construct sanitary sewerage facilities in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision. In addition:
- (a) *Laterals.* The Village Board shall require the installation of sewer laterals to the street lot line, or to the easement where applicable.
 - (b) *Specifications.* The size, type and installation of all sanitary sewers and sanitary sewer laterals proposed to be constructed shall be in accordance with plans and standard specifications approved by the Director of Public Works.
 - (c) *Oversized Sanitary Sewer Mains.* (Am. Ord. #35-97) All sanitary sewer mains in excess of 12 inches in diameter within or abutting the subdivision or development shall be constructed by the Village and the subdivider or developer shall pay the cost of the 12-inch equivalent sewer main.
 - (d) *Sanitary Sewer Mains Traversing Other Lands.* If it necessary to traverse other land to serve the subdivision or planned development with sanitary sewer, the Village may install such sanitary sewer mains and the subdivider or developer shall pay the total cost thereof. The Village shall reimburse the subdivider or developer to the extent that special assessments are levied; however, in the event special assessments are deferred, the subdivider or developer shall be reimbursed when the special assessments are paid or when installment payments commence.
 - (e) *Unserviced Subdivision or Planned Developments Within the Approved Sewer Service Area.* In the event that the Village Board determines it is not practical to extend Village sewer mains to the subdivision or planned development within the approved sewer service area at the time of platting or development, the subdivider or developer shall install sanitary sewers in accordance with this chapter and specifications of the Village Board and until such time as the public sewers within the subdivision or planned development can be connected to the Village sewer system, they shall be temporarily capped. No private or public use shall be connected to the sewers within the subdivision or development until such sewers are connected to the Village system. The subdivider shall indicate on the face of the plat that the lot owner within the subdivision shall connect to the Village sewer system at the time such sewers are connected to the Village sewer system, and that the Village is held harmless for any damages or costs incurred to disconnect and abandon any on-site sanitary sewer disposal system then in place, and any costs associated with connection to the Village sewer mains; where applicable, this provision shall also apply to planned developments.
- (8) **PUBLIC WATER SUPPLY FACILITIES.** When public water supply and distribution facilities are available to the subdivision or planned development, the subdivider shall cause such water supply and distribution facilities to be installed in such a manner as to make adequate water service available to each lot within the subdivision and the developer shall provide adequate water service to each dwelling unit. As an option, when public water supply facilities are not readily available to the site, the subdivider or developer may install an approved water supply well which shall be deeded to the Village at no cost to eventually be connected to the Village water supply system. The subdivider or developer shall cause water supply and water distribution facilities to be installed and connected to such water supply well. In addition:
- (a) *Laterals.* The Village Board shall require the installation of water laterals to the street lot line or to the easement.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (b) *Specifications.* The size, type and installation of all Village water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the Director of Public Works.
 - (c) *Oversized Water Mains.* (Am. Ord. #35-97) All water mains in excess of 12 inches in diameter within or abutting the subdivision or development shall be constructed by the Village and the subdivider or developer shall pay the cost of the 12-inch equivalent water main.
 - (d) *Water Mains Traversing Other Lands.* If it is necessary to traverse other land to serve the subdivision or development with water, the Village may install such water mains and the subdivider or developer shall pay the total cost thereof. The Village shall reimburse the subdivider or developer to the extent that special assessments are levied; however, in the event special assessments are deferred, the subdivider or developer shall be reimbursed when the special assessments are paid or when installment payments commence.
- (9) **RESERVED.**
- (10) **STORMWATER DRAINAGE FACILITIES.** (Am. Ord. # 29-02) The subdivider or developer shall construct stormwater drainage facilities adequate to accommodate expected surface water flow within and through the subdivision or development which may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, **vegetated stormwater management measures**, water retention structures and settling basins. All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow through and from within the subdivision or development and shall be so designed as to prevent and control soil erosion and sedimentation and to present no hazards to life or property. Design criteria and performance standards for **vegetated stormwater management measures**, water retention basins and settling basins shall be compiled and promulgated by the office of the Village Engineer and shall include design criteria and performance standards incorporated in Chapter 13 of the Milwaukee Metropolitan Sewerage District rules, including amendments which may be enacted from time to time. If the Village Board determines it is necessary to construct storm sewer facilities outside the boundaries of the subdivision or development and the subdivision or development is benefitted thereby, the Village shall construct such facilities and the subdivider or developer shall share the cost thereof in the same ratio that the benefitting area of the subdivision or development bears to the total area served by the said outside construction. In addition:
- (a) *Unpaved Road Ditches and Back Slopes.* Unpaved road ditches and back slopes shall be shaped and seeded and/or sodded as grassed waterways. Where the velocity of flow is in excess of 4 feet per second (fps) on soils having a severe or very severe erosion hazard and in excess of 6 fps on all other soils, the subdivider or developer shall install a paved invert or check dams, flumes or other energy dissipating devices.
 - (b) *Drainage Facilities.* Drainage facilities shall, if required, include **vegetated stormwater management measures**, water retention structures and settling basins so as to prevent erosion and sedimentation where such facilities discharge into streams and lakes. The design criteria, size, type, grades and installation of all stormwater drains and sewers and other cross-section, invert and erosion control paving check dams, flumes or other energy-dissipating structures and seeding and/or sodding of open channels and unpaved road ditches proposed to be constructed shall be in accordance with the plans and standard specifications as approved by the Director of Public Works.
 - (c) *Storm Sewer Laterals.* (Cr. Ord. #18-93) Storm sewer laterals shall, if required, be installed from the storm sewer to the street lot line or to the easement line as directed by the Director of Public Works.
- (11) **OTHER UTILITIES.** The subdivider or developer shall cause electrical power, telephone facilities, cable TV lines and, where possible, natural gas facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision or each dwelling unit in a planned development. No electrical, telephone or cable TV service shall be located on overhead poles unless

