

# **TITLE 13**

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## **ZONING**

**CHAPTER 1      ZONING CODE    (JULY 2003)**

**CHAPTER 2      FLOODPLAIN ZONING    (FEB 2008)**

# Chapter 1

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## Zoning Code

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## **ARTICLE A: INTRODUCTION.**

### **SEC. 13-1-1 AUTHORITY.**

This Chapter is adopted under the authority granted by Sections 61.35, 62.23(7) and 87.30 of the Wisconsin Statutes and amendments thereto.

State Law Reference: Sections 61.35 and 62.23(7), Wis. Stats.

### **SEC. 13-1-2 TITLE.**

This Chapter shall be known as, referred to and cited as the "Zoning Code, Village of Fredonia, Wisconsin" and is hereinafter referred to as the "Code" or "Chapter."

### **SEC. 13-1-3 GENERAL PURPOSE.**

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

### **SEC. 13-1-4 INTENT AND PURPOSE.**

The general intent and purpose of this Chapter is to regulate and restrict the use of all structures, lands and waters and to:

- (a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people.
- (b) Divide the Village into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (c) Protect the character and the stability of the residential, business, manufacturing and other districts within the Village and to promote the orderly and beneficial development thereof;
- (d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
- (e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements; specifically, regulate types of housing units to provide seventy-five percent (75%) single-family, fifteen percent (15%) two-family and ten percent (10%) multi-family;
- (f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
- (h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the Village;
- (i) Preserve and protect the beauty of the Village of Fredonia;
- (j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;

- (k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- (l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- (m) Further the maintenance of safe and healthful water conditions;
- (n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (o) Provide for and protect a variety of suitable commercial and industrial sites;
- (p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Village of Fredonia;
- (r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

## **SEC. 13-1-5 ABROGATION AND GREATER RESTRICTIONS.**

It is not intended by the Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern. The provisions of the C-1 Conservancy District shall supersede all provisions of any other municipal zoning district except where another municipal zoning district is more restrictive, in accordance with Sec. 61.351(4) (b), Wis. Stats.

## **SEC. 13-1-6 INTERPRETATION.**

- (a) In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be construed to be a limitation or repeal of any other power now possessed by the Village of Fredonia.
- (b) Where the conditions imposed by any provision of this Chapter upon the use of land or buildings or upon the dimensions of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Chapter or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.
- (c) No building, structure or use which was not lawfully existing at the time of the adoption of this Chapter shall become or be made lawful solely by reason of the adoption of this Chapter; and to the extent that, and in any manner that, said unlawful building, structure or use is in conflict with the requirements of this Chapter, said building structure or use remains unlawful hereunder.

## **SEC. 13-1-7 SEVERABILITY AND NON-LIABILITY.**

- (a) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court or competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

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

#### **SEC. 13-1-8 REPEAL AND EFFECTIVE DATE.**

All other ordinances or parts of ordinances of the Village inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

#### **SEC. 13-1-9 THROUGH SEC. 13-1-19 RESERVED FOR FUTURE USE.**



## **ARTICLE B: GENERAL PROVISIONS.**

### **SEC. 13-1-20 JURISDICTION AND GENERAL PROVISIONS.**

**(a) Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the Village of Fredonia.

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

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

**(d) Number of Residential Buildings on a Zoning Lot.** Except in the case of planned residential developments, not more than one (1) principal detached residential building shall be located on a zoning lot nor shall a principal detached residential building be located on the same zoning lot with any other principal building.

**(e) Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.

**(f) Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance and obtain all required permits, state agencies are required to comply if Sec. 13.48(13), Wis. Stats, applies. The construction, reconstruction, maintenance and repair of state highways, and bridges by the Wisconsin Department of Transportation are exempt from compliance when Sec. 30.12(4)(a), Wis. Stats. applies.

### **SEC. 13-1-21 USE REGULATIONS.**

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

**(a) Permitted Uses.** Permitted uses, being the principal uses, specified for a district.

**(b) Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.

**(c) Conditional Uses.**

(1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Plan Commission, in accordance with Article D of this Chapter excepting those existent at time of adoption of the Zoning Code.

(2) Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption of this Code

require no action by the Village Board for them to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.

(3) A proposed change from permitted use in a district to a conditional use shall require review, public hearing and approval by the Plan Commission in accordance with Article D of this Chapter.

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

(5) Conditional uses authorized by the Plan Commission may, at their discretion, be limited in time under Article D of this Chapter.

(6) A conditional use permit shall be deemed to authorize only one (1) particular conditional use and the permit shall be declared null and void if the conditional use shall cease for more than six (6) months for any reason.

**(d) Uses Not Specified in Code.**

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

(2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Plan Commission after public hearing and approval in accordance with Article D of this Chapter.

**(e) Temporary Uses.** Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Village Board after review, public hearing, and approval in accordance with Article D of this Chapter.

## **SEC. 13-1-22 SITE REGULATIONS.**

**(a) Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Village Board, upon the recommendation of the Plan Commission, by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Plan Commission, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires, thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability when making its recommendation to the Village Board.

**(b) Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the approval of the Plan Commission and prior written notification of the abutting property owner, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall

be protected against erosion. Retaining walls are permitted under Section 13-1-160(g).

**(c) Decks.** For purposes of this Chapter, decks and porches shall be considered a part of a building or structure.

**(d) Frontage.** All lots shall abut upon a public street, and each lot shall have a minimum frontage of forty (40) feet, measured at the right-of-way.

**(e) Principal Structures.** All principal structures shall be located on a lot. In single-family and two-family residential districts only one principal structure shall be located, erected, or moved onto a lot. The Village Board may permit more than one structure per lot in other districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Village Board may impose additional yard requirements, landscaping requirements and parking requirements, or require a minimum separation distance between principal structures.

**(f) Public Street Dedication.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width if the lot is located on the side of the street from which the required dedication has not been secured.

## **SEC. 13-1-23 REDUCTION OR JOINT USE.**

No lot, yard, parking area, building area or other space shall be reduced in area or dimensions so as not to meet the provisions of this Chapter.

## **SEC. 13-1-24 THROUGH SEC. 13-1-29 RESERVED FOR FUTURE USE.**

## **ARTICLE C: ZONING DISTRICTS.**

### **SEC. 13-1-30 ESTABLISHMENT OF ZONING DISTRICTS.**

(a) For the purpose of this Chapter, the Village of Fredonia is hereby divided into the following fifteen (15) zoning districts:

- (1) A-1 General Agricultural/Holding District
- (2) RS-1 Single-Family Residence District
- (3) RS-2 Single-Family Residence District
- (4) RS-3 Single-Family Residence District
- (5) RS-4 Large Lot Single-Family Residential District
- (6) RS-5 Estate Single-Family Residence District
- (7) RD-1 Two-Family Residence District
- (8) RD-2 Two-Family Residence District
- (9) RD-3 Single-Family Attached Residence District
- (10) RM-1 Multiple-Family Residence District
- (11) RM-2 Multiple-Family Residence District
- (12) B-1 Central Business District
- (13) B-2 Community Business District
- (14) B-3 Commercial Business Design District
- (15) M-1 Limited Manufacturing District
- (16) M-2 General Manufacturing District
- (17) M-3 Corporate Business and Light Manufacturing District
- (18) I-1 Institutional District
- (19) P-1 Park District
- (20) C-1 Conservancy

### **SEC. 13-1-31 DISTRICT BOUNDARIES.**

(a) Boundaries of the C-1 Conservancy District were determined from use of the Wisconsin Wetland Inventory Map for the Village of Fredonia dated February 17, 1986, and stamped "FINAL," and include, but are not limited to, all shoreland wetlands, five (5) acres or greater in area, shown on those maps. Section 61.351 of the Wisconsin Statutes requires that all shoreland wetlands, five (5) acres or greater in area, be protected by the Village.

(b) 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.

(c) Annexations to or consolidations with the Village subsequent to the effective date of this Chapter shall be placed in the A-1 General Agricultural/Holding District, unless the annexation ordinance temporarily places the land in another district. Within one year, the Village Plan Commission shall evaluate and recommend a permanent classification to the Village Board. Annexations containing shorelands shall comply with Sec. 59.692(7) of the Wisconsin Statutes. Any annexation of land after May 7, 1982, which lies within shorelands, as defined herein shall be governed by provisions of the Ozaukee County Shoreland-Wetland Zoning Ordinance until such time the Village adopts an ordinance at least as restrictive as the County Zoning Ordinance. Said regulations shall be administered by the Village.

## **SEC. 13-1-32 ZONING MAP.**

Certified copies of the Zoning Map and the Supplementary Floodland Zoning Map shall be adopted and approved with the text as part of the Chapter and shall be available to the public in the office of the Village Clerk-Treasurer.

## **SEC. 13-1-33 A-1 GENERAL AGRICULTURAL/HOLDING DISTRICT.**

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

**(b) Permitted Uses.**

(1) General farming, including agricultural, dairying, floriculture, forestry, grazing, hay, orchards, truck farming, and viticulture (grape growing), provided, however, that farm buildings housing animals, barnyards, and feed lots shall not be located in a floodland and shall be at least one hundred (100) feet from any navigable water or district boundary.

(2) Keeping and raising of domestic stock for agribusiness, show, breeding, or other purposes incidental to the principal use of the premises and subject to the following limitation:

a. The keeping and raising of hogs or fur-bearing animals is prohibited.

b. Not more than one (1) head of livestock or twenty (20) head of poultry shall be permitted for each two and one-half (2-1/2) acres.

(3) One single-family dwelling per operational farm.

(4) Existing dwellings not accessory to any farm operation or dwelling remaining after consolidation of farms.

(5) Single-family dwelling on a substandard lot as provided in Article E.

**(c) Permitted Accessory Uses.**

(1) Customary accessory buildings, including not more than one (1) roadside stand for the sale of farm products produced on the premises. Any such stand shall conform to the setback, sign and other provisions of this Ordinance.

(2) Attached or detached private garages and carports accessory to permitted uses, providing that such accessory uses shall not involve the conduct of a business. (See building code for specific limitations.)

(3) Household occupations and professional home offices.

**(d) Conditional Uses.** See Article D.

**(e) Table of Detailed A-1 Standards.**

Type of Standard	Standard
<b>Minimum Lot Area</b>	
Farm Structures (1)	5 acres (217,800 square feet)
Other (2)	40,000 square feet
<b>Minimum Lot Width</b>	
Farm Structures	300 feet
Other	120 feet
Minimum Lot Depth	125 feet
<b>Minimum Wetland Setback</b>	30 feet
<b>Minimum Shoreyard Setback</b>	75 feet
<b>Minimum Setbacks and Yards</b>	
Street Yard	50 feet
Side Yard	25 feet
Rear Yard	50 feet
<b>Maximum Building Height</b>	
Dwelling (3)	35 feet
Accessory Structure	30 feet (4)
<b>Minimum Dwelling Size</b>	2,500 square feet

1 For any farm structures erected, moved, or structurally altered.

2 For any accessory farm dwelling, existing residential structures, and farm dwellings remaining after the consolidation of existing farms.

3 For any new farm dwelling or accessory farm dwelling constructed after the effective date of this ordinance.

4 Except as allowed for agricultural structure exceptions under Section 13-1-80.

## **SEC. 13-1-34 RS-1 SINGLE-FAMILY RESIDENCE DISTRICT.**

**(a) Purpose.** The RS-1 Residence District is intended to provide for single-family residential development at densities not to exceed the density specified by this section, served by municipal sewer and water facilities.

**(b) Permitted Buildings, Structures and Uses.**

(1) Single-family dwellings. On all lots platted after the effective date of this ordinance, an attached garage for two (2) but not more than three (3) vehicles is required.

(2) Foster family home.

(3) Community-living arrangements which have capacity for eight (8) or fewer persons being served by the program.

(4) Essential services, provided all above ground facilities are not located in any street yard.

**(c) Permitted Accessory Buildings, Structures and Uses.**

(1) Detached garage if an existing garage is attached to the principal structure. (See building code for specific limitations.)

(2) Gardening, tool and storage sheds, gazebos and decks incidental to the residential use.

(3) Household occupations and professional home offices.

**(d) Conditional Uses.**

(1) Attached garages in excess of those allowed as permitted uses.

(2) See Article D.

**(e) Table of Detailed RS-1 District Standards.**

<b>Type of Standard</b>	<b>Standard</b>
<b>Unified Development Density</b>	
Gross Density	1.786
Net Density	2.232
<b>Individual lot Intensity</b>	
Maximum Lot Coverage	30%
Maximum Floor Area	35%
<b>Minimum Single-Family Lot Area</b>	16,000 sq. feet (17,000 sq. ft. corner lot)
<b>Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	90 feet (100 feet corner lot)
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	25 feet
Minimum Side Yard Setback	15 feet *
Minimum Rear Yard Setback	25 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size</b>	
<i>One Story</i>	1,500 square feet
<i>One and One Half Story</i>	
First Floor	1,000 square feet
Total Dwelling	1,500 square feet
<i>Two Story Dwelling</i>	
First Floor	875 square feet
Total Dwelling	1,500 square feet
<i>Bi-Level and Tri-Level</i>	
At least one level	600 square feet
Total finished at two offset levels	1,500 square feet
<i>Raised Ranch</i>	
Main floor finished area	1,500 square feet
<b>Maximum Building Height</b>	
Principal Structure	35 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

*\* Minimum Side Yard Setback*

*Except for additions to or replacement of existing dwellings, then the side yard setback can be equal to or greater than the setback of the existing home, but not less than three feet, with the approval of the Architectural Control Board.*

## **SEC. 13-1-35 RS-2 SINGLE-FAMILY RESIDENCE DISTRICT.**

**(a) Purpose.** The RS-2 Residence District is intended to provide for single-family residential development, at densities not to exceed the density specified by this section, served by municipal sewer and water facilities.

**(b) Permitted Buildings, Structures and Uses.**

**(1)** Single-family dwellings. On all lots platted after the effective date of this ordinance, an attached garage for two (2) but not more than three (3) vehicles is required.

**(2)** Foster family home.

**(3)** Community-living arrangements which have capacity for eight (8) or fewer persons being served by the program.

(4) Essential services, provided all above ground facilities are not located in any street yard.

**(c) Permitted Accessory Buildings, Structures and Uses.**

(1) Detached garage if an existing two car garage is attached to the principal structure. (See building code for specific limitations.)

(2) Gardening, tool and storage sheds, gazebos and decks incidental to the residential use.

(3) Household occupations and professional home offices.

**(d) Conditional Uses.**

(1) Attached garages in excess of those allowed as permitted uses.

(2) See Article D.

**(e) Table of Detailed RS-2 District Standards.**

Type of Standard	Standard
<b>Unified Subdivision Density</b>	
Gross Density	2.485
Net Density	3.106
<b>Individual Lot Intensity</b>	
Maximum Lot Coverage	30%
Maximum Floor Area Ratio	40%
<b>Minimum Single-Family Lot Area</b>	11,500 square feet (12,500 square feet corner lot)
<b>Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	85 feet (95 feet corner lot)
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	25 feet
Minimum Side Yard Setback	12 feet *
Minimum Rear Yard Setback	25 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size</b>	
<i>One Story</i>	1,350 square feet
<i>One and one Half Story</i>	
First Floor	1,000 square feet
Total Dwelling	1,350 square feet
<i>Two Story Dwelling</i>	
First Floor	875 square feet
Total Dwelling	1,350 square feet
<i>Bi-Level and Tri-Level</i>	
At least one level	600 square feet
Total Finished at two offset levels	1,350 square feet
<i>Raised Ranch</i>	
Main floor finished area	1,350 square feet
<b>Maximum Building Height</b>	
Principal Structure	35 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

\* Minimum Side Yard Setback

Except for additions to or replacement of existing dwellings, then the side yard setback can be equal to or greater than the setback of the existing home, but not less than three feet, with the approval of the Architectural Control Board.



## **SEC. 13-1-36 RS-3 SINGLE-FAMILY RESIDENCE DISTRICT.**

**(a) Purpose.** The RS-3 Residence District is intended to provide for single-family residential development, at densities not to exceed the density specified by this section, served by municipal sewer and water facilities. It is not intended that the Village will create any additional RS-3 Districts.

**(b) Permitted Buildings, Structures and Uses.**

(1) Single-family dwellings. On all lots platted after the effective date of this ordinance, an attached garage for two (2) but not more than (3) three vehicles is required.

(2) Foster family home.

(3) Community-living arrangement which have capacity for eight (8) or fewer persons served by the program.

(4) Essential services, provided all above ground facilities are not located in any street yard.

**(c) Permitted Accessory Buildings, Structures and Uses.**

(1) Detached garage if an existing two car garage is attached to the principal structure. (See building code for specific limitations.)

(2) Gardening, tool and storage sheds, gazebos and decks incidental to the residential use.

(3) Household occupations and professional home offices.

**(d) Conditional Uses.**

(1) Two-family dwellings. On all lots platted after the effective date of this ordinance, attached garages for two (2) vehicles per dwelling unit shall be provided.

(2) Attached garages in excess of those allowed as permitted uses.

(3) See Article D.

(4) Rebuild Approval Permit: After application and approval under Sec. 13-1-160(b)(4), a detached, rebuilt accessory structure of up to 720 square feet may occupy more than 20 percent of the rear yard area. For corner lots, the detached accessory structure may intrude into the side yard setback, to the same extent that the existing home intrudes on the side yard setback.

(e) Table of Detailed RS-3 District Standards.

Type of Standard	Standard
<b>Unified Subdivision Density</b>	
Gross Density	3.512
Net Density	4.464
<b>Individual Lot Intensity</b>	
Maximum Lot Coverage	35%
Maximum Floor Area Ratio	45%
<b>Minimum Single-Family Lot Area</b>	8,000 square feet (9,000 square feet corner lot)
<b>Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	80 feet (90 feet corner lot)
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	25 feet
Minimum Side Yard Setback	8 feet *
Minimum Rear Yard Setback	25 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size</b>	
One Story	1,080 square feet
One and one Half Story	
First Floor	875 square feet
Total Dwelling	1,080 square feet
Two Story Dwelling	
First Floor	875 square feet
Total Dwelling	1,080 square feet
Bi-Level and Tri-Level	
At least one level	600 square feet
Total Finished at two offset levels	1,080 square feet
Raised Ranch	
Main floor finished area	1,080 square feet
<b>Maximum Building Height</b>	
Principal Structure	35 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

\* Minimum Side Yard Setback

Except for additions to or replacement of existing dwellings, then the side yard setback can be equal to or greater than the setback of the existing home, but not less than three feet, with the approval of the Architectural Control Board.

## SEC. 13-1-37 RS-4 LARGE LOT SINGLE-FAMILY RESIDENCE DISTRICT.

(a) **Purpose.** The RS-4 Large Lot Single-Family Residence District is intended to provide for single-family residential development at densities not to exceed the density specified by this chapter, served by municipal sewer and water facilities.

(b) **Permitted Buildings, Structures and Uses.**

(1) Single-family dwellings. On all lots platted after the effective date of this ordinance, an attached garage for two (2) but not more than three (3) vehicles is required.

(2) Foster family home.

(3) Community-living arrangements which have capacity for eight (8) or fewer persons being served by the program.

(4) Essential services, provided all above ground facilities are not located in any street yard.

**(c) Permitted Accessory Buildings, Structures and Uses.**

(1) Detached garage if an existing two car garage is attached to the principal structure. (See building code for specific limitations.)

(2) Gardening, tool and storage sheds, gazebos and decks incidental to the residential use.

(3) Household occupations and professional home offices.

**(d) Conditional Uses.**

(1) Attached garages in excess of those allowed as permitted uses.

(2) See Article D.

**(e) Table of Detailed RS-4 District Standards.**

<b>Type of Standard</b>	<b>Standard</b>
<b>Unified Subdivision Density</b>	
Gross Density	1.429
Net Density	1.786
<b>Individual Lot Intensity</b>	
Maximum Lot Coverage	25%
Maximum Floor Area Ratio	30%
<b>Minimum Single-Family Lot Area</b>	20,000 square feet (21,500 square feet corner lot)
<b>Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	100 feet (120 feet corner lot)
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	35 feet
Minimum Side Yard Setback	15 feet
Minimum Rear Yard Setback	35 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size</b>	
<i>One Story</i>	2,000 square feet
<i>One and one Half Story</i>	
First Floor	1,200 square feet
Total Dwelling	2,000 square feet
<i>Two Story Dwelling</i>	
First Floor	1,200 square feet
Total Dwelling	2,000 square feet
<i>Bi-Level and Tri-Level</i>	
At least one level	1,000 square feet
Total finished at two offset levels	2,000 square feet
<i>Raised ranch</i>	
Main floor finished area	Not Permitted
<b>Maximum Building Height</b>	
Principal Structure	35 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

## **SEC. 13-1-38 RS-5 ESTATE SINGLE-FAMILY RESIDENCE DISTRICT.**

**(a) Purpose.** The RS-5 Estate Single-Family Residence District is intended to provide for single-family residential development at densities not to exceed the density specified by this section, served by municipal sewer and water facilities.

**(b) Permitted Buildings, Structures and Uses.**

(1) Single-family dwellings. On all lots platted after the effective date of this ordinance, an attached garage for two (2) but not more than (3) three vehicles is required.

(2) Foster family home.

(3) Community-living arrangements which have capacity for eight (8) or fewer persons being served by the program.

(4) Essential services, provided all above ground facilities are not located in any street yard.

**(c) Permitted Accessory Buildings, Structures and Uses.**

(1) Detached garage if an existing two car garage is attached to the principal structure. (See building code for specific limitations.)

(2) Gardening, tool and storage sheds, gazebos and decks incidental to the residential use.

(3) Household occupations and professional home offices.

**(d) Conditional Uses.**

(1) Attached garages in excess of those allowed as permitted uses.

(2) See Article D.

(e) Table of Detailed RS-5 District Standards.

Type of Standard	Standard
<b>Unified Subdivision Density</b>	
Gross Density	0.714
Net Density	0.892
<b>Individual Lot Intensity</b>	
Maximum Lot Coverage	20%
Maximum Floor Area Ratio	25%
<b>Minimum Single-Family Lot Area</b>	40,000 square feet
<b>Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	150 feet
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	45 feet
Minimum Side Yard Setback	25 feet
Minimum Rear Yard Setback	45 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size</b>	
<i>One Story</i>	2,500 square feet
<i>One and one Half Story</i>	
First Floor	1,400 square feet
Total Dwelling	2,500 square feet
<i>Two Story Dwelling</i>	
First Floor	1,400 square feet
Total Dwelling	2,500 square feet
<i>Bi-Level and Tri-Level</i>	
At least one level	1,250 square feet
Total Finished at two offset levels	2,500 square feet
<i>Raised Ranch</i>	
Main floor finished area	Not Permitted
<b>Maximum Building Height</b>	
Principal Structure	40 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

## SEC. 13-1-39 RD-1 TWO-FAMILY RESIDENCE DISTRICT.

(a) **Purpose.** The RD-1 Residence District is intended to provide for two- family residential development, at densities not to exceed the density specified by this section, served by municipal sewer and water facilities.

(b) **Permitted Uses.**

- (1) Two-family dwellings. On all lots platted after the effective date of this ordinance, attached garages for two (2) vehicles per dwelling unit shall be provided.
- (2) Foster family home in either or both units of two- family dwelling.
- (3) Community-living arrangement which have capacity for eight (8) or fewer persons served by the program in either or both units of a two- family dwelling structure.
- (4) Essential services.

**(c) Permitted Accessory Uses.**

- (1) Detached garage if an existing two car garage is attached to the principal structure. (See building code for specific limitations.)
- (2) Gardening, tool and storage sheds, gazebos and decks incidental to the residential use.
- (3) Household occupations and professional home offices.

**(d) Conditional Uses.**

- (1) Attached garages in excess of those allowed as permitted uses.
- (2) See Article D.

**(e) Table of Detailed RD-1 District Standards.**

Type of Standard	Standard
<b>Unified Subdivision Density</b>	
Gross Density	6.478
Net Density	7.900
<b>Individual Lot Intensity, both dwellings combined</b>	
Maximum Lot Coverage	35%
Maximum Floor Area Ratio	45%
<b>Minimum Lot Area per Structure</b>	12,500 square feet
<b>Minimum Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	100 feet
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	25 feet
Minimum Side Yard Setback	10 feet *
Minimum Rear Yard Setback	25 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size, per dwelling unit</b>	
<i>One Story</i>	1,200 square feet
<i>One and one Half Story</i>	
First Floor	900 square feet
Total Dwelling	1,200 square feet
<i>Two Story Dwelling</i>	
First Floor	750 square feet
Total Dwelling	1,200 square feet
<i>Bi-Level and Tri-Level</i>	
At least one level	750 square feet
Total Finished at two offset levels	1,200 square feet
<b>Maximum Building Height</b>	
Principal Structure	35 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

\* Minimum Side Yard Setback

*Except for additions to or replacement of existing dwellings, then the side yard setback can be equal to or greater than the setback of the existing home, but not less than three feet, with the approval of the Architectural Control Board.*

## **SEC. 13-1-40 RD-2 TWO-FAMILY RESIDENCE DISTRICT.**

**(a) Purpose.** The RD-2 Residence District is intended to provide for two- family residential development on lots at densities not to exceed the density specified by this section, served by municipal sewer and water facilities. In addition, no additional lands zoned RD-2 shall be created.

**(b) Permitted Uses.**

- (1) Two- family dwellings with attached garage for two (2) vehicles per dwelling unit.
- (2) Foster family home in either or both units of two-family dwelling.
- (3) Community-living arrangement which have capacity for eight (8) or fewer persons served by the program in either or both units of a two-family dwelling structure.
- (4) Essential services.

**(c) Permitted Accessory Uses.**

- (1) Detached garage if an existing two car garage is attached to the principal structure. (See building code for specific limitations.)
- (2) Gardening, tool and storage sheds, gazebos and decks incidental to the residential use.
- (3) Household occupations and professional home offices.

**(d) Conditional Uses.**

- (1) Attached garages in excess of those allowed as permitted uses.
- (2) See Article D.

**(e) Table of Detailed RD-2 District Standards.**

Type of Standard	Standard
<b>Unified Development Density</b>	
Gross Density	9.922
Net Density	12.100
<b>Individual Lot Intensity, both dwellings combined</b>	
Maximum Lot Coverage	40%
Maximum Floor Area Ratio	50%
<b>Minimum Lot Area per Structure</b>	7,200 square feet
<b>Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	50 feet
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	25 feet
Minimum Side Yard Setback	6 feet *
Minimum Rear Yard Setback	25 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size</b>	
One Story	1,000 square feet
One and one Half Story	
First Floor	750 square feet
Total Dwelling	1,000 square feet
Two Story Dwelling	
First Floor	600 square feet
Total Dwelling	1,000 square feet
Bi-Level and Tri-Level	
At least one level	600 square feet
Total Finished at two offset levels	1,000 square feet
<b>Maximum Building Height</b>	
Principal Structure	35 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

\* Minimum Side Yard Setback

Except for additions to or replacement of existing dwellings, then the side yard setback can be equal to or greater than the setback of the existing home, but not less than three feet, with the approval of the Architectural Control Board.

## **SEC. 13-1-41 RD-3 SINGLE-FAMILY ATTACHED RESIDENCE DISTRICT.**

**(a) Purpose.** The RD-3 Residence District is intended to provide for single-family attached residential development on lots at densities not to exceed the density specified by this section, served by municipal sewer and water facilities. In addition, no additional lands zoned RD-3 shall be created.

**(b) Permitted Buildings, Structures and Uses.**

- (1) Foster family home in either or both attached units.
- (2) Community-living arrangements which have capacity for eight (8) or fewer persons served by the program in either or both attached units.
- (3) Essential services.

**(c) Permitted Accessory Buildings, Structures and Uses.**

- (1) Detached garage if an existing two-car garage is attached to the principal structure. (See building code for specific limitations.)
- (2) Gardening, tool and storage sheds, gazebos and decks incidental to the residential use.
- (3) Household occupations and professional home offices.

**(d) Conditional Uses.**

- (1) See Article D.
- (2) Single-family attached dwellings with a two-car attached garage, provided that:
  - a. The dwelling must share a common wall with another single-family dwelling on the adjoining lot which must be located in the same zoning district.
  - b. The dwelling shall not share a common wall with more than one other dwelling;
  - c. The lot must front on a public street or a private road over which there are easements to public streets, as demonstrated to the satisfaction of the Village Plan Commission.
  - d. Both lots upon which such dwellings are constructed shall be subjected to easements, restrictions and covenants relating to matters of mutual support, insurance, repair and replacement, private grievance resolution, and such other matters as the Village Plan Commission deems appropriate, all in an instrument which must be recorded in the office of the Register of Deeds for Ozaukee County, Wisconsin in form and content satisfactory to the Village Plan Commission; and
  - e. The use of the lot shall comply with all other restrictions of this zoning district.

**(e) Attached garages in excess of those allowed as permitted uses.**



(f) Table of Detailed RD-3 District Standards.

Type of Standard	Standard
<b>Unified Development Density</b>	
Gross Density	9.922
Net Density	12.100
<b>Lot Intensity, both dwellings combined</b>	
Maximum Lot Coverage	40%
Maximum Floor Area Ratio	50%
<b>Minimum Combined Lot Area</b>	9,000 square feet (for two lots with attached homes)
<b>Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	50 feet
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	25 feet
Minimum Side Yard Setback (attached Side)	N/A
Minimum Side Yard Setback (non-Attached side)	12 feet *
Minimum Rear Yard Setback	25 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size, per dwelling unit</b>	1,000 square feet
<b>Maximum Building Height</b>	
Principal Structure	35 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

\* Minimum Side Yard Setback

*Except for additions to or replacement of existing dwellings, then the side yard setback can be equal to or greater than the setback of the existing home, but not less than three feet, with the approval of the Architectural Control Board.*

## SEC. 13-1-42 RM-1 MULTIPLE-FAMILY RESIDENCE DISTRICT.

(a) **Purpose.** The RM-1 Residence District is intended to provide for low density multiple-family residential development, at densities not to exceed the density specified by this section, served by municipal sewer and water facilities.

(b) **Permitted Uses.**

- (1) Multiple-family dwellings, provided that two (2) attached garage spaces are provided for each dwelling unit.
- (2) Foster family home unit.
- (3) Community-living arrangement for fifteen (15) persons or less.
- (4) Essential services.

(c) **Permitted Accessory Uses.**

- (1) Private garages and carports. (See building code for specific limitations.)
- (2) Gardening, tool and storage sheds incidental to the residential use; however, any accessory structure in an unified development shall conform to Section 13-1-41(f).

(d) **Conditional Uses.** See Article D.

(e) Table of Detailed RM-1 District Standards.

Type of Standard	Standard
<b>Unified Development Density</b>	
Gross Density	4.920
Net Density	6.000
<b>Individual Lot Intensity</b>	
Maximum Lot Coverage	25%
Maximum Floor Area Ratio	35%
<b>Minimum Lot Area per Structure</b>	12,500 square feet
<b>Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	100 feet
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	25 feet
Minimum Side Yard Setback	20 feet
Minimum Rear Yard Setback	25 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size, per dwelling unit</b>	
One Bedroom	800 square feet
Two Bedroom	900 square feet
Three Bedroom	1,000 square feet
Four Bedroom and above	Not Permitted
<b>Maximum Building Height</b>	
Principal Structure	35 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

(f) General Development Requirements.

**(1) Site Plan Approval Required for Certificate of Occupancy**

a. No Certificate of Occupancy shall be granted until all improvements shown on a Plan Commission approved Site Plan and Landscape Plan have been completed in accordance therewith. The Building Inspector may issue a temporary Certificate of Occupancy bearing an expiration date if he finds that that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer, and that temporary occupancy prior to the completion will involve no health or safety hazard. Before obtaining a temporary Certificate of Occupancy the property owner shall post a surety to the Village of Fredonia in double the sum estimated by the Building Inspector to be needed to complete all required improvements.

b. Acceptance of a temporary Certificate of Occupancy implies consent to application of the bond money for completion of any required improvements not completed prior to the expiration date of the temporary Certificate of Occupancy and forfeiture of any portion thereof not so applied. No action or inaction by the village regarding any required improvements shall serve to extend the time of validity of any temporary Certificate of Occupancy.

c. A temporary Certificate of Occupancy may, however, be extended in time by the Building Inspector, and from time to time for good cause shown, and any such extension shall operate to extend, for the same period, the time for completion under the terms of the bond.

d. Should landscaping not be completed within nine months of occupancy, or if landscape materials that do not survive one full growing season are not

replaced, the Village shall draw upon the Letter of Credit as funds to complete or replace landscaping.

**(g) Plans and Specifications to be Submitted to Plan Commission.** Every building or any building hereafter erected or structurally altered for multiple-family use shall, before a zoning permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, which will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or traffic congestion, or otherwise endanger the public health or safety or substantially diminish or impair property values within the neighborhood.

## **SEC. 13-1-43 RM-2 MULTIPLE-FAMILY RESIDENCE DISTRICT.**

**(a) Purpose.** The RM-2 Residence District is intended to provide for higher density multiple-family residential development, at densities not to exceed the density specified by this section, served by municipal sewer and water facilities.

**(b) Permitted Uses.**

- (1) Multiple-family dwellings.
- (2) Foster family home unit.
- (3) Community-living arrangement for fifteen (15) persons or less.
- (4) Essential services.

**(c) Permitted Accessory Uses.**

- (1) Private garages and carports. (See building code for specific limitations.)
- (2) Gardening, tool and storage sheds incidental to the residential use; however, any accessory structure in an unified development, shall conform to

**(d) Conditional Uses.** See Article D.

(e) Table of Detailed RM-2 District Standards.

Type of Standard	Standard
<b>Unified Development Density</b>	
Gross Density	6.560
Net Density	8.000
<b>Individual Lot Intensity</b>	
Maximum Lot Coverage	25%
Maximum Floor Area Ratio	35%
<b>Minimum Lot Area per Structure</b>	11,000 square feet
<b>Individual Lot Dimension Requirements</b>	
Minimum Width at Setback Line	85 feet
Minimum Lot Depth	125 feet
Minimum Street Yard Setback	30 feet
Minimum Side Yard Setback	20 feet
Minimum Rear Yard Setback	25 feet
Minimum Wetland Setback	30 feet
Minimum Shoreyard Setback	75 feet
<b>Minimum Dwelling Size, per dwelling unit</b>	
One Bedroom	900 square feet
Two Bedroom	1,000 square feet
Three Bedroom	1,100 square feet
Four Bedroom and above	Not Permitted
<b>Maximum Building Height</b>	
Principal Structure	35 feet
Accessory Structure	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

(f) General Development Requirements.

**(1) Site Plan Approval Required for Certificate of Occupancy**

a. No Certificate of Occupancy shall be granted until all improvements shown on a Plan Commission approved Site Plan and Landscape Plan have been completed in accordance therewith. The Building Inspector may issue a temporary Certificate of Occupancy bearing an expiration date if he finds that that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer, and that temporary occupancy prior to the completion will involve no health or safety hazard. Before obtaining a temporary Certificate of Occupancy the property owner shall post a surety to the Village of Fredonia in double the sum estimated by the Building Inspector to be needed to complete all required improvements.

b. Acceptance of a temporary Certificate of Occupancy implies consent to application of the bond money for completion of any required improvements not completed prior to the expiration date of the temporary Certificate of Occupancy and forfeiture of any portion thereof not so applied. No action or inaction by the village regarding any required improvements shall serve to extend the time of validity of any temporary Certificate of Occupancy.

c. A temporary Certificate of Occupancy may, however, be extended in time by the Building Inspector, and from time to time for good cause shown, and any such extension shall operate to extend, for the same period, the time for completion under the terms of the bond.

d. Should landscaping not be completed within nine months of occupancy, or if landscape materials that do not survive one full growing season are not

replaced, the Village shall draw upon the Letter of Credit as funds to complete or replace landscaping.

**(g) Plans and Specifications to be Submitted to Plan Commission.** Every building or any building hereafter erected or structurally altered for multiple-family use shall, before a zoning permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, which will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or traffic congestion, or otherwise endanger the public health or safety or substantially diminish or impair property values within the neighborhood.

## **SEC. 13-1-44 TABLE OF PERMITTED AND CONDITIONAL USES IN BUSINESS AND MANUFACTURING DISTRICTS.\***

P=Permitted Use, C=Conditional Use Permit, Blank=Not Allowed

<b>Education Uses (1)</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>
Day Care Center	C	P	C			
Day Care Centers, accessory to another principal use				C	C	C
Art, Dance, and Music Classes for all ages	C	P	C			

<b>Commercial and Office Uses (1)</b>						
Artist Studio	P	P	P	P	P	P
Bank or Other Financial Institution	P	P	P			
Broadcast or Recording Studio	C	P	P	P	P	P
Currency Exchange, Payday Loan Agency, or Title Loan Agency	P	P	P			
Garden Supply or Landscaping Center	C	C	C			
Office, General	P	P	P	P	P	P
Office, Government	P	P	P	P	P	P
Outdoor Merchandise Sales	C		C			
Plant Nursery or Greenhouse		C	C			
Retail Establishment, Adult (2)					C	
Retail Establishment, General (8) (with gross area of the space occupied by said establishment up to 20,000 square feet)	P	P	P			
Retail Establishment, General (8), (with gross area of the space occupied by said establishment 20,000 square feet and above)		C	P			
Home Improvement Centers and Lumber Yards	C	P	P	P	P	
Secondhand Store	C	C	C			

**Health Care and Social Assistance Uses (1)**

	B-1	B-2	B-3	M-1	M-2	M-3
Health Clinic (including dental, chiropractic, etc.	P	P	P			
Hospital			C			C
Medical Office (including dental, chiropractic, etc	P	P	P			P
Medical Research Laboratory	C	C	C	C	C	C
Medical Service Facility (Retail sales)	P	P	P			C
Social Service Facility	C	C	C			

**\* Zoning permit required (See Section 13-1-227) for any new use or change in use or ownership for any permitted use. Zoning permit required for any change in ownership for any condition use.**

**Service Uses**

	B-1	B-2	B-3	M-1	M-2	M-3
<b>General Service Uses (1)</b>						
Building Maintenance Service	C	C	C	C	C	C
Business Service	P	P	P	P	P	P
Catering Service	C	C	C			
Dry Cleaning Establishment		C	C			
Funeral Home		C	P			
Furniture and Appliance Rental and Leasing		P	P			
Household Maintenance and Repair Service	C	C	P	P	P	P
Laundromat		P	P			
Personal Service	P	P	P			
Tool/Equipment Rental Facility ( Inside Only)	C	C	P	P	P	P
Tool/Equipment Rental Facility ( Any outside display or storage)	C	C	C	C	C	C
<b>Animal Services</b>						
Animal Boarding Facility or Field Training or Pet Sales			C	C	C	C
Animal Grooming or Obedience Training Facility	C	C	C	C	C	C
Animal Hospital/Clinic		C	C	C	C	C
Pet Supply Sales	P	P	P			

<b>Motor Vehicle Uses</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>
<b>General Motor Vehicle</b>						
Car Wash		C	C	C	C	C
Drive-through Facility		C	C	C	C	C
Filling Station		C	C	C	C	C
<b>Light Motor Vehicle</b>						
Body Shop		C	C	C	C	C
Limited Wholesale Facility	C	C	C	C	C	C
Rental Facility			C	C	C	C
Repair Facility	C	C	C	C	C	C
Sales Facility, new vehicle & accessory used vehicle sales		C	C	C	C	C
Sales Facility, new vehicle only		C	C	C	C	C
Sales Facility, used vehicle sales only		C	C	C	C	C
<b>Heavy Motor Vehicle</b>						
Body Shop			C	C	C	C
Rental Facility			C	C	C	C
Repair Facility			C	C	C	C
Sales Facility			C	C	C	C

<b>Accommodation and Food Service Uses (1)</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>
Assembly Hall		C	C	C	C	C
Bed and Breakfast	C	C				
Hotel		C	P			P
Restaurant, Fast-food/Carry-out	C	P	P	C	C	C
Restaurant, Sit-down	P	P	P	C	C	C
Tavern	C	C	C	C	C	C

<b>Entertainment and Recreational Uses (1)</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>
Clubs and Lodges	C	C	C			
Convention and Exposition Center			P			P
Entertainment Establishment, Adult (3)					P	
Health Club			P			P
Outdoor Racing Facility			C			C
Park or Playground, accessory to another principal use			C	C	C	C
Sports and Recreation Facility, Indoor			C	C	C	C
Sports and Recreation Facility, Outdoor			C	C	C	C
Theater, Indoor			P			P

<b>Storage, Recycling, and Wholesale Trade Uses (1)</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>
Mixed-waste Processing Facility				C	C	
Recycling Collection Facility				C	C	
Wholesale and Distribution Facility, Indoor			C	P	P	P
Wholesale and Distribution Facility, Outdoor			C	C	C	C
<b>Storage Facilities</b>						
Hazardous Materials						
Indoor, Mini-warehouse				C	C	C
Outdoor					C	C

<b>Transportation Uses (1)</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>
Airport						
Ambulance Service, private			C	C	C	C
Ground Transportation Service			C	C	C	C
Helicopter Landing Facility						C
Railroad Switching, Classification Yard, or Freight Terminal				C	C	
Truck Freight Terminal				C	C	

<b>Industrial Uses (2)</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>
Contractor's Shop	P	P	P	P	P	P
Contractor's Yard			C	C	C	
Manufacturing, Heavy (4)					C	
Manufacturing, Medium (5)				P	P	
Manufacturing, Light (6)				P	P	P
Research and Development	P	P	P	P	P	P

<b>Temporary Uses</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>
Concrete Batch Plant, Temporary					C	
Live Entertainment Special Event	C	C	C	C	C	C
Seasonal Market	C	P	P			
Temporary Real Estate Sales Office	P	P	P	P	P	P

#### **Notes to Permitted and Conditional Uses**

(1) Any drive-thru or drive-up service requires a Conditional Use Permit.

(2) "Retail establishment, adult" means an adult oriented establishment, as defined under Section 7-5-1 and licensed under Section 7-5-2 of Fredonia Village ordinances, providing retail sale to the public.

(3) "Entertainment establishment, adult" means adult oriented establishment, as defined under Section 7-5-1 and licensed under Section 7-5-2 of Fredonia Village ordinances, providing live and/or recorded entertainment.

(4) "Retail establishment, general" means an establishment providing retail sale of new products to the public and rendering services incidental to the sale of such products, including, but not limited to, sales of: art supplies and picture frames, art works, auto parts, baked goods, bicycles, books, newspapers and magazines, collectibles, dry goods, notions and novelties, flowers and plants, food and beverages, furniture and floor coverings, hardware, hobbies, toys and games, household goods, jewelry, luggage, major appliances, music, records, compact discs and tapes, paint and wallpaper, pets, pharmaceutical products, photo equipment and processing, sewing apparatus, sporting goods, stationery, tobacco products and wearing apparel. This term includes, but is not limited to, a grocery



store, specialty food store, antique store, liquor store, butcher shop, delicatessen, portrait studio, furniture or appliance rental establishment or video rental or sales business. This term does not include an adult bookstore.