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

otherwise allowed by the Plan Commission due to exceptional topography or other physical barrier. Plans indicating the proposed location of all natural gas, electrical power and telephone distribution and transmission lines required to service the subdivision shall be approved by the Village Engineer.

- (12) **STREET LAMPS AND YARD LIGHTS.** In all urban and rural subdivisions and all planned developments the Village shall require the subdivider or developer to install street lamps at the intersection of all streets of a design compatible with the neighborhood and type of development proposed and approved by the Village Engineer. In addition, for purposes of safety, the subdivider of all urban subdivisions shall require and cause, by deed restriction, the installation of an electric yard light on each platted residential lot. Each such light shall be of uniform design throughout the subdivision and placed on the lot at the time of finish grading of the yard by the subdivider or home owner within 10 feet of the access street right-of-way and aligned with the front entrance or walkway to the residence. If the yard light is not so installed within 9 months from the date the residence is occupied, the Village may, after notice, either install the yard light and charge the full cost of such installation to the owner of the lot or install the yard light and place a lien on the property for the full cost of such installation plus interest at the current interest rate. In planned developments, lighting shall be in accordance with the site plan approved by the Plan Commission.
- (13) **TRAFFIC SIGNS AND STREET SIGNS.** (Am. Ord. #19-96) The Village shall install the traffic signs authorized by resolutions adopted by the Village Board, except speed limit signs, and shall install at the intersection of all streets proposed to be dedicated a street sign of a design approved by the Director of Public Works and the cost of such signs and installation shall be reimbursed to the Village by the subdivider or developer.
- (14) **STREET TREES.** (Cr. Ord. #33-02)
- (a) *General.* In subdivisions platted and nonresidential developments approved after the adoption of this section, the Village shall require submission and approval of the landscaping plan as provided in [section 17.43\(5\)](#), *supra*, which shall include a street tree plan **(which may include stormwater trees)** for all rights-of-way within or abutting the subdivision or nonresidential development, as may be applicable, and the planting of trees in the street rights-of-way within or abutting the subdivision or non-residential development according to such approved plan shall be included as required public improvements in the developer's agreement, with appropriate financial guaranty of performance.
- The types or species of trees shall be selected by the developer from an approved list provided by the Village. The developer shall select a variety of types or species of trees to be intermixed, as shall be provided in the landscape plan and its street tree component pursuant to [section 17.43\(5\)](#), *supra*, and this section.
- (b) *Timing of Street Tree Installation.* In subdivisions and nonresidential developments covered by this provision, street trees shall be required to be installed after the installation of sidewalks, if sidewalks are to be installed. The number of trees and specification for installation shall be determined by the spacing and installation criteria administratively established by the Village from time to time.
- (c) [*Replacement of Trees.*] The developer shall replace any trees or plantings specified in the landscape plan that do not live for a minimum of 2 growing seasons. The replacement trees or plantings shall also be guaranteed for 2 growing seasons after replacement planting. Performance under this provision shall be guaranteed by irrevocable letter of credit or cash deposit furnished by the developer. Replacement of trees or plantings beyond the period provided above shall be the responsibility of the property owner, or in the case of subdivision common areas or outlots, the subdivision homeowners association.
- (d) *Existing Subdivision.* Owners of residential parcels, which were platted prior to the adoption of this Ordinance may receive street trees under the provisions of this section and chapter 18 of this

CHAPTER 18 SUBDIVISION AND PLATTING

Municipal Code, provided that the Village Forester has approved a Master Street Tree Plan for the street affected.