(5) "Manufacturing, heavy" means an establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and material, where such activity involves the use or production of explosives, highly flammable liquids or gases, or toxic or hazardous materials or produces toxic, hazardous or noxious odors, fumes or dust.

(6) "Manufacturing, medium" means an establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line.

(7) "Manufacturing, light" means an establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services, where there are few external effects across property lines. This term includes, but is not limited to, a business engaged in the processing, fabrication, assembly, treatment or packaging of food, textile, leather, wood, paper, chemical, plastic or metal products, but does not include basic industrial processing from raw materials.

(8) Sales of guns, fireworks and/or explosives shall not occur within 1000 feet of the property line of any schools (public or private), day care center or residential zoned property.

## **SEC. 13-1-45 B-1 CENTRAL BUSINESS DISTRICT.**

(a) **Purpose.** The B-1 Business District is intended to provide for the orderly continuation of the traditional central business district in the Village of Fredonia. The business activities are of a general nature and are characterized by on-street parking.

(b) **Permitted Uses.**

(1) Refer to Section 13-1-44 for the list of uses permitted in the B-1 district.

(2) Similar Uses provided approval is obtained under Section 13-1-226.

(c) **Permitted Accessory Uses.**

(1) Accessory garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises. (See building code for specific limitations.)

(2) Off-street parking and loading areas accessory to the principal use.

(3) Residential quarters for the owners, proprietor, commercial tenant, employee, or Caretaker located in the same building as the business.

(4) Essential services.

(5) Solar collectors, hidden from ground view

(6) Dish antennas, ground and building mounted, limited to 24" in diameter and not visible from the street

(d) **Conditional Uses.**

(1) Refer to Section 13-1-44 for the list of Conditional Uses in the B-1 district, and Section 13-1-74 for restrictions applicable to particular uses.

(2) Similar Uses provided approval is obtained under Section 13-1-226.

(3) Accessory dwelling units provided there shall be a minimum floor area of six hundred seventy-five (675) square feet for an efficiency apartment, six

hundred seventy-five (675) square feet for a one (1) bedroom apartment, and seven hundred ninety-five (795) square feet for a two (2) bedroom apartment.

**(e) Table of Detailed B-1 District Standards.**

<b>Type of Standard</b>	<b>Standard</b>
<b>Lot Dimension Requirements</b>	
Minimum Lot Size	3,600 square feet
Minimum Lot Width	40 feet
<b>Minimum Setbacks and Yards</b>	
Street Yard	No minimum required
Interior Side Yard Setback	No minimum required; but if provided shall not be less than 8 feet
Rear yard	25 feet
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Building Size</b>	
<i>Maximum Height</i>	
Principal Building	35 feet
Accessory Building	15 feet
Minimum floor area for principal building	1,000 sq. ft.
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

**(f) Design Standards.**

**(1) General Requirement**

The architectural design of all buildings shall be subject to Architectural Control Board review and approval.

**(2) Building Materials and Colors**

**a.** Exterior building materials shall have durability. Materials such as wood, masonry, stone, stucco, glass and Exterior Insulation and Finish System (EIFS) are permitted. Metal, aluminum and vinyl siding are not allowed as the primary exterior building material, but may be used for accents. Exceptions may be made for historical buildings.

**b.** Exterior building colors shall be approved by the Architectural Control Board on a case by case basis.

**c.** Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(3) Roofing Materials and Style**

**a.** Flat roofs are only permitted by prior Architectural Control Board approval.

**b.** Visible roof materials must be standard residential roofing materials.

**c.** Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(g) Refuse Storage.**

**(1)** All garbage/waste shall be within a container. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids.

**(2)** Refuse storage areas may not be located on any street side of any principal or accessory building except by prior Plan Commission approval.

**(3)** Refuse storage shall not be considered an accessory structure, but shall be of a size to adequately store all refuse and recyclables anticipated to be generated by use or uses on subject property.

**(4)** The size, height, location, setbacks and design of the refuse storage shall be approved by the Plan Commission.

**(h) Other Outdoor Storage.** Other outdoor storage is not allowed.

**(i) General Development Requirements.**

**(1) Site Plan Approval Required for Certificate of Occupancy**

**a.** No Certificate of Occupancy shall be granted until all improvements shown on a Plan Commission approved Site Plan and Landscape Plan have been completed in accordance therewith. The Building Inspector may issue a temporary Certificate of Occupancy bearing an expiration date if he finds that that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer, and that temporary occupancy prior to the completion will involve no health or safety hazard. Before obtaining a temporary Certificate of Occupancy the property owner shall post a surety to the Village of Fredonia in double the sum estimated by the Building Inspector to be needed to complete all required improvements.

**b.** Acceptance of a temporary Certificate of Occupancy implies consent to application of the bond money for completion of any required improvements not completed prior to the expiration date of the temporary Certificate of Occupancy and forfeiture of any portion thereof not so applied. No action or inaction by the village regarding any required improvements shall serve to extend the time of validity of any temporary Certificate of Occupancy.

**c.** A temporary Certificate of Occupancy may, however, be extended in time by the Building Inspector, and from time to time for good cause shown, and any such extension shall operate to extend, for the same period, the time for completion under the terms of the bond.

**d.** Should landscaping not be completed within nine months of occupancy, or if landscape materials that do not survive one full growing season are not replaced, the Village shall draw upon the Letter of Credit as funds to complete or replace landscaping.

**(2) Landscaping**

If the site provides for the opportunity of greenspace and landscaping, landscaping plans are subject to Plan Commission review and approval subject to the following minimum standards. Any alteration to that plan shall be subject to further Plan Commission review and approval.

**a.** The minimum number of trees on a site shall be calculated based on the principal street frontage; one tree is required for each 20 feet. For lots with 100 feet or less of road frontage; a minimum of five trees shall be planted or retained. A minimum of two trees are to be planted or retained in each street yard.

**b.** Deciduous trees shall be a minimum of 3-inch caliper and evergreens a minimum of 6 feet at time of planting.

**c.** Efforts to protect and retain existing trees should be noted in the landscaping plan.

**d.** It is expected that all landscaping shall be appropriately distributed on the site. Additional plantings of trees (deciduous and evergreen), ornamental trees and shrubs above the minimum required herein shall be planted consistent with the aesthetic style of the building.

**e.** Landscaping shall not obstruct fire department view of external fire alarms or access to the building.

**f.** Landscaping shall be used to screen unsightly site elements, such as refuse enclosures, utility boxes, building mechanical equipment and service doors and loading docks.

**g.** All trees shall be hardy, urban tolerant and disease resistant.

**h.** The natural topography is to be used in the design and layout of the site, insofar as practical.

**i.** All plantings must be maintained. If at any time, required trees die, be damaged or destroyed, such trees must be replaced in the original approximate location.

**(3) Signage** shall be as set forth under Article G of this ordinance.

**(j) Accessory Buildings, Structures and Uses.**

**(1) Limitations**

**a.** Accessory structures and uses are limited to those customarily incidental to the approved principal use.

**b.** No more than twenty percent (20%) of the total floor area (principal building and accessory building gross floor area) shall be used for accessory uses.

**c.** Accessory buildings and structures may only be located in rear yards, with the exception of those typically used for landscaping and decorating such as flagpoles, ornamental light standards, lawn furniture, sundials and birdbaths.

**d.** No accessory building or structure shall be visible from the principal street.

**(2)** Setbacks and Yards: same as for principal structure

**(3)** Proximity to principal building: No closer than 10 feet

**(4)** Maximum floor area as approved by Site Plan and Architectural Review. (See building code for specific limitations.)

**(5)** Maximum number as approved by Site Plan and Architectural Review. (See building code for specific limitations.)

**(6)** Total coverage of all accessory structures: Not more than twenty percent (20%) of rear yard area

**(7)** For refuse storage, see paragraph (g) of this section.

**(k) Plans and Specifications to be Submitted to Plan Commission.** Every building or any building hereafter erected or structurally altered for use in the central business district shall, before a zoning permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety, or substantially diminish or impair property values within the Central Business District.

## **SEC. 13-1-46 B-2 COMMUNITY BUSINESS DISTRICT.**

**(a) Purpose.** The B-2 Business District is intended to provide for individual or small groups of retail and customer service establishments such as the commercial area located along State Trunk Highway 57 in the Village of Fredonia. This type of district is generally located away from the traditional central business district and provides such amenities as increased open space and off-street parking and loading facilities.

**(b) Permitted Uses.**

**(1)** Refer to Section 13-1-44 for the list of uses permitted in the B-2 district.

**(2)** Similar Uses provided approval is obtained under Section 13-1-226.

**(c) Permitted Accessory Uses.**

**(1)** Garages for storage of vehicles used in conjunction with the operation of the business. (See building code for specific limitations.)

**(2)** Off-street parking and loading areas.

**(3)** Essential services.

**(d) Conditional Uses.**

**(1)** Refer to Section 13-1-44 for the list of Conditional Uses in the B-2 district, and Section 13-1-74 for restrictions applicable to particular uses.

**(2)** Similar Uses provided approval is obtained under Section 13-1-226.

**(e) Table of Detailed B-2 District Standards.**

Type of Standard	Standard
<b>Lot Dimension Requirements</b>	
Minimum Lot Size	1 acre (43,560 square feet)
Minimum Lot Width	150 feet
Minimum Lot Depth	150 feet
<b>Minimum Setbacks and Yards</b>	
Street Yard	25 feet/10 feet greenspace
Interior Side Yard Setback	10 feet/10 feet greenspace
Rear yard	25 feet/10 feet greenspace
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Building Size</b>	
<i>Maximum Height</i>	
Principal Building	35 feet
Accessory Building	15 feet
Minimum floor area for principal building	
Total	2,000 sq. feet
On 1 <sup>st</sup> floor of Multi-story bldg.	1,000 sq. feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

**(f) Design Standards.**

**(1) General Requirements**

The architectural design of all buildings shall be subject to Architectural Control Board approval.

**(2) Building Materials and Colors**

**a.** Exterior building materials shall have durability. Materials such as wood, masonry, stone, stucco, glass and Exterior Insulation and Finish System (EIFS) are permitted. Metal, aluminum and vinyl siding are not allowed as the primary exterior building material, but may be used for accents.

**b.** Exterior building colors shall be approved by the Architectural Control Board on a case by case basis.

**c.** Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(3) Roofing Materials and Style**

**a.** Roofing materials are at the discretion of the Architectural Control Board.

**b.** Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(4) Mechanical Units**

All roof and wall-mounted mechanical, electrical, communications, and service equipment must be screened from view as determined by the Architectural Control Board, by parapets, walls, or by other approved means.

**(g) Refuse Storage.**

**(1)** Trash dumpsters shall be screened from public rights-of-way and adjacent property by an enclosure with walls a minimum of six feet in height. The walls shall be compatible with materials used on the street side of the principal building. Access gates shall be constructed of woven wire fencing with opaque screening material. It is preferred that a screened pedestrian entrance be provided such that waste may be deposited without opening the large access gates.

(2) All garbage/waste shall be within an enclosure. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids.

(3) Refuse storage areas may not be located on any street side of any principal or accessory building except by prior Plan Commission approval.

(4) Refuse storage areas may be freestanding or attached to a principal or accessory structure.

(5) Refuse storage shall not be considered an accessory structure, but shall be of a size to adequately store all refuse and recyclables anticipated to be generated by use or uses on subject property.

(6) The size, height, location, setbacks and design of the refuse storage shall be approved by the Plan Commission.

**(h) Other Outdoor Storage.**

Any outside storage in this district, even on a temporary basis, must be screened with a six-foot high fence built to serve as a vision screen with a planting screen that will visually block the storage.

**(i) Sidewalks, Driveways, Parking and Loading.**

(1) Parking areas shall not encroach into required greenspace, nor shall driveways or sidewalks, except to pass through this area as close to ninety degrees to the roadway as practical.

(2) Sidewalks shall be a minimum of five (5) feet.

(3) Driveways shall be provided as set forth in Article F of this ordinance.

(4) Loading areas shall be provided as set forth in Article F of this ordinance.

(5) Parking Requirements shall be provided as set forth in Article F of this ordinance.

**(j) General Development Requirements.**

**(1) Site Plan Approval Required for Certificate of Occupancy**

**a.** No Certificate of Occupancy shall be granted until all improvements shown on a Plan Commission approved Site Plan and Landscape Plan have been completed in accordance therewith. The Building Inspector may issue a temporary Certificate of Occupancy bearing an expiration date if he finds that that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer, and that temporary occupancy prior to the completion will involve no health or safety hazard. Before obtaining a temporary Certificate of Occupancy the **property** owner shall post a surety to the Village of Fredonia in double the sum estimated by the Building Inspector to be needed to complete all required improvements.

**b.** Acceptance of a temporary Certificate of Occupancy implies consent to application of the bond money for completion of any required improvements not completed prior to the expiration date of the temporary Certificate of Occupancy and forfeiture of any portion thereof not so applied. No action or inaction by the village regarding any required improvements shall serve to extend the time of validity of any temporary Certificate of Occupancy.

**c.** A temporary Certificate of Occupancy may, however, be extended in time by the Building Inspector, and from time to time for good cause shown, and any such extension shall operate to extend, for the same period, the time for completion under the terms of the bond.

**d.** Should landscaping not be completed within nine months of occupancy, or if landscape materials that do not survive one full growing season are not replaced, the Village shall draw upon the Letter of Credit as funds to complete or replace landscaping.

**(2) Landscaping**

**a.** Landscaping plans are subject to Plan Commission review and approval. Any alteration to that plan shall be subject to further Plan Commission review and approval.

- b.** The minimum number of trees on a site shall be calculated based on the principal street frontage; one tree is required for each 20 feet. For lots with 100 feet or less of road frontage; a minimum of five trees shall be planted or retained. A minimum of two trees are to be planted or retained in each street yard.
- c.** Required trees shall be a minimum of 3" caliper.
- d.** Efforts to protect and retain existing trees should be noted in the landscaping plan.
- e.** It is expected that all landscaping shall be appropriately distributed on the site. Additional plantings of trees (deciduous and evergreen), ornamental trees and shrubs above the minimum required herein shall be planted consistent with the aesthetic style of the building, as approved by Site Plan and Architectural Review. Landscaping shall not obstruct Fire Department view or access to the building.
- f.** The natural topography is to be used in the design and layout of the site, insofar as practical.
- g.** All plantings must be maintained. If at any time, required trees shall die, be damaged or destroyed, such trees must be replaced in the original approximate location.

**(3) Signage** shall be as set forth under Article G of this ordinance.

**(k) Accessory Buildings, Structures and Uses.**

**(1) Limitations**

- a.** Accessory structures and uses are limited to those customarily incidental to the approved principal use.
- b.** No more than twenty percent (20%) of the total floor area (principal building and accessory building gross floor area) shall be used for accessory uses.
- c.** Accessory buildings and structures may only be located in rear yards, with the exception of those typically used for landscaping and decorating such as flagpoles, ornamental light standards, lawn furniture, sundials and birdbaths.
- d.** No accessory building or structure shall be visible from the principal street.
- (2) Setbacks and Yards:** same as for principal structure
- (3) Proximity to principal building:** No closer than 10 feet
- (4) Maximum floor area** as approved by Site Plan and Architectural Review. (See building code for specific limitations.)
- (5) Maximum number** as approved by Site Plan and Architectural Review. (See building code for specific limitations.)
- (6) Total coverage of all accessory structures:** Not more than twenty percent (20%) of rear yard area
- (7) For refuse storage,** see paragraph (g) of this section.

**(1) Plans and Specifications to be Submitted to Plan Commission.** Every building or any building hereafter erected or structurally altered for use in the community business district shall, before a zoning permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety, or substantially diminish or impair property values within the area.

## **SEC. 13-1-47 B-3 COMMERCIAL BUSINESS DESIGN DISTRICT.**

### **(a) Intent.**

The B-3 Commercial Business Design District is intended to enable the creation of large scale, well planned shopping and service facilities serving the entire Fredonia area located along State Trunk Highway 57. It is the intent here to allow for various types of developments ranging from community to regional shopping areas.

### **(b) Permitted Uses.**

(1) Refer to Section 13-1-44 for the list of uses permitted in the B-3 district.

(2) Similar Uses provided approval is obtained under Section 13-1-226.

### **(c) Accessory Buildings, Structures and Uses.**

#### **(1) Limitations**

a. Accessory structures and uses are limited to those customarily incidental to the approved principal use. (See building code for specific limitations.)

b. No more than twenty percent (20%) of the total floor area (principal building and accessory building gross floor area) shall be used for accessory uses.

c. Accessory buildings and structures may only be located in rear yards, with the exception of those typically used for landscaping and decorating such as flagpoles, ornamental light standards, lawn furniture, sundials and birdbaths.

d. No accessory building or structure shall be visible from the principal street.

#### **(2) Permitted Accessory Buildings, Structures and Uses.**

a. Those customarily incidental to the principal use

b. Detached garages for storage of vehicles used in conjunction with the principal use

c. Off-street parking and loading areas accessory to the principal use

d. Solar collectors, only as a conditional use

e. Dish antennas shall be roof mounted

(3) Setback: same as for principal structure

(4) Proximity to principal building: No closer than 10 feet

(5) Maximum floor area: As approved by Site Plan and Architectural Review

(6) Maximum number: As approved by Site Plan and Architectural Review

(7) Total coverage of all accessory structures: Not more than twenty percent (20%) of rear yard area

### **(d) Conditional Uses.**

(1) Refer to Section 13-1-44 for the list of Conditional Uses in the B-3 district, and Section 13-1-74 for restrictions applicable to particular uses.

(2) Similar Uses provided approval is obtained under Section 13-1-226.



**(e) Table of Detailed B-3 District Standards for Non-Satellite Lots.**

<b>Type of Standard</b>	<b>Standard</b>
<b>Lot Dimension Requirements</b>	
Minimum Lot Size	3 acres (130,680 square feet)
Minimum Lot Width	250 feet
Minimum Lot Depth	250 feet
<b>Minimum Setbacks and Yards</b>	
Street Yard	100 feet/40 feet greenspace
Interior Side Yard Setback	40 feet/15 feet greenspace
Rear yard	100 feet/20 feet greenspace
From Satellite Lot	40 feet/20 feet greenspace
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Maximum Floor Area Ratio</b>	40%
<b>Building Size</b>	
<i>Maximum Height</i>	
Principal Building	45 feet
Accessory Building	15 feet
Minimum floor area for principal building	
Total	5,000 sq. feet
On 1 <sup>st</sup> floor of Multi-story bldg.	2,000 sq. feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

**(f) Satellite Lot Dimensional Requirements.**

**(1) Table of Detailed B-3 District Standards for Satellite Lots**

<b>Type of Standard</b>	<b>Standard</b>
<b>Lot Dimension Requirements</b>	
Minimum lot size of confined leasable area	1.5 acres (65,340 sq. feet)
Minimum Lot Width	150 feet
Minimum Lot Depth	150 feet
<b>Minimum Setbacks and Yards</b>	
Minimum street yard setback (yard facing the public right-of-way although access to the satellite lot may be through the unified center	25 feet/25 feet greenspace
Interior Side Yard Setback	10 feet/10 feet greenspace
Rear yard	10 feet/10 feet greenspace
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Maximum Floor Area Ratio</b>	30%
<b>Building Size</b>	
<i>Maximum Height</i>	
Principal Building	30 feet
Accessory Building	None allowed
Minimum floor area	2,000 square feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

(2) When a single developer's agreement controls a unified commercial/retail center or business center 10 acres or more in size, a satellite lot or lots shall be permitted.

(3) All satellite lots in a unified commercial/retail center or business center shall not exceed thirty percent (30%) of the total size of the commercial/retail center or business center, including satellite lots, all controlled by a single Developer's Agreement.

**(g) Design Standards.**

**(1) General Requirement**

The architectural design of all buildings shall be subject to Architectural Control Board review and approval.

**(2) Building Materials and Colors**

a. Exterior building materials shall have durability. Materials such as masonry, stone, stucco, glass, Exterior Insulation and Finish System (EIFS) and pre-cast walls are permitted. Metal, wood and aluminum are not allowed as the primary exterior building material, but may be used for accents with a maximum of ten percent (10%) coverage. With Architectural Control Board approval, standard corporate and trademark materials may be allowed on the front façade only.

b. Exterior building colors shall be approved by the Architectural Control Board on a case by case basis.

c. Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(3) Roofing Materials and Style**

a. Roofing materials are at the discretion of the Architectural Control Board.

b. Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(4) Mechanical Units**

All roof and wall-mounted mechanical, electrical, communications, and service equipment, must be screened from public view by parapets, walls, or by other approved means.

**(h) Refuse Storage.**

(1) Trash dumpsters shall be screened from public rights-of-way and adjacent property by an enclosure with walls a minimum of six feet in height. The walls shall be compatible with materials used on the street side of the principal building. Access gates shall be constructed of woven wire fencing with opaque screening material. It is preferred that a screened pedestrian entrance be provided such that waste may be deposited without opening the large access gates.

(2) All garbage/waste shall be within an enclosure. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids.

(3) Refuse storage areas may not be located on any street side of any principal or accessory building except by prior Plan Commission approval.

(4) Refuse storage areas may be freestanding or attached to a principal or accessory structure.

(5) Refuse storage shall not be considered an accessory structure, but shall be of a size to adequately store all refuse and recyclables anticipated to be generated by use or uses on subject property.

(6) The size, height, location, setbacks and design of the refuse storage shall be approved by the Plan Commission.

**(i) Other Outdoor Storage**

Any outside storage in this district, even on a temporary basis, must be screened with a six-foot high fence built to serve as a vision screen with a planting screen that will visually block the storage.

**(j) Sidewalks, Driveways, Parking and Loading.**

- (1) Parking areas shall not encroach into required greenspace, nor shall driveways or sidewalks, except to pass through this area as close to ninety degrees to the roadway as practical.
- (2) Sidewalks shall be reviewed by the Plan Commission.
- (3) Driveways shall be provided as set forth in Article F of this ordinance.
- (4) Loading areas shall be provided as set forth in Article F of this ordinance.
- (5) Parking Requirements shall be provided as set forth in Article F of this ordinance.

**(k) General Development Requirements.**

***(1) Site Plan Approval Required for Certificate of Occupancy***

- a. No Certificate of Occupancy shall be granted until all improvements shown on a Plan Commission approved Site Plan and Landscape Plan have been completed in accordance therewith. The Building Inspector may issue a temporary Certificate of Occupancy bearing an expiration date if he finds that that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer, and that temporary occupancy prior to the completion will involve no health or safety hazard. Before obtaining a temporary Certificate of Occupancy the property owner shall post a surety to the Village of Fredonia in double the sum estimated by the Building Inspector to be needed to complete all required improvements.
- b. Acceptance of a temporary Certificate of Occupancy implies consent to application of the bond money for completion of any required improvements not completed prior to the expiration date of the temporary Certificate of Occupancy and forfeiture of any portion thereof not so applied. No action or inaction by the village regarding any required improvements shall serve to extend the time of validity of any temporary Certificate of Occupancy.
- c. A temporary Certificate of Occupancy may, however, be extended in time by the Building Inspector, and from time to time for good cause shown, and any such extension shall operate to extend, for the same period, the time for completion under the terms of the bond.
- d. Should landscaping not be completed within nine months of occupancy, or if landscape materials that do not survive one full growing season are not replaced, the Village shall draw upon the Letter of Credit as funds to complete or replace landscaping.

***(2) Landscaping***

Landscaping plans are subject to Plan Commission review and approval. Any alteration to that plan shall be subject to further Plan Commission review and approval.

- a. The minimum number of trees on a site shall be calculated based on the principal street frontage; one tree is required for each 20 feet. For lots that have minimal frontage due to the existence of satellite lots in a unified retail center arrangement, the frontage shall be considered the width of the lot measured at the frontage of the building or buildings on the lot.
- b. In addition to the required minimum number of trees, one additional required tree shall be planted for 8,712 square feet of total lot area (i.e., five trees per acre). One third of all such trees shall be planted in the street yard and/or in areas with the highest potential of public view.
- c. In addition to the required plantings in areas with the highest potential of public view, the landscaping shall be distributed throughout the site with emphasis on screening of unsightly site elements, such as refuse enclosures, utility boxes, building mechanical equipment and service doors and loading docks.
- d. Additional plantings of trees (deciduous and evergreen), ornamental trees and shrubs above the minimum required herein shall be planted consistent with the aesthetic style of the building.

**e. Trees**

1. Deciduous trees shall be a minimum of 3-inch caliper and evergreens a minimum of 6 feet at a time of planting.
2. All trees shall be hardy, urban tolerant and disease resistant.
3. Efforts to protect and retain existing trees should be noted on the landscape plan.

**f.** Landscaping shall not obstruct fire department view of external fire alarms or access to the building, and shall not obstruct vision triangles for both external or internal traffic flow.

**g.** The natural topography shall be used in the design and layout of the site.

**h.** All plantings must be maintained. If at any time, required trees shall die, be damaged or destroyed, such trees must be replaced in the original approximate location.

**(3) Signage** shall be as set forth under Article G of this ordinance.

**(4) Building and parking setbacks** from state controlled rights-of-way are as regulated by the Wisconsin Department of Transportation.

## **SEC. 13-1-48 M-1 LIMITED MANUFACTURING DISTRICT.**

**(a) Purpose.** The M-1 Manufacturing District is intended to provide for manufacturing, industrial, and related uses of a limited nature and size in situations where such uses are not located in basic industrial grouping and where the relative proximity to other uses requires more restrictive regulation.

**(b) Permitted Uses.**

(1) Refer to Section 13-1-44 for the list of uses permitted in the M-1 District.

(2) Similar Uses provided approval is obtained under Section 13-1-226.

**(c) Accessory Buildings, Structures and Uses.**

**(1) Review Required**

Accessory buildings, structures and uses are subject to Plan Commission Review.

**(2) Limitations**

**a.** Accessory structures and uses are limited to those customarily incidental to the approved principal use, as approved by Plan Commission Review. (See building code for specific limitations.)

**b.** No more than twenty percent (20%) of the total floor area (principal building and accessory building gross floor area) shall be used for accessory uses, as approved by Site Plan and Architectural Review.

**c.** Accessory buildings and structures may only be located in rear yards, with the exception of those typically used for landscaping and decorating such as flagpoles, ornamental light standards, lawn furniture, sundials and birdbaths.

**d.** No accessory building or structure shall be visible from the principal street.

**(3) Permitted Accessory Buildings, Structures and Uses**

**a.** Those customarily incidental to the principal use

**b.** Garages for storage of vehicles used in conjunction with the principal use

**c.** Off-street parking and loading areas accessory to the principal use

**d.** Auxiliary power generators

**e.** Dish antennas, roof mounted only, as approved by Site Plan and Architectural Review.

**(4) Setback:** same as for principal structure

**(5) Proximity to principal building:** No closer than 10 feet

**(6) Maximum floor area:** As approved by Plan Commission Review

- (7) Maximum number: As approved by Plan Commission Review
- (8) Total coverage of all accessory structures: Not more than twenty percent (20%) of rear yard area
- (9) No accessory buildings or structures shall be located within the required greenspace setback or within a required parking area.

**(d) Conditional Uses.**

- (1) Refer to Section 13-1-44 for the list of conditional uses in the M-1 district.
- (2) Similar Uses provided approval is obtained under Section 13-1-226.

**(e) Table of Detailed M-1 District Standards.**

Type of Standard	Standard
<b>Lot Dimension Requirements</b>	
Minimum Lot Size	4,800 square feet
Minimum Lot Width	40 feet
<b>Minimum Setbacks and Yards</b>	
Street Yard	25 feet/10 feet greenspace
Interior Side Yard Setback	10 feet/10 feet greenspace
<b>Rear yard</b>	
Abutting non-manufacturing zoned property	25 feet/25 feet greenspace
Abutting manufacturing zoned property	25 feet/10 feet greenspace
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Building Size</b>	
<i>Maximum Height</i>	
Principal Building	45 feet
Accessory Building	15 feet
Minimum floor area for principal building	
Total	2,000 sq. feet
On 1 <sup>st</sup> floor of Multi-story bldg.	1,000 sq. feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

**(f) Design Standards.**

**(1) General Requirement**

The architectural design of all buildings shall be subject to Architectural Control Board approval.

**(2) Building Materials and Color**

a. Exterior building materials shall have durability. Materials such as decorative masonry, stone, metal, aggregate panels, glass, stucco and Exterior Insulation and Finish System (EIFS) are permitted. Vinyl and aluminum siding are not permitted. The requirement for decorative masonry shall be a minimum of 50% of the gross area of the wall with the greatest square footage. This decorative masonry can be applied on any or all facades of the building with the discretion and approval of the Architectural Control Board. The Architectural Control Board has the discretion to approve other aesthetic installation (such as planting) in place of the 50% decorative masonry, or to leave off the masonry if the Architectural Control Board determines that it makes no sense aesthetically.

(1) The gross area of the wall will be figured including all openings such as doors, windows, porches, etc.

(2) This amended ordinance (adopted on August 18, 2011) will apply to new construction only.

- b. Exterior building colors shall be approved by the Architectural Control Board on a case by case basis.
- c. Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(3) Roofing Materials and Style**

- a. Roofing materials are at the discretion of the Architectural Control Board.
- b. Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(4) Mechanical Units**

All roof and wall-mounted mechanical, electrical, communications, and service equipment must be screened from front street view by parapets, walls, or by other approved means.

**(g) Refuse Storage.**

(1) Trash dumpsters shall be screened from public rights-of-way and adjacent property by an enclosure with walls a minimum of six feet in height. The walls shall be compatible with materials used on the street side of the principal building. Access gates shall be constructed of woven wire fencing with opaque screening material. It is preferred that a screened pedestrian entrance be provided such that waste may be deposited without opening the large access gates.

(2) All garbage/waste shall be in a container within an enclosure. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids.

(3) Refuse storage areas may not be located on any street side of a principal building except by prior Plan Commission approval.

(4) Refuse storage areas may be freestanding or attached to a principal or accessory.

(5) Refuse storage shall not be considered an accessory structure, but shall be of a size to adequately store all refuse and recyclables anticipated to be generated by use or uses on subject property.

(6) The size, height, location, setbacks and design of refuse storage shall be approved by the Plan Commission.

**(h) Other Outdoor Storage.** Other outdoor storage is not allowed.

**(i) Sidewalks, Driveways, Parking and Loading.**

(1) Parking areas shall not encroach into required greenspace, nor shall driveways or sidewalks, except to pass through this area as close to ninety degrees to the roadway as practical.

(2) Sidewalks shall be a maximum of six (6) feet wide.

(3) Driveways shall be provided as set forth in Article F of this ordinance.

(4) Loading areas shall be provided as set forth in Article F of this ordinance.

(5) Parking Requirements shall be provided as set forth in Article F of this ordinance.

**(j) General Development Requirements.**

**(1) Site Plan Approval Required for Certificate of Occupancy**

a. No Certificate of Occupancy shall be granted until all improvements shown on a Plan Commission approved Site Plan and Landscape Plan have been completed in accordance therewith. The Building Inspector may issue a temporary Certificate of Occupancy bearing an expiration date if he finds that that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer, and that temporary occupancy prior to the completion will involve no health or safety hazard. Before obtaining a temporary Certificate of Occupancy the property owner shall post a surety to the Village of Fredonia in double the sum estimated by the Building Inspector to be needed to complete all required improvements.

- b.** Acceptance of a temporary Certificate of Occupancy implies consent to application of the bond money for completion of any required improvements not completed prior to the expiration date of the temporary Certificate of Occupancy and forfeiture of any portion thereof not so applied. No action or inaction by the village regarding any required improvements shall serve to extend the time of validity of any temporary Certificate of Occupancy.
- c.** A temporary Certificate of Occupancy may, however, be extended in time by the Building Inspector, and from time to time for good cause shown, and any such extension shall operate to extend, for the same period, the time for completion under the terms of the bond.
- d.** Should landscaping not be completed within nine months of occupancy, or if landscape materials that do not survive one full growing season are not replaced, the Village shall draw upon the Letter of Credit as funds to complete or replace landscaping.

**(2) Landscaping**

Landscaping plans are subject to Plan Commission review and approval subject to the following minimum standards. Any alteration to that plan shall be subject to further Plan Commission review and approval.

- a.** The minimum number of trees on a site shall be calculated based on the principal street frontage; one tree is required for each 20 feet. For lots with 100 feet or less of road frontage; a minimum of five trees shall be planted or retained. A minimum of two trees are to be planted or retained in each street yard.
- b.** Deciduous trees shall be a minimum of 3-inch caliper and evergreens a minimum of 6 feet at time of planting.
- c.** Efforts to protect and retain existing trees should be noted in the landscaping plan.
- d.** It is expected that all landscaping shall be appropriately distributed on the site. Additional plantings of trees (deciduous and evergreen), ornamental trees and shrubs above the minimum required herein shall be planted consistent with the aesthetic style of the building.
- e.** Landscaping shall not obstruct fire department view of external fire alarms or access to the building.
- f.** Landscaping shall be used to screen unsightly site elements, such as refuse enclosures, utility boxes, building mechanical equipment and service doors and loading docks.
- g.** All trees shall be hardy, urban tolerant and disease resistant.
- h.** The natural topography shall be used in the design and layout of the site.
- i.** All plantings must be maintained. If at any time, required trees die, be damaged or destroyed, such trees must be replaced in the original approximate location.

**(3) Signage** shall be as set forth under Article G of this ordinance.

**(4) Building and parking setbacks** from state controlled rights-of-way are as regulated by the Wisconsin Department of Transportation.

**(k) Plans and Specifications to be Submitted to Plan Commission.** To encourage an industrial use environment that is compatible with the residential character of the Village, zoning permits for permitted uses in industrial districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.

## **SEC. 13-1-49 M-2 GENERAL MANUFACTURING DISTRICT.**

**(a) Purpose.** The M-2 Manufacturing District is intended to provide for manufacturing and industrial development of a more general and less-restrictive nature than the M-1 Limited Manufacturing District in those areas where the

relationship to surrounding land use would create fewer problems of compatibility and would not normally abut directly upon residential districts.

**(b) Permitted Uses.**

(1) Refer to Section 13-1-44 for the list of uses permitted in the M-2 District.

(2) Similar Uses provided approval is obtained under Section 13-1-226.

**(c) Accessory Buildings, Structures and Uses.**

**(1) Review Required**

Accessory buildings, structures and uses are subject to Site Plan and Architectural Review.

**(2) Limitations**

a. Accessory structures and uses are limited to those customarily incidental to the approved principal use, as approved by Site Plan and Architectural Review.

b. No more than twenty percent (20%) of the total floor area (principal building and accessory building gross floor area) shall be used for accessory uses, as approved by Site Plan and Architectural Review.

c. Accessory buildings and structures may only be located in rear yards, with the exception of those typically used for landscaping and decorating such as flagpoles, ornamental light standards, lawn furniture, sundials and birdbaths, as approved by Site Plan and Architectural Review.

d. Accessory building or structure shall be designed in the same architectural style as the principal building or buildings on the same lot.

**(3) Permitted Accessory Buildings, Structures and Uses**

a. Those customarily incidental to the principal use

b. Garages for storage of vehicles used in conjunction with the principal use

c. Off-street parking and loading areas accessory to the principal use

d. Auxiliary power generators

e. Dish antennas, roof mounted only, as approved by Site Plan and Architectural Review.

(4) Setback: same as for principal structure

(5) Proximity to principal building: No closer than 10 feet

(6) Maximum floor area: As approved by Site Plan and Architectural Review

Maximum number: As approved by Site Plan and Architectural Review

(8) Total coverage of all accessory structures: Not more than twenty percent (20%) of rear yard area

(9) No accessory buildings or structures shall be located within the required greenspace setback or within a required parking area.

**(d) Conditional Uses.**

(1) Refer to Section 13-1-44 for the list of conditional uses in the M-2 district.

(2) Similar Uses provided approval is obtained under Section 13-1-226.



(e) Table of Detailed M-2 District Standards.

Type of Standard	Standard
<b>Lot Dimension Requirements</b>	
Minimum Lot Size	20,000 square feet
Minimum Lot Width	90 feet
<b>Minimum Setbacks and Yards</b>	
Street Yard	25 feet/10 feet greenspace
Interior Side Yard Setback	25 feet/10 feet greenspace
Minimum rear yard	25 feet/10 feet greenspace
<b>Rear yard</b>	
Abutting non-manufacturing zoned property	25 feet/25 feet greenspace
Abutting manufacturing zoned property	25 feet/10 feet greenspace
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Building Size</b>	
<i>Maximum Height</i>	
Principal Building	60 feet
Accessory Building	15 feet
Minimum floor area for principal building	
Total	5,000 sq. feet
On 1 <sup>st</sup> floor of Multi-story bldg.	2,000 sq. feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

(f) Design Standards.

(1) **General Requirement**

The architectural design of all buildings shall be subject to Architectural Control Board approval.

(2) **Building Materials and Color**

a. Exterior building materials shall have durability. Materials such as decorative masonry, stone, metal, aggregate panels, glass, stucco and Exterior Insulation and Finish System (EIFS) are permitted. Vinyl is not permitted. The requirement for decorative masonry shall be a minimum of 50% of the gross area of the wall with the greatest square footage. This decorative masonry can be applied on any or all facades of the building with the discretion and approval of the Architectural Control Board. The Architectural Control Board has the discretion to approve other aesthetic installation (such as planting) in place of the 50% decorative masonry, or to leave off the masonry if the Architectural Control Board determines that it makes no sense aesthetically.

(1) The gross area of the wall will be figured including all openings such as doors, windows, porches, etc.

(2) This amended ordinance (adopted on August 18, 2011) will apply to new construction only.

b. Exterior building colors shall be approved by the Architectural Control Board on a case by case basis.

c. Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

(3) **Roofing Materials and Style**

a. Roofing materials are at the discretion of the Architectural Control Board.

b. Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(g) Refuse Storage.**

(1) Trash dumpsters shall be screened from public rights-of-way and adjacent property by an enclosure with walls a minimum of six feet in height. The walls shall be compatible with materials used on the street side of the principal building. Access gates shall be constructed of woven wire fencing with opaque screening material. It is preferred that a screened pedestrian entrance be provided such that waste may be deposited without opening the large access gates.

(2) All garbage/waste shall be in a container within an enclosure. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids.

(3) Refuse storage areas may not be located on any street side of a principal building except by prior Plan Commission approval.

(4) Refuse storage areas may be freestanding or attached to a principal or accessory.

(5) Refuse storage shall not be considered an accessory structure, but shall be of a size to adequately store all refuse and recyclables anticipated to be generated by use or uses on subject property.

(6) The size, height, location, setbacks and design of refuse storage shall be approved by the Plan Commission.

**(h) Other Outdoor Storage.** Other outdoor storage is only permitted as a conditional use with prior review and approval of the Plan Commission.

**(i) Sidewalks, Driveways, Parking and Loading.**

(1) Parking areas shall not encroach into required greenspace, nor shall driveways or sidewalks, except to pass through this area as close to ninety degrees to the roadway as practical.

(2) Sidewalks shall be a maximum of six (6) feet wide.

(3) Driveways shall be provided as set forth in Article F of this ordinance.

(4) Loading areas shall be provided as set forth in Article F of this ordinance.

(5) Parking Requirements shall be provided as set forth in Article F of this ordinance.

**(j) General Development Requirements.**

**(1) *Site Plan Approval Required for Certificate of Occupancy***

**a.** No Certificate of Occupancy shall be granted until all improvements shown on a Plan Commission approved Site Plan and Landscape Plan have been completed in accordance therewith. The Building Inspector may issue a temporary Certificate of Occupancy bearing an expiration date if he finds that that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer, and that temporary occupancy prior to the completion will involve no health or safety hazard. Before obtaining a temporary Certificate of Occupancy the property owner shall post a surety to the Village of Fredonia in double the sum estimated by the Building Inspector to be needed to complete all required improvements.

**b.** Acceptance of a temporary Certificate of Occupancy implies consent to application of the bond money for completion of any required improvements not completed prior to the expiration date of the temporary Certificate of Occupancy and forfeiture of any portion thereof not so applied. No action or inaction by the village regarding any required improvements shall serve to extend the time of validity of any temporary Certificate of Occupancy.

**c.** A temporary Certificate of Occupancy may, however, be extended in time by the Building Inspector, and from time to time for good cause shown, and any

such extension shall operate to extend, for the same period, the time for completion under the terms of the bond.

**d.** Should landscaping not be completed within nine months of occupancy, or if landscape materials that do not survive one full growing season are not replaced, the Village shall draw upon the Letter of Credit as funds to complete or replace landscaping.

**(2) Landscaping**

Landscaping plans are subject to Plan Commission review and approval subject to the following minimum standards. Any alteration to that plan shall be subject to further Plan Commission review and approval.

**a.** The minimum number of trees on a site shall be calculated based on the principal street frontage; one tree is required for each 20 feet. For lots with 100 feet or less of road frontage; a minimum of five trees shall be planted or retained. A minimum of two trees are to be planted or retained in each street yard.

**b.** Deciduous trees shall be a minimum of 3-inch caliper and evergreens a minimum of 6 feet at time of planting.

**c.** Efforts to protect and retain existing trees should be noted in the landscaping plan.

**d.** It is expected that all landscaping shall be appropriately distributed on the site. Additional plantings of trees (deciduous and evergreen), ornamental trees and shrubs above the minimum required herein shall be planted consistent with the aesthetic style of the building.

**e.** Landscaping shall not obstruct fire department view of external fire alarms or access to the building.

**f.** Landscaping shall be used to screen unsightly site elements, such as refuse enclosures, utility boxes, building mechanical equipment and service doors and loading docks.

**g.** All trees shall be hardy, urban tolerant and disease resistant.

**h.** The natural topography shall be used in the design and layout of the site.

**i.** All plantings must be maintained. If at any time, required trees die, be damaged or destroyed, such trees must be replaced in the original approximate location.

**(3) Signage** shall be as set forth under Article G of this ordinance.

**(k) Plans and Specifications to be Submitted to Plan Commission.** To encourage an industrial use environment that is compatible with the residential character of the Village, zoning permits for permitted uses in industrial districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.

## **SEC. 13-1-50 M-3 CORPORATE BUSINESS AND LIGHT MANUFACTURING DEVELOPMENT DISTRICT.**

**(a) Purpose.** The M-3 Corporate Business and Light Manufacturing Development District is intended to provide for the development of an attractive and aesthetic mixed grouping of offices, corporate headquarters, medical facilities, limited light industrial uses, and limited support facilities in a park-like setting that will fit harmoniously into surrounding areas and provide lasting quality.