- (15) **IMPROVEMENTS TO STREETS ABUTTING DEVELOPMENT.** (Cr. Ord. #37-02) The developer of any land division, that requires the execution of a development agreement, and abuts an existing Village street which has been constructed to rural standards shall, in conjunction with such development, improve the abutting street to urban standards from the centerline to the abutting land division's property line. The improvements shall include undercutting as necessary, asphalt resurfacing, construction of curb/gutter, installation of sidewalk and terrace landscaping. Taking into consideration concurrent and likely future development for the area in which the land division is occurring, and the infrastructure necessary to support such development, the Village, in its discretion, may require deferral of such work, and instead require the Developer to escrow an amount sufficient to defray the cost of the design and construction of such street improvements, and the curb/gutter and sidewalk at such future time as it is deemed appropriate by the Village.

18.09 CONSTRUCTION.

- (1) **COMMENCEMENT.** No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat or certified survey map has been approved, or in a planned development until the site plan has been approved, and the Village Engineer has given written authorization of such commencement.
- (2) **BUILDING AND OCCUPANCY PERMITS.** See Chapter 14 of this Code.
- (3) **REQUIRED PLANS.** Plans for all improvements shall be designed and prepared according to the "Drafting and Design Standards" of the Village and all applicable rules and regulations of other approving agencies. Such plans shall include system plans, engineering reports and any other information required by the Village Engineer or approving authorities. The Village Engineer may require that the developer submit, for his approval, all specifications and proposed contract documents before authorization of construction is given. Plans to be submitted shall include the following, if deemed applicable, by the Village Engineer:
- (a) Street construction plans and profiles showing existing and proposed grades, elevations and cross-sections of all required improvements.
 - (b) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials to be used in the construction of the facilities.
 - (c) Storm sewer and drainageway plans and profiles showing the locations, grades, sizes, cross-sections, elevations and types of materials to be used in the construction process, including cover materials to be used.
 - (d) Watermain plans and profiles showing the locations, sizes, elevations and materials to be used in the construction of the required facilities.
 - (e) Erosion control plans in compliance with Chapter 29 of this Code. (Am. Ord. #17-09)
 - (f) Other utilities and street lamps showing location and easements necessary for proper service.
 - (g) Planting plans showing the depth of topsoil replaced on bared areas and the type and permanence of vegetative cover to be established, locations, age, caliper and species of any required grasses, vines, **vegetated stormwater management measure planting plans**, shrubs and trees.
 - (h) Master grading plans and any additional special plans or information as required.

In addition, the Village Engineer shall require that mylar reproducible copies of all final plans and as-builts be supplied prior to final acceptance of any improvements for the permanent record of the Village.

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (4) **EROSION CONTROL.** (Am. Ord. #17-09) See Chapter 29 of this Code.
- (5) **EXISTING FLORA.**
- (a) [*Protection and Preservation.*] The subdivider or developer shall make every effort to protect and retain all existing trees, shrubbery, vines and grasses not actually lying within public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by use of wells or islands or retaining walls whenever abutting grades are altered.
 - (b) *Tree Cutting and Shrubby Clearing.* Tree cutting and shrubby clearing shall not exceed 35% of the lot or tract less than 16,000 square feet in area and 25% of a lot or tract 16,000 square feet or larger in area. Such cutting and clearing shall be so conducted as to prevent erosion and sedimentation; preserve and improve scenic qualities; and, during foliage, substantially screen any development from stream or lake users.
 - (c) *Paths and Trails.* Paths and trails in wooded and wetland areas shall not exceed 10 feet in width unless otherwise approved by the Plan Commission, and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs, and the minimum impairment of natural beauty.
- (6) **INSPECTION.** The subdivider or developer, prior to commencing any work within the subdivision or planned development, shall make arrangements with the Village Engineer to provide for adequate inspection. The Village Engineer shall inspect and approve all completed work prior to release of the sureties.
- (7) **CHANGES AND MODIFICATIONS.** The Village Engineer or the subdivider or developer may petition the Plan Commission to secure changes or modifications to the approved plan as the development progresses.

18.10 FEES AND ASSESSMENTS.

- (1) **[PAYMENT OF FEES AND ASSESSMENTS.]** The subdivider shall pay the Village all fees and assessments as hereinafter required and at the times specified before being entitled to record a final plat or certified survey map. In planned developments, all fees and assessments must be paid prior to the issuance of any building permit.
- (2) **PRELIMINARY SUBDIVISION PLAT PROCESSING AND REVIEW FEES.** (Am. Ord. #41-94; Am. Ord. #17-02; Am. Ord. #39-04; Am. Ord. #03-07) All property owners, developers, and other individuals or corporations (hereafter referred to collectively as "applicants") applying, petitioning, or appealing for the review, approval, or issuance of any preliminary subdivision plat (hereafter referred to as a "permit application") pursuant to this chapter shall pay fees necessary to defray the total direct and indirect costs incurred by any and all Village department staff, elected officials and appointed commissions, legal counsel, consultants, and other representatives or professionals employed or otherwise retained by the Village to process, review, inspect, record, or take any other administrative or enforcement action pertaining to or resulting from the disposition of such permit application (hereafter referred to collectively as "processing costs").