**(b) Permitted Uses.**

**(1)** Refer to Section 13-1-44 for the list of uses permitted in the M-3 district.

**(2)** Similar Uses provided approval is obtained under Section 13-1-226.

**(c) Accessory Buildings, Structures and Uses.**

**(1) Limitations**

- a. Accessory structures and uses are limited to those customarily incidental to the approved principal use.
- b. No more than twenty percent (20%) of the total floor area (principal building and accessory building gross floor area) shall be used for accessory uses.
- c. Accessory buildings and structures may only be located in rear yards, with the exception of those typically used for landscaping and decorating such as flagpoles, ornamental light standards, lawn furniture, sundials and birdbaths.
- d. No accessory building or structure shall be visible from the principal street.

**(2) Permitted Accessory Buildings, Structures and Uses**

- a. Those customarily incidental to the principal use
- b. Detached garages for storage of vehicles used in conjunction with the principal use
- c. Off-street parking and loading areas accessory to the principal use
- d. Auxiliary power generators
- e. Solar collectors, only as a conditional use
- f. Dish antennas, rear yard and roof mounted

**(3) Setback: same as for principal structure**

**(4) Proximity to principal building: No closer than 10 feet**

**(5) Maximum floor area: As approved by the Plan Commission**

**(6) Maximum number: As approved by the Plan Commission**

**(7) Total coverage of all accessory structures: Not more than twenty percent (20%) of rear yard area**

**(8) Satellite dish antennas on Non-Satellite Lots**

In addition to the requirements listed above, all satellite dish antennas whether or not a permit is required under Article H are subject to the following:

- a. Satellite dish antennas shall be ground mounted and need Architectural Control Board approval.
- b. Multiple satellite dishes are permitted subject to proper screening from visibility from street view.
- c. Satellite dish antennas shall be located no closer than five feet to any alley lot line.
- d. Satellite dish antennas shall be constructed and anchored in such a manner to withstand winds of 80 miles per hour, shall be made of corrosive-resistant materials, and must not interfere with reception on adjacent properties.

**(9) Satellite dish antennas on Satellite Lots**

In addition to the requirements listed above, all satellite dish antennas whether or not a permit is required under Article H are subject to the following:

- a. Satellite dish antennas need Architectural Control Board approval.
- b. Only one satellite dish antenna is allowed and is subject to proper screening from visibility. Additional satellite dish antenna may be allowed with a conditional use permit.
- c. Satellite dish antennas shall be located in the rear yard.
- d. Satellite dish antennas shall be located no closer than five feet to any alley lot line.
- e. Satellite dish antennas shall be constructed and anchored in such a manner to withstand winds of 80 miles per hour, shall be made of corrosive-resistant materials, and must not interfere with reception on adjacent properties.

**(d) Conditional Uses.**

(1) Refer to Section 13-1-44 for the list of conditional uses in the M-3 district.

(2) Similar Uses provided approval is obtained under Section 13-1-226.

**(e) Table of Detailed M-3 District Standards for Non-Satellite Lots.**

<b>Type of Standard</b>	<b>Standard</b>
<b>Lot Dimension Requirements</b>	
Minimum Lot Size	3 acres (130,680 square feet)
Minimum Lot Width	200 feet
Minimum Lot Depth	200 feet
<b>Minimum Setbacks and Yards</b>	
Street Yard	60 feet/40 feet greenspace
Interior Side Yard Setback	Greater of 50% of building height or 20 feet/20 feet greenspace
Rear yard	60 feet/20 feet greenspace
Abutting non-manufacturing zoned property	25 feet/25 feet greenspace
Abutting manufacturing zoned property	25 feet/10 feet greenspace
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Building Size</b>	
<i>Maximum Height</i>	
Principal Building	60 feet
Accessory Building	15 feet
Minimum floor area for principal building	
Total	5,000 sq. feet
On 1 <sup>st</sup> floor of Multi-story bldg.	2,000 sq. feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

**(f) Satellite Lot Dimensional Requirements.**

**(1) Table of Detailed M-3 District Standards for Satellite Lots**

<b>Type of Standard</b>	<b>Standard</b>
<b>Lot Dimension Requirements</b>	
Minimum Lot Size or confined leasable area	1.5 acres (65,340 sq. ft.)
Minimum Lot Width	150 feet
Minimum Lot Depth	150 feet
<b>Minimum Setbacks and Yards</b>	
Street Yard *	25 feet/25 feet greenspace
Interior Side Yard Setback	10 feet/10 feet greenspace
Rear yard	10 feet/10 feet greenspace
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Building Size</b>	
<i>Maximum Height</i>	
Principal Building	30 feet
Accessory Building	None allowed
Minimum floor area for principal building	
Total	2,000 sq. feet
On 1 <sup>st</sup> floor of Multi-story bldg.	1,000 sq. feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

\*Yard facing the public right-of-way although access to satellite lot may be internal through the unified business center.

(2) A unified business center 10 acres or more and all controlled by a single Developer's Agreement shall permit a satellite lot or lots.

(3) All satellite lots in an unified business center shall not exceed thirty percent (30%) of the total size of the commercial/retail center or business center, including satellite lots, all controlled by a single Developer's Agreement.

**(g) Design Standards.**

**(1) General Requirements**

The architectural design of all buildings shall be subject to Architectural Control Board approval.

**(2) Building Materials and Colors**

a. Exterior building materials shall have durability. All four sides of the building must use the same materials. Materials such as masonry, stone, stucco, glass, Exterior Insulation and Finish System (EIFS) and pre-cast walls are permitted. Metal and aluminum are not allowed as the primary exterior building material, but may be used for accents with a maximum of ten percent (10%) coverage. Wood is not permitted.

b. Exterior building colors shall be approved by the Architectural Control Board on a case by case basis.

c. Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(3) Roofing Materials and Style**

a. Roofing materials are at the discretion of the Architectural Control Board.

b. Samples must be provided to the Architectural Control Board and shall be retained by the Architectural Control Board.

**(4) Mechanical Units**

All roof and wall-mounted mechanical, electrical, communications other than satellite dishes, and service equipment, must be screened from public view by parapets, walls, or by other approved means.

**(h) Refuse Storage.**

(1) Trash dumpsters shall be screened from public rights-of-way and adjacent property by an enclosure with walls a minimum of six feet in height. The walls shall be compatible with materials used on the street side of the principal building. Access gates shall be constructed of woven wire fencing with opaque screening material. It is preferred that a screened pedestrian entrance be provided such that waste may be deposited without opening the large access gates.

(2) All garbage/waste shall be in a container within an enclosure. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids.

(3) Refuse storage areas may not be located on any street side of any principal or accessory building except by prior Plan Commission approval.

(4) Refuse storage areas may be freestanding or attached to a principal or accessory structure.

(5) Refuse storage shall not be considered an accessory structure, but shall be of a size to adequately store all refuse and recyclables anticipated to be generated by use or uses on subject property.

(6) The size, height, location, setbacks and design of the refuse storage shall be approved by the Plan Commission.

**(i) Other Outdoor Storage.** Other outdoor storage is only permitted as a conditional use with prior review and approval of the Plan Commission.

**(j) Sidewalks, Driveways, Parking and Loading.**

(1) Parking areas shall not encroach into required greenspace, nor shall driveways or sidewalks, except to pass through this area as close to ninety degrees to the roadway as practical.

(2) Sidewalks shall be reviewed by the Plan Commission.

(3) Driveways shall be provided as set forth in Article F of this ordinance.

(4) Loading areas shall be provided as set forth in Article F of this ordinance.

(5) Parking Requirements shall be provided as set forth in Article F of this ordinance.

**(k) General Development Requirements.**

**(1) Site Plan Approval Required for Certificate of Occupancy**

**a.** No Certificate of Occupancy shall be granted until all improvements shown on a Plan Commission approved Site Plan and Landscape Plan have been completed in accordance therewith. The Building Inspector may issue a temporary Certificate of Occupancy bearing an expiration date if he finds that that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer, and that temporary occupancy prior to the completion will involve no health or safety hazard. Before obtaining a temporary Certificate of Occupancy the property owner shall post a surety to the Village of Fredonia in double the sum estimated by the Building Inspector to be needed to complete all required improvements.

**b.** Acceptance of a temporary Certificate of Occupancy implies consent to application of the bond money for completion of any required improvements not completed prior to the expiration date of the temporary Certificate of Occupancy and forfeiture of any portion thereof not so applied. No action or inaction by the village regarding any required improvements shall serve to extend the time of validity of any temporary Certificate of Occupancy.

**c.** A temporary Certificate of Occupancy may, however, be extended in time by the Building Inspector, and from time to time for good cause shown, and any such extension shall operate to extend, for the same period, the time for completion under the terms of the bond.

d. Should landscaping not be completed within nine months of occupancy, or if landscape materials that do not survive one full growing season are not replaced, the Village shall draw upon the Letter of Credit as funds to complete or replace landscaping.

**(2) Landscaping**

Landscaping plans are subject to Plan Commission review and approval. Any alteration to that plan shall be subject to further Plan Commission review and approval.

a. The minimum number of trees on a site shall be calculated based on the principal street frontage; one tree is required for each 20 feet. For lots that have minimal frontage due to the existence of satellite lots in an unified retail center arrangement, the frontage shall be considered the width of the lot measured at the frontage of the building or buildings on the lot.

b. In addition to the required minimum number of trees, one additional required tree shall be planted for 8,712 square feet of total lot area (i.e., five trees per acre). One third of all such trees shall be planted in the street yard and/or in areas with the highest potential of public view.

c. In addition to the required plantings in areas with the highest potential of public view, the landscaping shall be distributed throughout the site with emphasis on screening of unsightly site elements, such as refuse enclosures, utility boxes, building mechanical equipment and service doors and loading docks.

d. Additional plantings of trees (deciduous and evergreen), ornamental trees and shrubs above the minimum required herein shall be planted consistent with the aesthetic style of the building.

**e. Trees**

1. Deciduous trees shall be a minimum of 3 inch caliper and evergreens a minimum of 6 feet at a time of planting.

2. All trees shall be hardy, urban tolerant and disease resistant.

3. Efforts to protect and retain existing trees should be noted on the landscape plan.

f. Landscaping shall not obstruct fire department view of external fire alarms or access to the building, and shall not obstruct vision triangles for both external or internal traffic flow.

g. The natural topography shall be used in the design and layout of the site.

h. All plantings must be maintained. If at any time, required trees shall die, be damaged or destroyed, such trees must be replaced in the original approximate location.

**(3) Signage Requirements**

In addition to the requirements set forth in Article G of this chapter, the following restrictions apply:

a. Projecting signs, roof signs, window signs, neon signs, and post-mounted signs are prohibited.

b. Only wall signs and ground-mounted (monument) signs are permitted.

c. Directional signs are permitted only by prior committee approval.

d. Sign text is limited to the names of the building owner, occupants, and product or occupation.

**(1) Plans and Specifications to be Submitted to Plan Commission.** To encourage an industrial use environment that is compatible with the residential character of the Village, zoning permits for permitted uses in industrial districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.



## SEC. 13-1-51 I-1 INSTITUTIONAL DISTRICT.

(a) **Purpose.** The I-1 Institutional District is intended to eliminate the ambiguity of maintaining in unrelated use districts, areas which are under public or public-related ownership and where the use for public purpose is anticipated to be permanent.

(b) **Permitted Uses.**

- (1) Public or private schools, colleges, and universities.
- (2) Churches.
- (3) Hospitals, sanitariums, nursing homes, and clinics.
- (4) Libraries, museums, and art galleries.
- (5) Public administrative offices, and public service buildings, including fire and police stations.
- (6) Public utility offices
- (7) Water storage tanks and towers.

(c) **Permitted Accessory Uses.**

- (1) Residential quarters for caretakers or clergy.
- (2) Garages for storage of vehicles used in conjunction with the operation of a permitted use.
- (3) Off-street parking and loading areas.
- (4) Service buildings and facilities normally accessory to the permitted uses.

(d) **Table of Detailed I-1 District Standards.**

Type of Standard	Standard
<b>Lot Dimension Requirements</b>	
Minimum Lot Size or confined leasable area	11,000 sq. ft.
Minimum Lot Width	70 feet
<b>Minimum Setbacks and Yards</b>	
Street Yard *	25 feet/25 feet greenspace
Interior Side Yard Setback	10 feet/10 feet greenspace
Rear yard	25 feet/10 feet greenspace
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Maximum Building Height</b>	
Principal Building	35 feet
Accessory Building	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%

(e) **Plans and Specifications to be Submitted to Plan Commission.** Every building or any building hereafter erected or structurally altered for institutional uses shall, before a zoning permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety, or substantially diminish or impair property values within the neighborhood.

## **SEC. 13-1-52 P-1 PARK DISTRICT.**

**(a) Purpose.** The P-1 Park District is used to provide for areas where the open space and recreational needs, both public and private, of the citizens can be met without undue disturbance of natural resources and adjacent uses.

**(b) Permitted Uses.**

- (1) Amphitheaters.
- (2) Amusement parks.
- (3) Aquariums
- (4) Arenas and field houses
- (5) Art galleries
- (6) Auditoriums
- (7) Boat rentals and boat access sites
- (8) Botanical gardens and arboretums
- (9) Dude ranches
- (10) Exhibition halls
- (11) Fairgrounds
- (12) Forest reserves (wilderness areas)
- (13) Forest reserves (wilderness refuges)
- (14) General resorts
- (15) Golf courses with or without country club facilities
- (16) Golf driving ranges
- (17) Gymnasiums and athletic clubs
- (18) Health resorts
- (19) Historic and monument sites
- (20) Hunting and fishing clubs
- (21) Ice skating
- (22) Legitimate theaters.
- (23) Libraries
- (24) Miniature golf
- (25) Motion picture theaters
- (26) Museums
- (27) Parks-general recreation
- (28) Parks-leisure and ornamental
- (29) Picnicking areas
- (30) Planetaria
- (31) Play lots or tot lots
- (32) Playfields or athletic fields
- (33) Playgrounds
- (34) Recreation centers.
- (35) Roller skating
- (36) Skiing and tobogganing
- (37) Ski resort
- (38) Stadiums
- (39) Swimming beaches
- (40) Swimming pools
- (41) Tennis courts
- (42) Zoos.

**(c) Permitted Accessory Uses.** Buildings accessory to the permitted recreational use.

**(d) Conditional Uses.** See Article D.

**(e) Lot Area and Width.** Lots shall provide sufficient area for the principal structure and its accessory structures, off-street parking and loading areas as required by Article F and all required yards.

**(f) Table of Detailed P-1 District Standards.**

Type of Standard	Standard
<b>Minimum Setbacks and Yards</b>	
Street Yard *	40 feet/10 feet greenspace
Interior Side Yard Setback	40 feet/15 feet greenspace
Rear yard	40 feet/20 feet greenspace
Wetland Setback	30 feet
Shoreyard Setback	75 feet
<b>Maximum Building Height</b>	
Principal Building	35 feet
Accessory Building	15 feet
<b>Natural Resource Preservation Reqs.</b>	
Woodlands and Forests	70%
Lakes and Ponds	100%
Wetlands	100%

**SEC. 13-1-53 C-1 CONSERVANCY DISTRICT.**

**(a) Purpose.** The C-1 Conservancy District is intended to preserve, protect, and enhance the ponds, streams and wetlands areas of the Village of Fredonia. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; control storm water runoff; protect stream banks from erosion, protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of the Village.

**(b) Permitted Uses.** The following are permitted uses as a matter of right:

- (1) Hiking, fishing, trapping, swimming, and boating, unless prohibited by other ordinances and laws.
- (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops, and that does not involve filling, draining, dredging, ditching, tiling, or excavating.
- (3) The practice of silviculture, including the planting, thinning and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling or excavating is done, except for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on silviculture activities if not corrected.
- (4) Construction and maintenance of fences.
- (5) Existing agricultural uses provided they do not involve extension of cultivated areas, extension of or creation of new drainage systems and further provided they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
- (6) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
- (7) The construction and maintenance of piers, docks, and walkways, including those built on pilings.
- (8) The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.

**(c) Conditional Uses.** See Article D.

**(d) Prohibited Uses.**

(1) Any use not listed as a permitted use or a conditional use is prohibited unless the C-1 District lands concerned are first rezoned into another district.

(2) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable water are prohibited.

## **SEC. 13-1-54 TRADITIONAL NEIGHBORHOOD DEVELOPMENT DESIGN REQUIREMENTS.**

### **(a) Purpose.**

The Village of Fredonia Comprehensive Plan identifies five (5) contained areas having the potential for annexation to the Village accompanied by development into unique neighborhoods. Whenever annexation and/or development are proposed for any of the five areas, the requirements of this section shall become applicable. The purpose of this section for Traditional Neighborhood Development (TND) shall be:

(1) To continue the integrated land use style of development that has been prevalent historically in the central part of the Village, and apply it to newly developed areas.

(2) To create a development design that creates unified neighborhoods, with interaction between land uses, including encouraging multiple internal modes of transportation.

(3) To provide adequate open space and preservation of natural resources in each neighborhood.

(4) To avoid the segregation of land uses by creating a comprehensive land use design and proper internal and external transportation design for each neighborhood.

(5) To provide for a mixture of land uses as deemed desirable by the Comprehensive Plan.

(6) To create a review process to implement the Comprehensive Plan.

### **(b) Requirements for TND.**

Whenever an annexation and/or development proposal is submitted to the Village for consideration for a parcel, lot or group of parcels or lots within the area so designated as a TND on the Village of Fredonia 2020 Land Use Plan (Map 7-3) or as amended, the proposal shall adhere to the requirements and process of this Section 13-1-57. This TND process shall be in addition to the requirements set forth in this ordinance for rezoning, or conditional use, or the Village of Fredonia Subdivision Code. Said other approval processes may occur concurrently with or separately from this TND approval process.

**The TND boundaries shall be defined as follows:**

<b>TND #1</b>	
North	Willow Valley Road
South	One-half mile south of Willow Valley Road, except for lands owned by the Northern Ozaukee School District
East	State Trunk Highway 57
West	Railroad Right-of-Way
<b>TND #2</b>	
North	Willow Valley Road
South	One-half mile south of Willow Valley Road
East	Ultimate Village Boundary
West	State Trunk Highway 57
<b>TND #3</b>	
North	One-half mile north of County Trunk Highway A
South	County Trunk Highway A
East	Ultimate Village Boundary
West	State Trunk Highway 57
<b>TND #4</b>	
North	Meadowlark Road
South	One-half mile south of Meadowlark Road
East	Ultimate Village Boundary
West	State Trunk Highway 57
<b>TND #5</b>	
North	Meadowlark Rd. ,excluding the Industrial Land Use Designation
South	Beech Lane extended
East	State Trunk Highway 57, excluding the Industrial Land Use Designation
West	Railroad Right-of-Way

**(c) Process.**

The following shall be the process for the approval of the TND:

- (1) A petition shall be filed with the Village Clerk together with payment of a filing fee in accordance with the Village Board adopted fee schedule.
- (2) Petitioner may be an individual property owner or a developer representing an individual property owner, or may be a combination of property owners or developer or developers representing a combination of property owners. While the five TND areas were designed as homogeneous neighborhoods with as few multiple ownerships as possible, several of the TNDs have multiple owners of parcels or lots.
- (3) The petition shall not require the participation of all property owners within a specific TND as co-petitioners.
- (4) Prior to petition the petitioner shall request a pre-petition conference with applicable Village staff, and may request a preliminary review of development plans by the Plan Commission. If the preliminary review occurs, the Plan Commission shall make preliminary comments without any votes.
- (5) Petitioner shall submit all documents and plans with the petition as required below, plus any supplementary information requested by the Village to assist review and decision regarding the plan. At a minimum the submittal shall include:
  - a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
  - b. The location of public and private roads, driveways, sidewalks, and parking facilities.

- c. The size, arrangement, and location of any individual building sites and proposed building groups on each individual site.
  - d. The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks, and drainageways.
  - e. The type, size, and location of all structures.
  - f. General landscape treatment.
  - g. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.
  - h. The existing and proposed location of public sanitary sewer, water supply, facilities, and stormwater drainage facilities.
  - i. The existing and proposed location of all private utilities or other easements.
  - j. Characteristics of soils related to contemplated specific uses.
  - k. Existing topography on the site with contours at no greater than two (2) foot intervals.
  - l. Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses.
  - m. If the development is to be staged, a staging plan.
- (6) Petitioner shall submit the names and addresses of all property owners within the TND that are not party to the petition, and the names and addresses of property owners within three hundred (300) feet of the entire TND area, exclusive of any rights-of-way.
- (7) Petitioner shall submit a detailed impact analysis in a format specified by the Village.
- (8) **Upon** the Village Clerk certifying that all required and requested documents, plans and information have been submitted, the Village Clerk shall schedule a Public Hearing before the Plan Commission. The hearing shall be scheduled within forty-five (45) days of certification by the Village Clerk that the submittal is in order, but not any sooner than twenty-one (21) days from certification.
- (9) The Village Clerk shall publish a Class II notice to advertise the hearing, and shall notify all property owners within the TND area and within three hundred (300) feet of the TND area. Village Clerk shall also notify the Wisconsin Department of Natural Resources (Southeast District), the Town Board of the Town the TND area is within prior to annexation, the Department of Transportation (District #2), and the Ozaukee County Highway Department if the TND area abuts a County Highway.
- (10) The Plan Commission shall hold the hearing, taking all evidence presented by the petitioner, property owners, other governmental jurisdictions, and the general public.
- (11) Within sixty (60) days after completion of the hearing, the Plan Commission shall forward a recommendation to the Village Board, with a recommendation to deny, approve, or approve with conditions the TND Plan.
- (12) Within forty-five (45) days of Plan Commission recommendation, the Village Board shall deny, approve or approve with conditions the TND Plan by ordinance. The ordinance shall be considered a detailed neighborhood plan amendment to the Comprehensive Plan.
- (13) All time frames within this section may be extended by with the written approval of the petitioner, and the mutual agreement of the Plan Commission, if at that level, or the Village Board.

**(d) TND Plan Design Standards.**

The TND regulations are created to allow flexibility of design while at the same time providing continued economic development opportunities as the Village grows. Residential density standards matching the residential growth policies of the Comprehensive Plan and an appropriate mix of uses have been determined. The following are minimum design standards for TND Plans.

- (1) The TND Plan shall include all lands, lots and parcels within the defined TND, regardless if all are party to or not party to the petition.
- (2) The TND Plan shall provide land uses at a percentage as stated in the Comprehensive Plan calculated at a gross acreage of the entire TND, minus any existing right-of-way. However, to allow flexibility of design, each percentage of land use category may be adjusted by a range of twenty percent (20%) from the Comprehensive Plan stated percentage. For example, if the land use is stated as ten percent (10%) of the TND, the allowable range would be twenty percent (20%) of the ten percent (10%) in either direction, for a range of eight (8) to twelve percent (12%). If adjustment is allowed, the Plan Commission and the Village Board shall find that the adjustment maintains the policies of the Comprehensive Plan. The adjustment shall not allow the gross acreage for two-family and multi-family to exceed the "Approximate Gross Acres per Land Use" as stated in the Comprehensive Plan.
- (3) If a TND includes an alternate land use, such as a school or church, the alternate land use site shall be subtracted from the gross area of the TND.
- (4) All natural resource features within the TND shall be preserved. This includes, but is not limited to, one hundred percent (100%) of wetland, streams and watercourses, one hundred percent (100%) of archeological sites, and seventy percent (70%) of woodland and forests.
- (5) A usable central open space and/or park shall be provided. The area of central open space and/or park shall be at a rate of 0.02 acres per planned number of ultimate residential dwelling units within the TND, but the site shall not be less than 5.0 acres in size.
- (6) Storm water management and water quality basins, wet or dry, shall not be included in the central open space area.
- (7) All natural resource features, central open space, open space corridors, and storm water management facilities (herein called open space total) shall be connected through open space corridors or pedestrian connections, or a combination of both, as much as feasible given site conditions. The acreage of the open space total, and storm water management facilities, shall be equally subtracted from the land use category gross acreage. For example, if a commercial land use is required by the Comprehensive Plan to provide for ten percent (10%) of the TND, then ten percent (10%) of the total acreage of the open space total within the TND shall be subtracted from the required commercial acreage within the TND.
- (8) Single-Family Residential land use categories listed in the Comprehensive Plan shall conform to the corresponding zoning district.
- (9) The Two-Family Residential land use category listed in the Comprehensive Plan shall conform to the RD-1 zoning district.
- (10) The Multi-Family Residential land use category listed in the Comprehensive Plan shall conform to the RM-1 zoning district.
- (11) The commercial land use category listed in the Comprehensive Plan shall apply to either or a combination of the B-2 Community Business District or the B-3 Commercial Business Design District, in accordance with the purpose statement of each district.
- (12) Maximum residential densities in a TND per each land use category and corresponding zoning district shall be calculated by using the net density coefficient, as specified in the Table of Detailed District Standards under Unified Development Density. Using the net density coefficient is an enhancement to the TND to offset the subtraction of the open space total prior to calculating density.
- (13) This section shall not allow individual lot sizes below the minimum lot size as stated in the standards of the corresponding zoning district.
- (14) The TND Plan shall be designed to create an efficient and integrated land use pattern, with an emphasis of placing the highest intensity of uses along the external highway, with vehicular and pedestrian cross access

between land uses, while providing for safe access points, both externally and internally, to serve the highest intensity land uses.

(15) The TND Plan shall equally distribute the open space total across the entire area of the TND, so that both current and potential future phases of the TND provide an equitable share of the total open space. However, the Village may establish a minimum size for individual open space sites to create usable open space areas.

(16) The TND Plan shall include anticipated phasing and shall include provisions for future continuation of the street system to serve lands within the TND that are not part of the initial phase of development.

**(e) Criteria for Approval.**

The Plan Commission shall use the following criteria as a basis for their recommendation to the Village Board regarding approval or denial:

(1) The TND Plan conforms to the purposes of this section.

(2) The TND Plan conforms to the TND Plan Design Standards.

(3) The TND Plan supports the development policies of the Comprehensive Plan.

(4) The TND Plan does not create any undue hardship upon the Village to serve the potential development of the TND, per the results of a detailed impact analysis for the TND pursuant to Section 14-1-22 of Village Code, or in the alternative, the petitioner has agreed to provisions to mitigate any undue hardship.

**(f) Implementation of a TND Plan.**

The following shall be the process to implement an approved TND Plan:

(1) The ordinance approving the TND Plan shall reference the last revised date of the plans and documents for the TND approved by the Village Board.

(2) The ordinance approving the TND Plan shall indicate all conditions of approval. Conditions of approval shall reference phasing of the TND, required open space per phase, required public improvements per phase, plus other conditions to further implement the Comprehensive Plan and this ordinance.

(3) The ordinance approving the TND Plan shall adopt an amendment to the Comprehensive Plan with the TND Plan being a detailed neighborhood plan as a component of the Comprehensive Plan.

(4) The TND Plan shall not be considered zoning on the property. Either concurrent with the TND Plan process or separately thereafter, prior to development of any lands within the TND, the lands, lots or parcels shall be rezoned to the corresponding zoning district as established by the TND Plan. Also, any part of a land use requiring conditional use approval shall complete the conditional use process. If the zoning process occurs thereafter, separate hearings shall be held in accordance to the requirements of that process.

(5) The TND Plan shall gain all necessary subdivision platting and certified survey map(s) approvals, in addition to approval of a developer's agreement, for each portion or phase of the TND, as deemed appropriate, prior to the development of each portion or phase of the TND.

(6) The Village shall negotiate required phasing within the developer's agreement to achieve the proper mix of commercial development in initial phases, if applicable, to balance the commercial/residential tax base of the TND; and to achieve that single-family construction is included in each phase when two-family and multi-family is constructed.

(7) The TND Plan approval shall not substitute for any other approvals required prior to development on behalf of the Village, County of Ozaukee, State of Wisconsin or the United States.

(8) The TND Plan may be amended by the Village at the petition of any property owner within the TND, only after completing the process, design standards and criteria as specified by this section.



In order to determine the maximum number of dwelling units which may be permitted on a parcel of land zoned in a residential zoning district, the site density shall be calculated in accordance with the following worksheet.

Step 1	Gross Site Area, in acres as determined by an actual site boundary survey of the lands in a contiguous residential zoning district	= _____ acres
Step 2	Subtract land of any existing dedicated public right-of-way, and the land of right-of-ways of major utilities	= _____ acres
Step 3	Gross Site of Area	= _____ acres
Step 4	<p>Natural Resources to be protected, in acres</p> <p>Wetlands: _____ acres</p> <p>Floodplains: _____ acres</p> <p>Lakes and Streams: _____ acres</p> <p>Woodlands &amp; Forests: _____ acres</p> <p>Storm Water Basins: _____ acres</p> <p>Archeological Sites: _____ acres</p> <p>Other: _____ acres</p> <p>(Specify _____)</p> <p>Grand Total</p>	= _____ acres
Step 5	<p>Subtract natural resources to be protected (Step 4) from Gross Site Area (Step 3)</p> <p>Net Site Area</p>	= _____ acres
Step 6	<p>Calculate Maximum Gross Density yield of site. Take results of Step 3, multiply by Gross Density (per specific zoning district standards)</p> <p>Equals Maximum Gross Density Yield of Site</p>	= _____ acres
Step 7	<p>Calculate Maximum Net Density Yield of Site</p> <p>Take result of Step 5, multiply by Net Density (per specific zoning district standards)</p> <p>Equals Maximum Net Density Yield of Site</p>	= _____ acres Dwelling units
Step 8	Determine Maximum Permitted Dwelling Units of Site. Take the lowest of Maximum Gross Density Yield or Maximum Net Density Yield.	= _____ Dwelling units

(c) For the Traditional Neighborhood Development standards (see Section 13-1-57) utilize the Net Density Yield.

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## **ARTICLE D: CONDITIONAL USES.**

### **SEC. 13-1-60 STATEMENT OF PURPOSE-CONDITIONAL USES.**

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

### **SEC. 13-1-61 AUTHORITY OF THE PLAN COMMISSION; REQUIREMENTS.**

(a) The Plan Commission is authorized to review and approve conditional use permits.

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

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

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

(e) 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.

## **SEC. 13-1-62 INITIATION OF CONDITIONAL USE.**

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

## **SEC. 13-1-63 APPLICATION FOR CONDITIONAL USE.**

(a) Required Application Materials. An application for a conditional use shall be filed in duplicate on a form prescribed by the Village. Such applications shall be forwarded to the Plan Commission on receipt by the Zoning Administrator. Such applications shall include the following, with the exception of any items the Zoning Administrator deems not to be applicable:

(1) A statement, in writing, by applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter.

(2) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within one hundred (100) feet.

(3) 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 lies.

(4) Plat of survey prepared by a land surveyor registered in Wisconsin or other map drawn to scale and approved by the Zoning Administrator, showing the location, property boundaries, dimensions, uses, and size of the following:

a. Subject site; existing and proposed structures; existing and proposed easements, streets, walkways, and other public ways; off-street parking, loading areas, and driveways; existing highway access restrictions; existing and proposed street, side and rear yards; existing vegetation and proposed landscaping; and areas subject to inundation by floodwaters.

b. In areas subject to inundation by floodwaters, the plat of survey shall also include first floor elevations, utility elevations, historic and probable future floodwater elevations, dept of inundation, floodproofing measures, and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structures or its effects on flood flows. Where floodproofing is required, the applicant shall submit a plan or document certified by a registered professional engineering or architect, that the floodproofing measures are adequate to withstand the flood forces and velocities associated with the one hundred (100) year recurrence interval flood. Prior to the issuance of an occupancy permit, the applicant shall also submit a certification by the registered professional engineer that the finished floodproofing measures were accomplished in compliance with the provisions of this Chapter.

c. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within forty (40) feet of the subject site, contours, soil types, high water mark, ground water

conditions, bedrock, slope and existing vegetation cover, mean and historic high-water lines, on or within forty (40) feet of the subject premises..

(5) Plans for buildings, sewage disposal facilities, water supply systems, and plan of operations.

(6) Specifications for areas of proposed filling, grading, lagooning, or dredging.

(7) Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter as required by the Village Board, Village Plan Commission, Village Engineer or Planner.

(8) Receipt showing payment of the appropriate fee as indicated on the Village Board approved fee schedule. Costs incurred by the Village in retaining legal, planning, engineering, and other technical and professional advice in connection with the review of conditional use applications and the preparation of conditions to be imposed on such uses shall be charged to the applicant.

## **SEC. 13-1-64 HEARING ON APPLICATION.**

Requests for all conditional use permits are heard by the Plan Commission. Upon receipt of a complete application and statement as described in Section 13-1-63, the Plan Commission shall hold a public hearing at such time and place as shall be established by such Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time. The Plan Commission is authorized to approve, deny, or conditionally approve applications for conditional use permits, through application of the standards described in Section 13-1-66 below. Any decision of the Plan Commission may be appealed through the procedure described in Section 13-1-68.

## **SEC. 13-1-65 NOTICE OF HEARING ON APPLICATION.**

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wisconsin Statutes in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Assessor for all property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected. Said notice is to be sent at least five (5) days prior to the date of such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

## **SEC. 13-1-66 STANDARDS - CONDITIONAL USES.**

No application for a conditional use shall be approved by the Plan Commission or granted by the Village Board on appeal unless such Commission or Board shall find that the following conditions are present:

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

(b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment,

maintenance or operation of the conditional use and that the proposed use is compatible with the use of adjacent land.

(c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

(e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(f) That the conditional use shall, conform to all applicable regulations of the district in which it is located, as stated in Section 13-1-61(e).

(g) That the proposed use does not violate flood plain regulations governing the site.

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

(i) The Plan Commission and Board shall also evaluate the effect of the proposed use upon:

(1) The maintenance of safe and healthful conditions.

(2) The prevention and control of water pollution including sedimentation.

(3) Existing topographic and drainage features and vegetative cover on the site.

(4) The location of the site with respect to floodplains and floodways of rivers and streams.

(5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.

(6) The location of the site with respect to existing or future access roads.

(7) The need of the proposed use for a shore land location.

(8) Its compatibility with uses on adjacent land.

(9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

## **SEC. 13-1-67 DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT.**

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

## **SEC. 13-1-68 APPEALS.**

Any action of the Plan Commission in granting or denying a conditional use permit may be appealed to the Village Board, if a written request for an appeal is filed within ten (10) days after the date of the Plan Commission's action in granting or denying the permit. Such request for appeal shall be signed by the applicant or by the owners of at least twenty percent (20%) of the land area immediately adjacent extending one hundred (100) feet there from or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land. The request shall be filed

with the Zoning Administrator who shall submit it to the Village Board at its next meeting, together with any documents and other data used by the Plan Commission in reaching its decision. The Village Board may consider the matter forthwith, refer the matter to a subsequent meeting or set a date for a public hearing thereon. In the event the Village Board elects to hold a public hearing, notice thereof shall be given by mail to the known owners of the lands immediately adjacent thereto and directly opposite any street frontage of the lot or parcel in question and by publication of a Class 1 notice in the official newspaper at least ten (10) days before the date of the hearing. The Village Board may either affirm or reverse in whole or in part the action of the Plan Commission and may finally grant or deny the application for any conditional use permit which has come before the Village Board on appeal.

## **SEC. 13-1-69 CONDITIONS AND GUARANTEES.**

The following provisions shall apply to all conditional uses:

**(a) Conditions.** Prior to the granting of any conditional use, the Plan Commission, or the Village Board on appeal, may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the granting authority shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for the following, without limitation because of specific enumeration.

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

**(b) Site Review.** In making its decision, the Plan Commission shall evaluate each application and may request assistance from any source, which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.

**(c) Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Plan Commission.

**(d) Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Plan Commission may require the use of certain general types of exterior construction materials and/or architectural treatment.

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

**(f) Conditional Uses to Comply with Other Requirements.** Conditional uses shall comply with all other provisions of this Chapter such as lot width and area, yards, height parking and loading. No conditional use permit shall be granted where the proposed use is deemed to be inconsistent or conflicting with neighboring uses for reasons of smoke, dust, odors, noise, vibration, lighting, health hazards or possibility of accident

## **SEC. 13-1-70 VALIDITY OF CONDITIONAL USE PERMIT.**

Where the Plan Commission has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Commission's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is to be commenced within six (6) months of the date of issuance. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Plan Commission may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Village at least thirty (30) days before the expiration of said permit.

## **SEC. 13-1-71 COMPLAINTS REGARDING CONDITIONAL USES.**

The Plan Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen, official, or whenever such matters have been referred by the Village Board, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-64 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Plan Commission, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. Additionally, the offending party may be subjected to forfeiture as set forth in this Chapter and

Section 1-1-6. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Plan Commission may revoke the subject conditional use approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be furnished to the current owner of the conditional use in writing stating the reasons therefore. An appeal from a decision of the Plan Commission under this Section may be taken to the Village Board.

## **SEC. 13-1-72 PUBLIC AND SEMIPUBLIC CONDITIONAL USES.**

The following public and semipublic uses shall be conditional uses and, may be permitted as specified:

- (a) Airports, airstrips, and landing fields in the M-1 and M-2 industrial districts and A-1 general agricultural/holding district, provided that the site is not less than twenty (20) acres.
- (b) Utilities in all districts provided that principal buildings of sewage disposal plants, municipal incinerators, warehouses, and shops are not less than fifty (50) feet from any residential district lot line.

## **SEC. 13-1-73 RESIDENTIAL DISTRICT CONDITIONAL USES.**

The following uses shall be conditional in residential districts and may be permitted as specified:

- (a) **Housing** for the elderly in the RM-1 and RM-2 multiple-family residence districts, provided that elderly housing densities shall not exceed twenty-two (22) units per net acre.
- (b) **Community living arrangements** which have a capacity for nine (9) or more persons in the RS-1, RS-2, RS-3, RD-1, RD-2 and RD-3 residential districts. Community living arrangements which have a capacity for sixteen (16) persons or more in the RM-1 and RM-2 residential districts.
- (c) **Photographic studios** in all residential districts.
- (d) **Model Homes** and accessory sales offices within the model home in all residential districts.
- (e) **Commercial Greenhouses**
- (f) **Bed and Breakfast Establishment**, subject to the following:
  - (1) **Regulations.**
    - a. Compliance with State Standards. All bed and breakfast establishments and licensees shall be subject to and comply with Chapter HSS 197, Wis. Adm. Code, relating to bed and breakfast establishments or Wisconsin Administrative Code HSS 195 relating to hotels, motels and tourist rooming houses.
    - b. Registry. Each bed and breakfast establishment shall provide a register and require all guests to register their true names and addresses before assigning quarters. The register shall be kept intact and available for inspection by a Village representative for a period of not less than one (1) year.
  - (2) **Permit Required.**
    - a. Village Permit Required. In addition to the permit required by Chapters HSS 195 or HSS 197, Wisconsin Administrative Code, before opening for business every bed and breakfast establishment shall obtain a permit from



the Zoning Administrator by application made upon a form furnished by said officer and shall obtain a conditional use permit.

**b. Application Requirements.** The following is required to be furnished at the time an application is filed for a conditional use permit in addition to the other application requirements of this Article:

1. Site plan showing location and size of buildings, parking areas and signs.
2. Number, surfacing and size of parking stalls.
3. Number, size and lighting of signs.
4. A receipt showing payment of the appropriate fee indicated on the Village Board approved fee schedule.

**c. Registration of Agent.** The identity of the person designated by the owner to be in charge of such establishment shall be filed in writing with the Zoning Administrator upon issuance of the permit and updated five (5) days prior to taking charge. The Zoning Administrator shall be notified in writing five (5) days prior to any change of registered agent.

**d. Display of Permit.** The permit issued by the Zoning Administrator shall be conspicuously displayed in the bed and breakfast establishment.

**(3) Off-Street Parking Required.** Permits shall be issued only to those establishments that provide a minimum of one (1) improved off-street parking space for each room offered for occupancy. Establishments otherwise qualifying under this Section regulating bed and breakfast establishments shall not be subject to the other requirements of the Zoning Code with respect to traffic, parking and access.

**(4) On-site Signs.** Total signage shall be limited to a total of twelve (12) square feet and may be lighted in such manner and nature as to not alter or deteriorate the nature of the surrounding neighborhood. Establishments otherwise qualifying under this Section regulating bed and breakfast establishments shall not be subject to the other requirements of this Zoning Code with respect to signs.

**(5) Termination of Permit.** A bed and breakfast use permit shall be void upon the sale or transfer of the property ownership. The Plan Commission shall review, approve, and conditionally approve, or deny an application submitted by a person anticipating the purchase of premises for such use. A permit issued in accordance with Subsection (c) above shall be valid until terminated by action of the Zoning Administrator for violation of the provisions of this Section, or of State of Wisconsin regulations as set forth in Chapter HSS 195 or Chapter HSS 197, Wis. Adm. Code, or as above provided.

**(g) Mobile home parks** in the RS-3 District provided that:

- (1) Minimum park size shall be ten (10) acres.
- (2) Minimum park width shall be four hundred fifty (450) feet.
- (3) Maximum number of mobile home sites shall be six (6) per acre.
- (4) Minimum open space provided shall be twenty percent (20%) of the development area, exclusive of streets.
- (5) Minimum lot area for a single module mobile home shall be five thousand (5,000) square feet. The mobile home lot shall be a minimum of fifty (50) feet in width.
- (6) Minimum lot area for a double module mobile home shall be (6,000) six thousand square feet. The mobile home lot shall be a minimum of sixty (60) feet in width.
- (7) Minimum setback for a mobile home park shall be seventy-five (75) feet from the right-of-way line of a Class A highway and fifty (50) feet from all other public streets.
- (8) Minimum distance between mobile home units and all other exterior park lot lines shall be forty (40) feet.

(9) Minimum distance between mobile home and service road shall be twenty (20) feet.

(10) Minimum distance between mobile home trailers shall be fifteen (15) feet.

(11) All drives, parking areas, and walkways shall be surfaced with dust-free material. There shall be two (2) parking spaces for each mobile home.

(12) No mobile home sales office or other business or commercial use shall be located on the mobile home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and one (1) office are permitted.

(13) Each mobile home park shall be completely enclosed, except for permitted entrances and exits, by either:

a. A temporary planting of fast-growing material, capable of reaching a height of ten (10) feet or more.

b. A permanent evergreen planting, the individual trees to be of such a number and so arranged that within ten (10) years they will have a formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than ten (10) feet.

(14) All mobile homes within a mobile home park shall be securely anchored and provided with skirting at its base.

(15) All mobile homes shall meet the Manufactured Home Safety and Construction Standards established by the U.S. Department of Housing and Urban Development ("HUD Code").

(16) No mobile home site shall be rented for a period of less than (30) thirty days.