The processing costs associated with each permit application may include, but are not limited to, the cost of time spent by Village department staff to meet with and otherwise communicate with applicants, review plans and process permits, prepare staff reports and recommendations, site and/or compliance inspections, document recording and copying costs, public hearing notice publishing and posting costs, etc.

Because the processing costs associated with each permit application can vary, the Village will require each applicant to submit a flat fee and/or fee deposit in an amount deemed reasonable and necessary

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

by the Village to cover the Village's processing costs for each permit application. Fees and fee deposits shall be submitted when a permit application is submitted to the Village. Fee deposits shall be made into a non interest-bearing "escrow account" from which the Village may make periodic withdrawals to defray processing costs as they are accrued during the course of processing and reviewing each permit application.

Flat fees and the hourly rates used in the determination of costs associated with Village department staff time shall be established by resolution of the Village Board. Processing and review fee "escrow account" deposit amounts for each permit application required under this section shall be determined by the Village Planner/Zoning Administrator. In the event that the processing costs for a particular permit application are expected to (or have) exceeded a fee deposit prior to final disposition of a permit application, an additional escrow account fee deposit in an amount to be determined by the Village Planner/Zoning Administrator may be required prior to any further processing of said permit application at the discretion of the Village. Fee deposits, or portions thereof, that remain in a permit application escrow account after said permit application has been processed or withdrawn shall be returned to the applicant.

- (3) **IMPROVEMENT REVIEW FEE.** (Am. Ord. #43-05) The subdivider or developer shall pay a fee to the Village based upon the cost of the required development improvements as estimated by the Village Engineer at the time of submission of the improvement plans and specifications, for review of the plans and specifications. The fee shall be calculated as follows:
- 2.25% of the first \$250,000.00 of construction costs;
 - 1.75% of the next \$250,000.00 of construction costs; and
 - 1.25% of construction costs which exceed \$500,000.00.

If a Developer's Agreement is required for the project, the engineering Department shall charge a minimum fee of \$5,000.00 for review.

The fee may be recomputed, upon demand of the Village Engineer, the subdivider or the developer, after completion of improvement construction in accordance with the actual cost of such improvements and the difference, if any, shall be paid by or remitted to the subdivider or developer. Evidence of cost shall be in such detail and form as required by the Village Engineer.

- (4) **INSPECTION FEE.** The subdivider shall pay a fee equal to the actual cost to the Village for such inspection as the Village Engineer deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Village or any other governmental authority.
- (5) **FINAL SUBDIVISION PLAT PROCESSING AND REVIEW FEES.** (Am. Ord. #41-94; Am. Ord. #17-02; Am. Ord. #39-04; Am. Ord. #03-07) All property owners, developers, and other individuals or corporations (hereafter referred to collectively as "applicants") applying, petitioning, or appealing for the review, approval, or issuance of any final subdivision plat (hereafter referred to as a "permit application") pursuant to this chapter shall pay fees necessary to defray the total direct and indirect costs incurred by any and all Village department staff, elected officials and appointed commissions, legal counsel, consultants, and other representatives or professionals employed or otherwise retained by the Village to process, review, inspect, record, or take any other administrative or enforcement action pertaining to or resulting from the disposition of such permit application (hereafter referred to collectively as "processing costs").

The processing costs associated with each permit application may include, but are not limited to, the cost of time spent by Village department staff to meet with and otherwise communicate with applicants, review plans and process permits, prepare staff reports and recommendations, site and/or compliance

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

inspections, document recording and copying costs, public hearing notice publishing and posting costs, etc.

Because the processing costs associated with each permit application can vary, the Village will require each applicant to submit a flat fee and/or fee deposit in an amount deemed reasonable and necessary by the Village to cover the Village's processing costs for each permit application. Fees and fee deposits shall be submitted when a permit application is submitted to the Village. Fee deposits shall be made into a non interest-bearing "escrow account" from which the Village may make periodic withdrawals to defray processing costs as they are accrued during the course of processing and reviewing each permit application.

Flat fees and the hourly rates used in the determination of costs associated with Village department staff time shall be established by resolution of the Village Board. Processing and review fee "escrow account" deposit amounts for each permit application required under this section shall be determined by the Village Planner/Zoning Administrator. In the event that the processing costs for a particular permit application are expected to (or have) exceeded a fee deposit prior to final disposition of a permit application, an additional escrow account fee deposit in an amount to be determined by the Village Planner/Zoning Administrator may be required prior to any further processing of said permit application at the discretion of the Village. Fee deposits, or portions thereof, that remain in a permit application escrow account after said permit application has been processed or withdrawn shall be returned to the applicant.