**(h) Residential Business.** A residential business shall be deemed a conditional use and shall require that an application for a conditional use permit be filed with the Village Clerk. A conditional use for a residential business shall be granted by the Plan Commission if they determine that such use shall not have an adverse impact on the residential aesthetics and residential character of the surrounding area. A residential business conditional use permit may be revoked upon a determination by the Plan Commission that the residential business has adversely impacted the residential character of the surrounding neighborhood.

**(i) Rebuild Accessory Structure.** In the RS-3 zoning district, after application and approval under Section 13-1-160(b)(4), a detached, rebuilt accessory structure of up to 720 square feet.

## **SEC. 13-1-74 BUSINESS CONDITIONAL USES.**

The following restrictions apply to conditional uses as stated, where such uses are allowed under Section 13-1-44. These restrictions shall be observed in addition to any other conditions placed by the Plan Commission during the conditional use approval process.

**(a)** All animal services, including the boarding of animals, shall be conducted indoors in business and manufacturing districts. In the agricultural district no structure or animal enclosure shall be located closer than 100 feet to a property boundary.

**(b)** Firearm, fireworks and fertilizer sales shall be located a minimum of 500 feet from any residence, school, or church.

## **SEC. 13-1-75 MINERAL EXTRACTION CONDITIONAL USE.**

**(a)** Mineral extraction operations are conditional uses, including crushed and broken stone quarrying; clay, ceramic, and refractor minerals mining; sand and

gravel quarrying; nonmetallic mining except fuels; processing of topsoil; and washing, refining, or processing of rock, slate, gravel, sand, and minerals.

**(b)** The application for a conditional use permit shall be made to the Plan Commission by the

property owner or long-term lessee, either of whom shall be directly responsible in the extracting or removal of the mineral, gravel, sand, rock, slate, or topsoil. Applications shall be accompanied by the following:

**(1)** A receipt showing payment of the appropriate fee as indicated on the Village Board approved fee schedule. For one year of operation; a plat of survey of the proposed site and an adequate description of the operational methods; a list of equipment, machinery, and structures to be used; the source, quantity, and disposition of water to be used; a topographic map of the site showing existing contours with a minimum vertical of five (5) feet; trees; proposed and existing access roads; the depth of all existing and proposed excavations; and a restoration plan.

**(2)** The restoration plan provided by the applicant shall contain proposed contours after filling or restoration, depth of the restored topsoil, type of fill, planting or reforestation, restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the Village's inspection and administration costs. 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 sureties shall be based upon cost estimates prepared by the Village Engineer, and the form and type of such sureties shall be approved by the Village Board.

## **SEC. 13-1-76 RECREATIONAL CONDITIONAL USES.**

The following recreational uses shall be conditional uses in the P-1 park district and may be permitted as specified: drive-in movies, archery ranges, golf courses with country club/restaurant facilities, golf driving ranges, group or organized camps, miniature golf, penny arcades.

## **SEC. 13-1-77 CONSERVANCY CONDITIONAL USES.**

**(a) Conditional Uses Permitted in the C-1 Conservancy District.** The following are conditional uses in the C-1 district and may be permitted as specified. The Plan Commission shall transmit a copy of each application for a conditional use in the shoreland portion of the C-1 Conservancy District to the Wisconsin Department of Natural Resources (DNR) at least ten (10) days prior to the public hearing. Action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of all shoreland C-1 Conservancy District conditional use permits shall be transmitted to the DNR within ten (10) days of the effective date of such decision.

**(1) The Construction of Streets Which Are Necessary For the Continuity of the Village Street System,** necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses in the C-1 district, provided that:

**a.** The street cannot, as a practical matter, be located outside a wetland; and

b. The street is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:

1. The street shall be designed and constructed for the minimum cross-section practical to serve the intended use;
2. Street construction activities are to be carried out in the immediate area of the roadbed only; and
3. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is to be done must be necessary for the construction or maintenance of the street.

**(2) The Establishment and Development of Public and Private Parks** and recreation areas, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private habitat areas in the C-1 District, provided that:

- a. Any private recreation or wildlife habitat area must be used exclusively for that purpose;
- b. No filling is to be done; and
- c. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

**(3) The Construction and Maintenance of Electric, Gas, Telephone, Water, and Sewer Transmission and Distribution Lines**, and related facilities in the C-1 District by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to members, provided that:

- a. The transmission and distribution lines and related facilities cannot as a practical matter be located outside a wetland; and
- b. Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.

**(4) The Construction and Maintenance of Railroad Lines in the C-1 District**, provided that:

- a. The railroad lines cannot as a practical matter be located outside a wetland; and
- b. Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.

**ARTICLE E: NONCONFORMING USES, STRUCTURES, AND LOTS.**

**SEC. 13-1-78 EXISTING NONCONFORMING USES AND STRUCTURES.**

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 nonconforming use may not be extended, enlarged, substituted, or moved, except when required to do so by law or order or so as to comply with the provisions of this Chapter.

(b) Total lifetime structural repairs or alterations to a nonconforming structure shall not exceed fifty percent (50%) of its current equalized value unless it is permanently changed to conform to the use provisions of this Chapter.

(c) Substitution of new equipment may be permitted by the Zoning Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use or structure with the neighboring uses.

**SEC. 13-1-79 ABOLISHMENT OR REPLACEMENT.**

(a) If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Chapter.

(b) When a nonconforming structure is damaged by fire, explosion, flood, or other calamity to the extent of more than fifty percent (50%) of its current equalized value, it shall not be restored except so as to comply with the provisions of this Chapter.

**SEC. 13-1-80 CHANGES AND SUBSTITUTIONS.**

Once a nonconforming use has been changed to a conforming use or a nonconforming structure has been altered so as to comply with the yard, height, parking, loading, and access provisions of this Chapter, it shall not revert back to a nonconforming use or structure. Once the Zoning Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the prior existing use shall lose its status as a legal nonconforming use and the substituted use shall become subject to all the conditions required by the Board.

**SEC. 13-1-81 WETLAND NONCONFORMING USES.**

Notwithstanding Sec. 62.23(7)(h), Wis. Stats., the repair, reconstruction, renovating, remodeling, or expansion of a legal nonconforming structure, or any environmental control facility related to a legal nonconforming structure, located in the C-1 Conservancy District and in existence at the time of adoption or subsequent amendment of this Chapter is permitted pursuant to Sec. 61.351(5), Wis. Stats.

**SEC. 13-1-82 ACTION OF GOVERNMENTAL BODY THAT RENDERS A LOT NONCONFORMING SHALL BE CONSIDERED CONFORMING.**

Action of a Governmental Body: Except for zoning or rezoning, when the action of a governmental body or agency renders a parcel of land or lot nonconforming, the use and structures shall, for all purposes, be considered conforming.

**SEC. 13-1-83 THROUGH SEC. 13-1-99 RESERVED FOR FUTURE USE.**

## **ARTICLE F: VISION CLEARANCE; PARKING AND LOADING FACILITIES; LIGHTING STANDARDS.**

### **SEC. 13-1-100 TRAFFIC VISIBILITY.**

(a) No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of two and one-half (2-1/2) feet and ten (10) feet above the plane through the mean curb grades within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from their intersection.

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

### **SEC. 13-1-101 LOADING REQUIREMENTS.**

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

(a) **Businesses.** One (1) space of at least ten (10) by twenty-five (25) feet for each three thousand (3,000) square feet of floor area or part thereof.

(b) **Wholesale and Industrial.** One (1) space of at least ten (10) by fifty (50) feet for each ten thousand (10,000) square feet of floor area or part thereof.

(c) **Bus and Truck Terminals.** Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded or unloaded at the terminal at any one time.

### **SEC. 13-1-102 PARKING REQUIREMENTS.**

In all districts, except the B-1 central business district, and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the following:

(a) **Adequate Access.** Adequate access to a public street shall be provided for each parking space, and driveways shall be at least ten (10) feet wide for one- and two-family dwellings, at least eighteen (18) feet for agricultural uses, and a minimum of twenty-four (24) feet for all other uses.

(b) **Size.** Size of each parking space shall be not less than ten feet wide and eighteen feet deep, exclusive of the space required for ingress and egress.

(c) **Location.** Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.

(d) **Surfacing.** Within twelve (12) months, all off-street parking areas shall be graded and have a hard surface (asphalt or concrete) so as to be dust-free and properly drained. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.

**(e) Curbs.** Curbs or barriers shall be installed a minimum of four (4) feet from a property line so as to prevent the parked vehicles from extending over any lot lines.

**(f) Required Spaces.** Spaces required:

Use	Minimum Parking Required
Single-family dwellings, two family dwellings and mobile homes	2 spaces for each dwelling unit
Housing for the elderly	1 space for each dwelling unit
Multi-family dwellings	2 spaces for each dwelling unit; 1 single car garage required for each unit in any three or more unit dwelling
Motels, hotels	1 space for each guest room plus 1 space for each 3 employees
Fraternity and sorority houses, dormitories, rectories	1 space per bed
Retirement homes, orphanages, convents, monasteries	1 space per 2,000 feet of principal floor area
Retail uses, general	1 space per 250 square feet building area
Hospitals, sanatoriums, institutions, rest and nursing homes	1 space for each 5 beds plus 1 space for each 3 employees
Medical and dental clinics	5 spaces for each doctor on duty at any given time
Churches, theatres, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 space for each 5 seats
Colleges, secondary, and elementary schools	1 space for each 2 employees plus 1 space for each 10 students of 16 years of age or more
Restaurants, bars, places of entertainment, lodges and clubs, repair shops, retail and service stores	1 space for each 150 square feet of floor area and 1 space for each 2 employees
Manufacturing and processing plants (including meat and food processing), laboratories and warehouses	1 space for each 2 employees
Financial institutions, business, government, and professional offices	1 space for each 300 square feet of floor area and 1 space for each 2 employees
Funeral Homes	20 spaces for each viewing room
Bowling alleys	5 spaces for each alley
Automobile repair garages and service garages	1 space for each regular employee plus 1 space for each 250 square feet of floor area used for repair work
Motor vehicles sales (new and used)	1 space for each 500 square feet of floor area used plus 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages - see above.)
Gasoline filling stations	2 spaces for each grease rack or

	similar facility plus 1 space for each attendant
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**(g) Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply as determined by the Plan Commission.

**(h) Combinations.** Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use unless it can be demonstrated with reasonable certainty that this would result in excess parking. In this case, the property owner may be required to hold land in reserve for additional future parking if needed.

**(i) Reduction in paved parking area.** At the request of the applicant, the Plan Commission may permit a reduction of twenty-five (25%) in the number of parking spaces which are to be paved at the time of parking lot construction or renovation. In the case of such reduction, the applicant may be required to show the location of the entire required parking area on the site plan and establish a letter of credit with the Village in an amount equal to 125% of the estimated cost of parking lot completion to be drawn upon at such time the Village deems it necessary to pave the remaining parking area.

**(j) Exemption for preexisting parking areas.** For existing parking lots that are undergoing renovation or in situations where the use of the building(s) served by the parking lot has changed, at the request of the applicant, the Plan Commission may permit a reduction in the required number of parking spaces when it is otherwise not possible to meet the requirements of this ordinance regarding parking provision or required greenspace.

**(k) Off-street Parking Area Accessory Landscaping.**

**(1) Landscaping required.**

All off-street parking areas which serve five (5) vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Chapter shall be provided with accessory landscape areas in compliance with this Section. Location of landscape areas, plant materials, protection afforded the planting, including curbing and provision for maintenance, shall be subject to approval by the Village Plan Commission. All plans for such proposed parking areas shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.

**(2) Screening required.**

**a.** All off-street parking areas for five (5) or more vehicles shall be screened from adjacent residential uses by a solid wall, fence, evergreen planting of equivalent capacity or other effective means, built and maintained at a minimum height of six (6) feet.

**b.** All off-street parking areas for twenty (20) or more vehicles shall be screened from adjacent residential uses and public rights-of-way by an eight (8) foot wide landscape screen consisting of a mix of evergreen and deciduous shrubs, provided and arranged in such a manner as to provide an effective visual barrier within two (2) years of planting.

**(3) Applicability**

**a.** Off-street parking areas serving five (5) to nineteen (19) vehicles shall provide a minimum of twenty (20) square feet of accessory landscape areas per parking stall. The minimum size of each accessory landscape area shall not be less than one hundred (100) square feet.

**b.** Off-street parking areas serving twenty (20) or more vehicles shall provide interior landscaping as detailed in Section 13-1-102(k) (5).

**(4) Required Trees**



a. Shade or ornamental trees are required within the vehicular use area at a ratio of one (1) tree for every ten (10) parking spaces or fraction thereof. The trees must be evenly distributed throughout the vehicular use area. Where a landscape border or other landscape area abuts the vehicular use area, shade or ornamental trees within those landscape areas may count toward the vehicular use area requirement, provided:

1. The trees are located within ten (10) feet of the vehicular use area.
2. The number of trees that are provided within the vehicular use area is not reduced by more than fifty percent (50%) of the amount required above; and
3. There is a minimum of one (1) tree provided within the vehicular use area.

b. Trees shall be planted in such a way that they are protected from vehicle damage.

c. Existing trees of desirable species and quality that can be preserved, where grading does not cut them off from a reasonable supply of water and where the area under the canopy remains undisturbed, shall count toward the tree requirements for off-street parking areas on a tree-for-tree basis.

d. Sufficient diversity of tree species shall be provided so as to help prevent the spread of detrimental insect infestation and disease.

**(5) Interior landscaping requirements for off-street parking areas serving twenty (20) or more vehicles**

a. The intent of this section is to require landscaping within vehicular use areas; therefore, landscaping screens, planting strips and landscaping surrounding buildings shall not be considered as interior landscaping, although trees in those areas may be counted toward the total in accordance with Section 13-1-102(k) (4).

b. A minimum of twenty (20) square feet of interior landscaping island shall be provided per parking stall.

c. The interior landscaping shall be provided within planting islands with a minimum area of 200 square feet, underlain by soil (not base course material), and shall be protected by curbing, wheel stops, bollards, or other protective treatment.

d. Off-street parking areas with more than forty (40) spaces shall have a maximum of ten (10) contiguous spaces without an island.

e. The interior landscaping shall be placed so as to delineate driving lanes, define rows and generally mitigate the visual impact of the parking lot.

f. The interior landscaping shall be composed of a combination of hardy trees, shrubs, perennials, and groundcover that are able to tolerate winter salt and snow, and are underlain by a layer of decorative mulch and weed barrier where applicable.

g. To ensure a diversity of color, texture, and multi-seasonal interest, the total number of proposed plants shall be comprised of a minimum of twenty-five percent (25%) evergreens, with a maximum of seventy percent (70%).

h. The interior landscaping shall not exceed thirty (30) inches in height at maturity when located within an identified vision triangle.

i. Every reasonable effort should be made to create interior landscape islands that function as bioretention systems as per common low impact development practices and principles.

1. Parking islands shall be a minimum of fifteen (15) feet in width if used for this purpose.
2. Parking areas will sheet drain into the interior islands through curb cuts or other apertures.
3. Proposed plantings shall be tolerant of flood conditions.

## **SEC. 13-1-103 HIGHWAY ACCESS.**

(a) No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

(1) Freeways, interstate highways, and their interchanges or turning lanes nor to intersecting or interchanging streets within one thousand five hundred (1,500) feet of the most remote end of the taper of the turning lanes.

(2) Arterial streets intersecting another arterial street within one hundred (100) feet of the intersection of the right-of-way lines.

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

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

## **SEC. 13-1-104 LIGHTING STANDARDS.**

### **(a) Exterior Lighting Plan Required.**

At the time any exterior lighting fixture is installed or substantially modified, whenever a Site Plan Review application is made, and whenever a Conditional Use Permit is requested, an exterior lighting plan shall be submitted to the Village of Fredonia to determine whether the requirements of this Section have been met and that adjoining property will not be adversely impacted by the proposed lighting. Single-family and two-family dwellings are exempt from this requirement.

### **(b) Lighting Plan Elements.**

A Lighting Plan submitted pursuant to this Ordinance shall have, at a minimum, the following elements:

(1) A catalog page, cutsheet, or photograph of the lighting fixture including the mounting method.

(2) A photometric data test report of the proposed lighting fixture graphically showing the lighting distribution at all angles vertically and horizontally.

(3) A plot plan, drawn to a recognized scale, indicating the location of the lighting fixture(s) proposed, mounting, and/or installation height in feet, the overall illumination levels (in foot-candles) and uniformities on the site, and the illumination levels (in foot-candles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.

(4) A graphic depiction of the lighting fixture lamp (or bulb) concealment and light cut-off angles.

(5) In addition to the full-size drawings required above, one (1) copy of each such drawing submitted shall also be submitted in 11" x 17" black and white reduction.

**(c) Shielding of Outdoor Light Fixtures.**

All outdoor lighting fixtures shall be shielded, except incandescent fixtures 150 watts or less and other sources of 70 watts or less. Total cut-off luminaires with angles of less than ninety (90) degrees shall be required for all pole and building security lighting. At the discretion of the Plan Commission, more than the minimal level of shielding may be required.

**(d) Illumination Levels.**

All outdoor lighting shall not exceed the illumination levels recommended by the Illuminating Engineering Society of North America (IES) given below. In residential districts R-1, R-2 and R-3, the lighting level at any property line shall not exceed one foot-candle.

**Table 13.1.104 (d)**

Level of Activity	Examples	Gen. Parking & Pedestrian			Vehicle Use Only		
		Avg.	Min.	Uniform Avg/Min	Avg.	Min.	Uniform (Avg/Min)
HIGH	Major Cultural Or Civic Events Regional Shopping Centers	3.6 fc 60,000 lu <sup>1</sup> 750 W MH 750 W HPS 375 W LPS	0.9 fc 15,000 lu <sup>1</sup> 185 W MH 185 W HPS 90 W LPS	4:1	1.8 fc 30,000 lu <sup>1</sup> 375 W MH 375 HPS 375 LPS	0.6 fc 30,000 lu <sup>1</sup> 125 W MH 125 W HPS 65 W LPS	3:1
MEDIUM	Community Shopping Centers, Cultural, Civic or Recreational Events, Office Parking, Hospital Parking, Transportation Parking, Fast Food Facilities, (Airports, Commuter Lots, Etc.), Residential Complex Parking	2.4 fc 40,000 lu <sup>1</sup> 500 W MH 500 W HPS 250 W LPS	0.6 fc 10,000 lu <sup>1</sup> 125 W MH 125 W HPS 65 W LPS	4:1	0.9 fc 15,000 lu <sup>1</sup> 185 W MH 185 W HPS 90 W LPS	0.3 fc 5,000 lu <sup>1</sup> 60 W MH 60 HPS 30 LPS	3:1
LOW	Neighborhood Shopping, Industrial Employee Parking, Educational Facility Church Parking	0.9 fc 15,000 lu <sup>1</sup> 185 W MH 185 W HPS 90 W LPS	0.18 fc 3,000 lu <sup>1</sup> 35 W MH 35 HPS 18 LPS	4:1	0.45 fc 7,500 lu <sup>1</sup> 90 W MH 90 W HPS 45 LPS	0.12 fc 2,000 lu <sup>1</sup> 25 W MH 25 W HPS 15 W LPS	4:1

<sup>1</sup> Assumes light is at a height of 20 feet. If light is at 30 feet the lumens needs to be doubled to achieve the same fc at the ground.

**(e) Filtering.**

Metal Halide fixtures shall be filtered. Filtering means any outdoor light fixture which has a glass or acrylic enclosure. Quartz glass does not meet this requirement.

**(f) Nonconforming Light Fixtures.**

(1) Existing light fixtures which do not conform with Sections 13.1.104 (C, D, E) of this ordinance are allowed, but extinguishing of such lights by 11:00 p.m. is encouraged.

(2) No outdoor recreational facility, whether public or private, shall be illuminated after 11:00 p.m. except to conclude any recreational or sporting event or other activity conducted, which is in progress prior to 11:00 p.m.

at a ballpark, school ballfield, outdoor amphitheater, arena or similar facility. Safety and security lighting is exempt from this requirement.

**(g) Display Lot Lighting.**

Display lot lighting shall be turned off within thirty minutes after closing of the business. Under no circumstances shall the full illumination of the lot be permitted after 11:00 p.m. Any lighting used after 11:00 p.m. shall be used as security lighting.

**(h) Architectural Lighting.**

All architectural lighting shall be of 150 watts of or less (incandescent) or 70 watts or less (other types), and be extinguished no later than 11:00 p.m. Any lighting used after 11:00 p.m. shall be used as security lighting. Lights shall have at least ninety percent (90%) of their light falling on the illuminated structure.

**(i) Use Of Mercury Vapor Lighting Fixtures.**

No new mercury vapor outdoor lighting fixtures shall be installed after the date of this ordinance. No replacement equipment or bulbs for mercury vapor lighting fixtures shall be sold or installed in the Village of Fredonia after the date of this ordinance.

**(j) Exemptions.**

Outdoor lighting fixtures existing and legally installed prior to the effective date of this Ordinance are exempt from its provisions, however any replacement of said lighting fixtures must comply with this ordinance as set forth above.

**(k) Violations And Penalty.**

Any person, firm, entity or corporation violating the provisions of this ordinance shall be required to pay a forfeiture per current Village Board adopted schedules for each day the violation continues after being issued a citation.

**SEC. 13-1-105 THROUGH SEC. 13-1-119 RESERVED FOR  
FUTURE USE.**

## **ARTICLE G: SIGNS.**

### **SEC. 13-1-120 SIGN PERMITS REQUIRED.**

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit except those signs excepted in Section 13-1-121 and without being in conformity with the provisions of this Chapter.