- (6) **IMPACT FEES AND OTHER FEES.** (Rep. & Recr. Ord. #35-93; Readopted Ord. #4-94; Rep. & Recr. Ord. #43-95) The subdivider or developer shall pay all impact fees required by sections [3.14](#) and [17.07](#)(8)(b) of this Code in accordance with the provisions thereof.
- (7) **ENGINEERING FEE.** The subdivider or developer shall pay a fee equal to the actual cost to the Village for all engineering work incurred by the Village in connection with the land division, minor land division or planned development. In addition:
 - (a) Engineering work shall include the preparation of construction plans and standard specifications. The Village Engineer may permit the subdivider to furnish all, some or part of the required construction plans and specifications. The fee for engineering work shall be billed periodically and shall be payable within 10 days.
 - (b) Inspection fees provided for in subsection (4) above.
- (8) **LEGAL FEES.** The subdivider or developer shall pay a fee equal to the cost of any legal work which may be undertaken by the Village in connection with the land division, minor land division or planned development. Legal work shall include all conferences regarding the subdivision or development and the drafting of contracts and agreements between the Village and the subdivider. Legal fees shall be billed periodically and shall be payable within 10 days.
- (9) **RESERVED.** (Rep. Res. R31-05)
- (10) **FEE IN LIEU OF SANITARY SEWER ASSESSMENT.** The subdivider of a parcel, created pursuant to this chapter, which is adjacent to Division Road between Mequon Road and Donges Bay Road, Donges Bay Road between Division Road and Fond du Lac Avenue or Fond du Lac Avenue between Donges Bay Road and County Line Road for which, after March 31, 1988, a permit is granted to make a sanitary sewer service lateral connection to the interceptor sanitary sewer constructed and installed within said roadways, shall pay to the sewer utility of the Village a fee in lieu of sanitary sewer assessment equal to the then average cost per foot for the installation of 8-inch sanitary sewer (using normal construction methods and costs) as determined by the Director of Public Works, multiplied by the number of feet of frontage which the parcel has on such roadway less the frontage, if any, which was assessed pursuant to Resolution #14-88.
- (11) **MINOR SUBDIVISION FEES.**

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

- (a) *Minor Subdivision (Certified Survey Map) Processing and Review Fees.* (Am. Ord. #12-96; Am. Ord. #17-02; Am. Ord. #39-04; Am. Ord. #03-07) All property owners, developers, and other individuals or corporations (hereafter referred to collectively as "applicants") applying, petitioning, or appealing for the review, approval, or issuance of any minor subdivision or certified survey map land divisions (hereafter referred to as a "permit application") pursuant to this chapter shall pay fees necessary to defray the total direct and indirect costs incurred by any and all Village department staff, elected officials and appointed commissions, legal counsel, consultants, and other representatives or professionals employed or otherwise retained by the Village to process, review, inspect, record, or take any other administrative or enforcement action pertaining to or resulting from the disposition of such permit application (hereafter referred to collectively as "processing costs").

The processing costs associated with each permit application may include, but are not limited to, the cost of time spent by Village department staff to meet with and otherwise communicate with applicants, review plans and process permits, prepare staff reports and recommendations, site and/or compliance inspections, document recording and copying costs, public hearing notice publishing and posting costs, etc.

Because the processing costs associated with each permit application can vary, the Village will require each applicant to submit a flat fee and/or fee deposit in an amount deemed reasonable and necessary by the Village to cover the Village's processing costs for each permit application. Fees and fee deposits shall be submitted when a permit application is submitted to the Village. Fee deposits shall be made into a non interest-bearing "escrow account" from which the Village may make periodic withdrawals to defray processing costs as they are accrued during the course of processing and reviewing each permit application.

Flat fees and the hourly rates used in the determination of costs associated with Village department staff time shall be established by resolution of the Village Board. Processing and review fee "escrow account" deposit amounts for each permit application required under this section shall be determined by the Village Planner/Zoning Administrator. In the event that the processing costs for a particular permit application are expected to (or have) exceeded a fee deposit prior to final disposition of a permit application, an additional escrow account fee deposit in an amount to be determined by the Village Planner/Zoning Administrator may be required prior to any further processing of said permit application at the discretion of the Village. Fee deposits, or portions thereof, that remain in a permit application escrow account after said permit application has been processed or withdrawn shall be returned to the applicant.

- (b) *Other Fees.* Prior to Village Board approval, the subdivider shall pay recording costs and any applicable fees as provided in subsections (6), (7), (8), (9) and (10) above.

(12) PLANNED DEVELOPMENT FEES.

- (a) *Planned Development Processing and Review Fees.* (Am. Ord. #03-07) All property owners, developers, and other individuals or corporations (hereafter referred to collectively as "applicants") applying, petitioning, or appealing for the review, approval, or issuance of any planned development (hereafter referred to as a "permit application") pursuant to this chapter shall pay fees necessary to defray the total direct and indirect costs incurred by any and all Village department staff, elected officials and appointed commissions, legal counsel, consultants, and other representatives or professionals employed or otherwise retained by the Village to process, review, inspect, record, or take any other administrative or enforcement action pertaining to or resulting from the disposition of such permit application (hereafter referred to collectively as "processing costs").

The processing costs associated with each permit application may include, but are not limited to, the cost of time spent by Village department staff to meet with and otherwise communicate with applicants, review plans and process permits, prepare staff reports and recommendations, site

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

and/or compliance inspections, document recording and copying costs, public hearing notice publishing and posting costs, etc.

Because the processing costs associated with each permit application can vary, the Village will require each applicant to submit a flat fee and/or fee deposit in an amount deemed reasonable and necessary by the Village to cover the Village's processing costs for each permit application. Fees and fee deposits shall be submitted when a permit application is submitted to the Village. Fee deposits shall be made into a non interest-bearing "escrow account" from which the Village may make periodic withdrawals to defray processing costs as they are accrued during the course of processing and reviewing each permit application.

Flat fees and the hourly rates used in the determination of costs associated with Village department staff time shall be established by resolution of the Village Board. Processing and review fee "escrow account" deposit amounts for each permit application required under this section shall be determined by the Village Planner/Zoning Administrator. In the event that the processing costs for a particular permit application are expected to (or have) exceeded a fee deposit prior to final disposition of a permit application, an additional escrow account fee deposit in an amount to be determined by the Village Planner/Zoning Administrator may be required prior to any further processing of said permit application at the discretion of the Village. Fee deposits, or portions thereof, that remain in a permit application escrow account after said permit application has been processed or withdrawn shall be returned to the applicant.

- (b) *Other Fees.* Prior to the issuance of any building permit, as provided in [section 17.27\(7\)](#) of this Code, the developer shall pay any applicable fees as provided in subsections (3), (4), (6), (7), (8), (9) and (10) above.
- (13) **DATA CONVERSION FEE.** (Cr. Ord. #43-05) The subdivider or developer shall pay to the Village a fee equal to the charge rates then in effect for the time and materials expended by Engineering Department personnel and the time and material costs incurred by the Village for consulting engineering services, in connection with the collection and conversion of record data for maintenance of the Geographic Information System (GIS). The maintenance efforts shall include the updating of parcels, utilities, property assessment records, zoning, plow routes, mowing areas, street lighting, street signs and such other information and data to be added to the GIS as shall be determined by the Village from time to time.

18.105 DEVELOPMENT AGREEMENT REQUIRED. (Cr. Ord. #4-01)

- (1) The public and private improvements which the Village shall require be constructed and/or installed by a developer of real property for streets and thoroughfares, utility services, public places, the latter including curbs, gutters, walks, sewers, water supply lines, drainage and stormwater management facilities, recreational facilities, open spaces, landscaped areas, and the required engineering requirements, site requirements, or design criteria for their construction and installation, as well as any permit, review and inspection fees, and special assessments and impact fees, any required performance guarantees, as well as any other requirements which shall be imposed upon and pursuant to the approval of a plat of subdivision or land division or planned development, shall be memorialized in a Development Agreement between the Village and the developer.
- (2) The Development Agreement shall be prepared on behalf of the Village through the cooperation of the Director of Public Works, the Village Engineer, the Planner and the Village Attorney and shall be submitted for approval by the Village Board.
- (3) The Development Agreement shall be approved by the Village Board and fully executed by the parties prior to commencement of construction or installation of such improvements.

CHAPTER 18 SUBDIVISION AND PLATTING

18.11 DEFINITIONS. (Renum. 2/02 jaw)

For the purposes of this chapter, the following definitions shall be used:

- (1) **ALLEY.** A special public way affording only secondary and service access to abutting properties.
- (2) **ARTERIAL STREET.** A street used, or intended to be used, primarily for fast or heavy interneighborhood or intercommunity through traffic. Arterial street shall include freeways and expressways as well as standard arterial streets, highways and parkways.
- (3) **BLOCK.** A tract of land bounded by streets or a combination of streets, public parks, cemeteries, railroad rights-of-way, shorelines of navigable waters and municipal boundaries.
- (4) **BUILDING LINE.** Lines generally parallel to a lot line and at a distance from the lot line as specified in the Zoning Code and which delineates the buildable area of the lot or parcel.
- (5) **COLLECTOR STREET.** An urban street used, or intended to be used, to carry traffic from minor streets to arterial street systems including the principal entrance streets to urban residential subdivisions.
- (6) **COMMUNITY.** A town, incorporated municipality or a group of adjacent towns and/or incorporated municipalities having common social, economic or physical interests or characteristics.
- (7) **COMPREHENSIVE PLAN.** An extensively developed plan, also called a master plan, adopted by the Plan Commission and certified to the Village Board pursuant to §62.23, Wis. Stats., including proposals for future land use, transportation, urban redevelopment, utilities and public facilities. Devices for the implementation of these plans such as detail neighborhood development plans; zoning, official map, land division and building line ordinances; and capital improvement programs may also be considered a part of the comprehensive plan.
- (8) **COUNTY LAND USE DEPARTMENT.** The agency of County government in Washington County having subdivision plat review and approval coordination authority.
- (9) **CUL-DE-SAC.** A local street with only one outlet and having an appropriate turnaround for the safe and convenient reversal of traffic movement.
- (10) **DEVELOPER.** Any person developing or proposing to develop land requiring site plan approval under [section 17.43](#) of this Code.
- (11) **DEVELOPMENT.** A planned development or any development requiring site plan approval under [section 17.43](#) of this Code.
- (12) **DEVELOPMENT, URBAN.** Residential, commercial, industrial, governmental and institutional development in sufficient concentrations or densities to require a variety and high level of traditional urban services and facilities including, but not limited to, full or part time municipal police and fire protection and community administration; closely spaced public streets and highways; neighborhood parks and playgrounds; neighborhood schools; local libraries; public sanitary sewer facilities, public water supply facilities and public solid waste removal; storm sewers; mass transit facilities; continual street maintenance; curbs, gutters and sidewalks; street lighting; and neighborhood convenience shopping. Such development may be expected to alter or require the altering of land and land cover and have detrimental impact on the ground and surface waters. Historically, in southeastern Wisconsin, when residential development is concentrated in densities in excess of 0.2 dwelling units per gross acre (or one dwelling unit per 5 acres), the demand of and, in some cases, the requirement for the provision of such urban services and facilities by the local unit of government is initiated by residents of such development.
- (13) **DEVELOPMENT, RURAL.** Agricultural, residential, recreational and other open space development at such concentrations and densities not requiring traditional urban services and facilities. Historically, in southeastern Wisconsin, when residential development densities are less than 0.2 dwelling units per gross acre (or one dwelling unit per 5 acres), such traditional urban services are not required and the residents of such rural development do not demand such services. In addition, rural development

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

may be expected to result in minimum disturbance of the land and the land cover and, therefore, less impact in the natural environment.

- (14) **DEVELOPMENT AGREEMENT.** An agreement entered into by and between the Village and a developer of real property, which defines and describes those public and private improvements, reservations, dedications and impact exactions, standards for which are or may be governed under the applicable engineering requirements, site requirements, or design criteria of the Zoning Code or the Subdivision and Platting Ordinance, and upon which plat, certified survey map or planned development approval is conditioned.
- (15) **EXTRA-TERRITORIAL PLAT APPROVAL JURISDICTION.** The unincorporated area within 1½ miles of a fourth class city or a Village and within 3 miles of all other cities which have an established subdivision control ordinance pursuant to §62.23, Wis. Stats.
- (16) **FACE OF CURB.** The vertical portion of the curb facing the pavement on a nonmountable curb. On mountable curbs, the curb face is computed to be a point 7 inches from the outside edge of the curb.
- (17) **FLOODPLAIN.** Those lands subject to inundation by the 100-year recurrence interval flood as set forth in [section 23.06](#) of this Code.
- (18) **FRONTAGE STREET.** A minor street auxiliary to and located adjacent to an arterial street and used to control access to the arterial street and to provide access and service to the abutting properties.
- (19) **HIGH WATER ELEVATION (SURFACE WATER).** The average annual high water level of a pond, stream, lake, flowage or wetland referred to an established datum plan or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinct mark by erosion, change in or destruction of, vegetation or other easily recognized topographic, geologic or vegetative characteristic.
- (20) **HIGH GROUND WATER ELEVATION.** The highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year, or by soil mottling during drier periods. "Mottling" is a mixture of variation of soil colors. In soils with restricted internal drainage, gray, yellow, red and brown colors are intermingled giving a multicolored effect.
- (21) **LOT.** A parcel of land of at least sufficient size to meet minimum zoning requirements for use, width and area as set forth in the Zoning Code.
- (22) **LOT, CORNER.** A lot abutting 2 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.
- (23) **LOT, DOUBLE FRONTAGE.** A lot, other than a corner lot, with frontage on more than one street. Double frontage lots shall normally be deemed to have 2 front yards and 2 side yards and no rear yard. Double frontage lots shall not generally be permitted unless the lot abuts an arterial highway or other transportation or utility facility to which limited or no access from abutting properties is allowed. Double frontage lots abutting arterial highways should restrict direct access to the arterial highway by means of a planting buffer or some other acceptable access buffering measure.
- (24) **MINOR STREET.** A street used, or intended to be used, primarily for access to abutting properties.
- (25) **MINOR LAND DIVISION.** (Am. Ord. #10-98) Any division of land not defined as a subdivision. Minor land divisions include the division of land by the owner or subdivider resulting in the creation of 2, but not more than 4 parcels or building sites, any one of which is less than 20 acres in size; or the division of a block, lot or outlot within a recorded subdivision plat into not more than 4 parcels or building sites without changing the exterior boundaries of said block, lot or outlot. Such minor land divisions shall be made by a certified survey map.
- (26) **MUNICIPALITY.** An incorporated village or city.
- (27) **NATIONAL MAP ACCURACY STANDARDS.** Standards governing the horizontal and vertical accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all Federal agencies having surveying and mapping functions and responsibilities. These

- SUPPLEMENT HISTORY TABLE

CHAPTER 18 SUBDIVISION AND PLATTING

standards having been fully reproduced in Appendix D of SEWRPC Technical Report No. 7, Horizontal and Vertical Survey Control in Southeastern Wisconsin.

- (28) **NAVIGABLE STREAM.** Any stream capable of floating any boat, skiff or canoe of the shallowest draft used for recreational purposes.
- (29) **OUTLOT.** A parcel of land, other than a lot or block, so designated on the plat, but generally not of standard lot size, which can be either redivided into lots or combined with one or more other adjacent outlots or lots in adjacent subdivisions or minor subdivisions in the future for the purpose of creating buildable lots.
- (30) **PLANNED DEVELOPMENT.** A development in a planned development district, pursuant to [section 17.27](#) of this Code.
- (31) **PRELIMINARY PLAT.** A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.
- (31a) **PRIVATE STREETS.** (Cr. Ord. #04-08) See [section 18.07](#)(1)(d) for definition.
- (32) **PUBLIC WAY.** Any public road, street, highway, walkway, drainageway or part thereof.
- (33) **REPLAT.** The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat, certified survey map or part thereof. The divisions of a large block, lot or outlot within a recorded subdivision plat or certified survey map without changing the exterior boundaries of said block, lot or outlot is not a replat.
- (34) **SOIL MAPPING UNIT.** Soil type, slope and erosion factor boundaries as shown on the operational soil survey maps prepared by the U.S. Soil Conservation Service.
- (35) **STORMWATER TREE**
A tree or trees selected and installed (either with or without an engineered box or structure) as an integral component of a site-specific stormwater management plan, sited at a point or location where the tree(s) will have the effect of increasing the coverage of tree canopies to provide stormwater interception and evapotranspiration, stormwater uptake, and increased infiltration.
- (35) **SUBDIVIDER.** Any person, firm or corporation or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision or replat.
- (36) **SUBDIVISION.** The division of a lot, outlot, parcel or tract of land by the owners thereof, or their agents, for the purpose of transfer of ownership or building development where the act of division creates 5 or more parcels or building sites; or where the act of division creates 5 or more parcels or building sites by successive division within a period of 5 years.
- (37) **SURETY BOND.** A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider, owner or developer.
- (38) **VEGETATED STORMWATER MANAGEMENT MEASURES.** Vegetated swales, bioretention areas, rain gardens, amended soil areas, pocket wetlands, stormwater trees, or similar practices {as defined in Chapter 17} that are designed and intended to provide stormwater treatment and control by promoting evapotranspiration and infiltration of stormwater.
- (38) **WETLANDS.** Those lands which are partially or wholly covered by marsh land flora and generally covered with shallow standing water or lands which are wet and spongy due to a high water table.
- (39) **WISCONSIN ADMINISTRATIVE CODE (WIS. ADM. CODE).** The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose leaf, continual revision system as directed by §35.93 and Ch. 227, Wis. Stats., including subsequent amendments to those rules.

CHAPTER 18 SUBDIVISION AND PLATTING

18.12 VIOLATIONS.

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

18.13 PENALTIES. (Am. Ord. #43-98)

Any person, firm or corporation who violates or fails to comply with the provisions of this chapter shall, upon conviction thereof, be subject to a penalty as provided in [section 25.04](#) of this Code. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties shall include the following:

- (1) Recordation improperly made carries penalties as provided in §236.30, Wis. Stats.
- (2) Conveyance of lots in unrecorded plats carries penalties as provided for in §236.31, Wis. Stats.
- (3) Monuments disturbed or not placed carry penalties as provided for in §236.32, Wis. Stats.

In addition, an assessor's plat made under §70.27, Wis. Stats., may be ordered by the Village at the expense of the subdivider when a subdivision, as defined herein, is created by successive divisions.

FOOTNOTE(S):

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State Law reference— Platting of land, Wis. Stats. ch. 236; local subdivision regulations, Wis. Stats. § 236.45. ([Back](#))