### **SEC. 13-1-121 SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT.**

The following signs are permitted in all zoning districts without a permit, subject to the following regulations:

- (a) Real estate signs** not to exceed eight (8) square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
- (b) Name and warning signs** not to exceed two (2) square feet located on the premises.
- (c) Household occupation** and professional home office not to exceed two (2) square feet in area and mounted flush against the dwelling.
- (d) Bulletin boards** for public, charitable or religious institutions not to exceed fifty (50) square feet in area located on the premises.
- (e) Bulletin boards** for public, charitable or religious institutions not to exceed fifty (50) square feet in area located on the premises.
- (f) Memorial signs**, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- (g) Official signs**, such as traffic control, parking restrictions, information, and notices.
- (h) Temporary signs** or banners when authorized by the Plan Commission for a period of not more than six (6) months.
- (i) Temporary signs** or banners to be displayed for forty-five (45) days or less which promote community events or events sponsored by non-profit organizations with prior approval of at least two of the three following Village officials: Village President, Village Clerk, Director of Public Works.
- (j) Rummage sale signs** used for the purpose of advertising the sale of merchandise at a private residence by at least one (1) occupant of said residence, subject to the following regulations:
  - (1)** Such signs shall be posted only on the day(s) of the sale.
  - (2)** Signs shall not be attached to or displayed on traffic or regulatory signs, light poles, parkway/terrace trees or other public property.
  - (3)** Signs shall be ground signs.
  - (4)** Signs must not exceed four (4) square feet, shall be a minimum of (10) ten feet from the right-of-way line of the intersection street, and are not allowed in the median strip of boulevard streets.
- (k) Election campaign signs** provided that permission has been obtained from the property owner, renter or lessee. The combined area of campaign signs on properties in a business or industrial district shall not exceed one hundred (100) square feet. In residential districts campaign signs shall not exceed twenty (20) square feet in area on all sides. No election campaign signs are permitted on public property or in any public right-of-way.

## **SEC. 13-1-122 SIGNS PERMITTED IN ALL BUSINESS AND MANUFACTURING DISTRICTS WITH A PERMIT.**

Signs are permitted in all business, manufacturing, and extractive districts subject to the following restrictions. Each premises is limited to two of the following sign types and any unused area may not be transferred from one sign type to another:

**(a) Wall signs** placed against the walls of buildings shall not extend more than six (6) inches outside of a building's wall surface, shall not exceed five hundred (500) square feet in area for any one (1) premises, and shall not exceed twenty (20) feet in height above the mean centerline street grade.

**(b) Projecting signs** fastened to, suspended from, or supported by structures shall not exceed one hundred (100) square feet in area for any one (1) premises, shall not extend more than six (6) feet into any required yard, shall not extend more than three (3) feet into any public right-of-way, shall not be less than ten (10) feet from all side lot lines, shall not exceed a height of twenty (20) feet above the mean centerline street grade, and shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.

**(c) Ground signs** shall be of the monument style, shall not exceed thirty (30) feet in height above the mean centerline street grade, shall not be less than ten (10) feet from any right-of-way or lot line, shall not exceed one hundred (100) square feet on one (1) side nor two hundred (200) square feet on all sides for any one (1) premises.

**(d) Roof signs** shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which it is located and shall not exceed three hundred (300) square feet on all sides for any one (1) premises. The sign shall be considered part of the building in determination of permitted height.

**(e) Window signs** shall not exceed fifty percent (50%) of the glass area of the pane upon which the sign is displayed.

**(f)** Combinations of any of the above signs shall meet all the requirements for the individual sign.

## **SEC. 13-1-123 SIGNS PERMITTED IN INSTITUTIONAL AND PARK DISTRICTS WITH A PERMIT.**

Institutional and park name signs are permitted in the institutional and park districts when approved by the Village Board after review and recommendation by the Plan Commission.

## **SEC. 13-1-124 MUNICIPAL-OWNED SIGNS.**

Municipal-owned signs may be permitted in any district without a permit provided that permission shall be obtained from the property owner, renter, or lessee and provided that such sign shall not exceed two hundred (200) square feet in area per face.

## **SEC. 13-1-125 SEARCH LIGHTS.**

The Village Board may permit the temporary use of a search light for advertising purposes in any district provided that the search light will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Search light permits shall not be granted for a period of more than five (5) days in any six (6) month period.

## **SEC. 13-1-126 FACING.**

No sign, except those permitted in Sections 13-1-121 and 13-1-123, shall be permitted to face a residential or park district within one hundred (100) feet of such district boundary.

## **SEC. 13-1-127 LIGHTING AND COLOR.**

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 erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. 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 only by non-flashing lighting.

## **SEC. 13-1-128 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 forty (40) pounds per square foot of area and shall be constructed to receive dead loads as required in the Village Building Code or other ordinance.

**(b) Protection of the Public.** The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign is permitted, provided the space occupied is roped off, fenced off, or otherwise isolated.

**(c) Maintenance.** The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.

**(d) Supporting Members or Braces.** Supporting members or braces of all signs shall be constructed of galvanized iron, properly treated steel, copper, brass, or other noncorrosive incombustible material. All projecting signs, if placed at a right or other angle to the wall or roof of any building, shall be attached by such noncorrosive 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 the walls 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 walls or to bearings on the

under side of two (2) or, more roof or ceiling joists in accordance with instructions given by the Building Inspector. Small flat signs containing less than ten (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) No Signs,** 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 any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the Village, as necessity therefore may require.

## **SEC. 13-1-129 EXISTING SIGNS.**

Signs lawfully existing at the time of the adoption or amendment of this Chapter may be continued although the size or location does not conform to this Chapter. However, all nonconforming signs shall be deemed to have exhausted their economic life after seven (7) years from the time they became a nonconforming use.

Nonconforming signs, after this seven (7) year period, shall either be made to conform to the terms of this Chapter or shall be removed by the owner, agent, or person having beneficial use of the property. Nonconforming signs, during the seven (7) year grace period, shall be kept in good repair, but the cost of maintenance shall not be considered grounds for their continued use beyond the seven (7) year period. The Village Plan Commission shall, after the seven (7) year grace period, notify the owner, agent, or person having beneficial use of the property, of the expiration of the grace period. After thirty (30) days, if the sign has not been made to conform to this Chapter or removed, the Plan Commission shall initiate appropriate punitive action. Signs which are not repaired, painted, or maintained pursuant to written notification and orders by the Plan Commission shall also be subject to punitive action.

## **SEC. 13-1-130 SIGN PERMIT.**

**(a)** Applications for a sign permit shall be made on forms provided by the Village Clerk-Treasurer and shall contain or have attached thereto the following information:

**(1)** Name, address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.

**(2)** Name of person, firm, corporation, or association erecting the sign.

**(3)** Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.

**(4)** 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.

**(5)** A scale drawing indicating the location and position of such sign in relation to nearby building or structures.

**(b)** Copies of any other permit required and issued for said sign, including the written approval by the Electrical Inspector, in the case of illuminated signs, who shall examine the plans and specifications, reinspecting all wiring and connections to determine if the same complies with all applicable local, state and federal electrical codes and regulations.

**(c)** Additional information as may be required by the Zoning Administrator.

**(d)** Sign permit applications shall be filed with the Zoning Administrator who shall review the application for its completeness and accuracy.



The Zoning Administrator shall approve, deny, or forward to the Plan Commission, in writing, the application within fifteen (15) days of receipt unless the time is extended by written agreement with the applicant. A sign permit shall become null and void, if work authorized under the permit has not been completed within six (6) months of the date of issuance.

**SEC. 13-1-131 THROUGH SEC. 13-1-139 RESERVED FOR  
FUTURE USE.**

# **ARTICLE H: SATELLITE EARTH STATIONS; TELEVISION OR RADIO ANTENNA TOWERS; WIND ENERGY SYSTEMS AND WIRELESS COMMUNICATION FACILITIES.**

## **SEC. 13-1-140 SATELLITE EARTH STATIONS.**

**(a) Conditional Use Permit Required.** No owner shall, within the Village of Fredonia, build, construct, use or place any type of satellite earth station over three feet in diameter until a permit shall have first been obtained. Satellite earth stations three feet or less in diameter are exempt from the requirements set forth in Article H.

**(b) Definitions.**

(1) For purposes of this Section, a "satellite television dish" or "earth station" is defined as an apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. They are also commonly referred to as disks, satellite communications systems or home earth stations.

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

**(c) Application.** Application for a satellite earth station permit shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a receipt showing payment of the appropriate fee as set forth in the Village Board adopted schedule A set of plans and specifications shall also be provided, including a site plan showing the location of the proposed satellite earth station with respect to adjoining alleys, lot lines and buildings.

**(d) Installation Restrictions.** Satellite earth stations installed as a conditional use in any zoning district within the Village shall comply with the following provisions:

(1) **Number of Units.** Not more than one (1) satellite earth station may be allowed per individual recorded lot except when a special exception is granted by the Zoning Board of Appeals and then only in non-residential zones.

(2) **Location.** Dish antennas in any Residence District shall be erected only in rear yards, unless the Zoning Administrator expressly determines that a rear yard installation is inappropriate or undesirable under the circumstances of the particular antenna. In no event shall a dish antenna be erected in a street yard.

(3) **Density.** A dish antenna shall occupy no more than twenty percent (20%) of the rear yard in which it is located. No more than one (1) dish antenna shall be permitted on any lot or parcel except when a special exception is granted by the Zoning Board of Appeals and then only in non-residential zones.

(4) **Screening.** Dish antennas shall be located and screened to minimize their visual impact on neighboring residential properties. Such antennas shall be of one (1) color with no logo.

**(5) Mounting.** Satellite earth stations located in agricultural or residential districts shall be ground-mounted only, unless the property owner demonstrates to the Building Inspector that reception is impossible at that location for a ground-mounted dish antenna. Satellite earth stations may be wall or roof-mounted in business or industrial districts only. Satellite earth stations attached to the wall or roof of any principal or accessory structure shall be subject to the structure being constructed to carry all imposed loading. The Zoning Administrator may require engineering calculations.

**(6) Diameter.** The diameter of the satellite television dish shall not exceed ten (10) feet for the ground-mounted dish and six (6) feet for the roof-mounted dish, except for stations used to provide community antenna television services.

**(7) Height.**

**a.** A ground-mounted satellite dish may not exceed twelve (12) feet in height, as measured from the ground to the highest point of the dish.

**b.** A roof-mounted satellite dish may not exceed eight (8) feet in height above the surrounding roofline as measured from the lowest point of the existing roofline.

**(8) Wind Pressure.** All satellite earth stations shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph. The manufacturer shall provide evidence of compliance with this wind speed resistance requirement with a certificate of compliance by a recognized independent testing laboratory. Such antennas shall be constructed of noncombustible and corrosion-resistant materials.

**(9) Electrical Installations.** Electrical installations in connection with earth satellite receiving stations, including grounding of the system, shall be in accordance with all applicable local, state and federal codes and ordinances as well as the instructions of the manufacturer. In cases of conflict the stricter requirements shall govern. Dish antenna drives shall not exceed thirty-six (36) V. Both cable from receiver to antenna and receiver shall be UL approved. Low noise amplifiers shall not exceed twenty-eight (28) V. All cable used to conduct current or signals from the satellite earth station to the receivers shall be installed underground unless installation site conditions preclude underground. If a satellite earth station is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All satellite earth stations shall be grounded against direct lightning strikes.

**(10) Temporary Placement.** No portable or trailer-mounted satellite earth station shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all applicable provisions of this Section. Failure to comply shall result in a citation being issued for violation of this section. Any person making such temporary placement shall give written notice to the Zoning Administrator of the date when such placement shall begin and end.

**(11) Advertising.** No form of advertising or identification, sign or mural is allowed on the dish or framework other than the customary manufacturer's identification plates.

**(12) Interference with Broadcasting.** Satellite earth stations shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its

installation, the owner of the satellite earth station shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

**(13) Compliance with Federal Regulations.** The installation and use of very satellite earth station shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted hereunder.

**(14) Color.** The color of any satellite dish shall be such that it blends into its surrounding and shall be approved by the Zoning Administrator as part of the application.

**(15) Compliance with Other Codes.** Prior to applying for a building permit for a dish antenna, the antenna installation plans shall indicate compliance with all applicable local, state and federal codes and requirements.

**(e) Special Exceptions.** Requests for special exceptions to the standards established by this Section may be made to the Zoning Board of Appeals pursuant to Section 13-1-193 of this Chapter.

**(f) Enforcement.**

**(1)** It shall be unlawful to construct, use, build or locate any satellite television dish in violation of any provisions of this Section. In the event of any violation, the Village Board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.

**(2)** Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-6.

## **SEC. 13-1-141 RADIO OR TELEVISION ANTENNA TOWERS.**

**(a)** No radio or television antenna tower shall be erected or installed within a street yard. The rear setback and the side setback shall be that for the principal structure with the respective zoning district. The exact location of the antenna tower shall be subject to approval by the Zoning Administrator.

**(b)** No radio or television tower shall exceed a height of sixty (60) feet above the ground measured at grade level.

**(c)** Radio or television antenna towers shall be erected and installed in accordance with the all applicable local, state, and federal codes and requirements as well as the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern.

## **SEC. 13-1-142 SPECIAL USE PERMITS REQUIRED-WIND ENERGY SYSTEMS.**

**(a) Approval Required.** No owner shall, within the Village, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.

**(b) Separate Permit Required for each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.

**(c) Basis of Approval.** The Village Board and Plan Commission shall base their determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the

demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.

**(d) Definition.** For the purposes of this Section:

(1) "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

## **SEC. 13-1-143 PERMIT PROCEDURE-WIND ENERGY SYSTEMS.**

**(a) Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the Village. The application shall include the following information:

- (1) The name and address of the applicant along with a primary contact name and phone number.
- (2) The address(es) of the property on which the system and support structures will be located.
- (3) Written permission of the property owner if that is someone other than the applicant.
- (4) Applications for the erection of a wind energy system shall be accompanied by a plat or survey for the property to be served showing the property lines, adjacent streets, easements, drainage paths, existing structures on or within 100' of the property, existing utilities, existing trees 6" dbh or larger, the location of the tower and any accessory buildings and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (5) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
- (6) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable. The plans shall also show the main structure and support structures, equipment, and network components, including base stations, power supplies, cabling, and related equipment to be placed on or around the site.
- (8) If an applicant submits to the Village an application for a permit which contains all of the information required in paragraphs 1-6 and Articles 13-1-145 and 13-1-146 as applicable, the Zoning Administrator shall consider the application complete. If the Village does not believe that the application is complete, the Village shall notify the applicant in writing, within 10 days of receiving the application. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete. If the application is complete and contains all required information, the Zoning Administrator shall refer it for Plan Commission review prior to Village Board action.

**(b) Hearing.** Following receipt and review of Plan Commission findings, the Plan Commission shall schedule a public hearing following the procedures for conditional use permits in Article D.

**(c) Determination.** Within 90 days of receipt of a complete application, the Village shall complete the following or the applicant may consider the application approved except that the applicant and the Village may agree in writing to an extension of the 90 day period:

- (1) Review the application to determine whether it is complete with all applicable aspects of the Village's building code and zoning ordinances.
- (2) Make a final decision whether to approve or disapprove the application.
- (3) Notify the applicant, in writing, of the final decision.
- (4) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision. A party who is aggrieved by the final decision of the Village may bring an action in the circuit court of Ozaukee County.

#### **FEES**

New structure or substantial modification permit - \$3,000

Payment of a 3<sup>rd</sup> Party consultants fee for review of the plans and specifications

#### **SURETY**

The applicant will provide a surety in the form of a bond for the amount \$20,000 Following public hearing and necessary study and investigation, the Village Board shall render its decision and a copy be made a permanent part of the Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto. The Village Board may impose any conditions or exemptions on the persons affected by granting the special use permit.

**(d) Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminate by the action of the Village Board following a public hearing thereon.

**(e) Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Village Board and if in the opinion of the Board, such change or addition constitutes a substantial alteration, a public hearing before the Village Board shall be required and notice thereof be given.

**(f) Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

## **SEC. 13-1-144 SPECIFIC REQUIREMENTS REGARDING WIND ENERGY SYSTEMS.**

**(a) Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.

**(b) Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.

**(c) Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.

**(d) Electro-magnetic 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, the operator of the

wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

**(e) Location and Height.** Wind energy conversion systems shall be located in the rear yard only and 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 Chapter; however, all such systems over seventy-five (75) 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 and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.

**(f) Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.

**(g) Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

## **SEC. 13-1-145 SPECIFIC REQUIREMENTS REGARDING MOBILE SITING PERMITS.**

### **SECTION I - TITLE**

This ordinance is entitled the Village of Fredonia Mobile Tower Siting Permit Ordinance.

### **SECTION II - PURPOSE**

The purpose of this ordinance is to regulate by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

### **SECTION III - AUTHORITY**

The Village board has the specific authority under ss. 66.0404, Wis. Stats., to adopt and enforce this ordinance.

### **SECTION IV - ADOPTION OF ORDINANCE**

This ordinance, adopted by a majority of the Village board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

## SECTION V - DEFINITIONS

A. All definitions contained in s. 66.0404(1) are hereby incorporated by reference.

## SECTION VI - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

## SECTION VII - SITING AND CONSTRUCTION OF ANY NEW MOBILE SERVICE SUPPORT STRUCTURE AND FACILITIES

### A. Application Process

1. A Village zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Village obtainable with this permit.
2. A written permit application must be completed by any applicant and submitted to the Village. The application must contain the following information:
  - a. The name and business address of, and the contact individual for, the applicant.
  - b. The location of the proposed or affected support structure.
  - c. The location of the proposed mobile service facility.
  - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an Individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
3. A permit application will be provided by the Village upon request to any applicant.
4. If an applicant submits to the Village an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the Village shall consider the



application complete. If the Village does not believe that the application is complete, the Village shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

5. Within 90 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the 90 day period:

a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.

b. Make a final decision whether to approve or disapprove the application.

c. Notify the applicant, in writing, of its final decision.

d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

6. The Village may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.f.

7. If an applicant provides the Village with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.

8. The fee for the permit is \$3,000.00

## SECTION VIII - CLASS 1 COLLOCATION

### A. Application Process

1. A Village zoning permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the Village obtainable with this permit.

2. A written permit application must be completed by any applicant and submitted to the Village. The application must contain the following information:

a. The name and business address of, and the contact individual for, the applicant.

b. The location of the proposed or affected support structure.

c. The location of the proposed mobile service facility.

d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed

location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

3. A permit application will be provided by the Village upon request to any applicant.
4. If an applicant submits to the Village an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the Village shall consider the application complete. If the Village does not believe that the application is complete, the Village shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
5. Within 90 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the 90 day period:
  - a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
  - b. Make a final decision whether to approve or disapprove the application.
  - c. Notify the applicant, in writing, of its final decision.
  - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
6. The Village may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.f.
7. If an applicant provides the Village with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
8. The fee for the permit is \$3000.00

## SECTION IX - CLASS 2 COLLOCATION

### A. Application Process

1. A Village zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the Village but still requires the issuance of the Village permit.
2. A written permit application must be completed by any applicant and submitted to the Village. The application must contain the following information:
  - a. The name and business address of, and the contact individual for, the applicant.
  - b. The location of the proposed or affected support structure.
  - c. The location of the proposed mobile service facility.
3. A permit application will be provided by the Village upon request to any applicant.

4. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject. Reference other ordinances such as, but not limited to, electrical codes, plumbing codes, and zoning codes.
5. If an applicant submits to the Village an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the Village shall consider the application complete. If any of the required information is not in the application, the Village shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
6. Within 45 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the 45 day period:
  - a. Make a final decision whether to approve or disapprove the application.
  - b. Notify the applicant, in writing, of its final decision.
  - c. If the application is approved, issue the applicant the relevant permit.
  - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
7. The fee for the permit is \$500.00

#### SECTION X - PENALTY PROVISIONS

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$100.00 nor more than \$500.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Village board may seek injunctive relief from a court of record to enjoin further violations.

#### SECTION XI - SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**SEC. 13-1-146 THROUGH SEC. 130-1-159 RESERVED  
FOR FUTURE USE.**

## **ARTICLE I: ACCESSORY USES AND STRUCTURES; FENCES AND HEDGES.**

### **SEC. 13-1-160 ACCESSORY USES, BUILDINGS OR STRUCTURES.**

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

**(b) Placement Restrictions.** An accessory building, use or structure may be established subject to the following regulations:

**(1) Placement and Dimensions.** Accessory uses and detached accessory structures are permitted in the rear yard only; they shall not be closer than five (5) feet to the principal structure, shall not exceed fifteen (15) feet in height, shall not occupy more than twenty percent (20%) of the rear yard area in all districts except the business districts where such uses and structures shall not occupy more than seventy-five percent (75%) of the rear yard area, and shall not be closer than three (3) feet to any lot line nor five (5) feet to an alley line.

**(2) Temporary Storage Buildings.** Temporary buildings for storage of building materials and equipment and for construction purposes are allowed when on the same or adjoining lot as the principal use for a period not to exceed the duration of such construction.

**(3) Tents.** Under no circumstances may a tent be used as an accessory structure for more than three consecutive days.

**(4) Rebuild Approval Permit.** In the RS-3 zoning district, which is an older, small lot sized district within the Village, there is an additional exception to the 20 percent limitation for occupying area. In the RS-3 Zoning District, where an accessory structure currently exists, the property owner may apply to the Plan Commission for a rebuild approval permit to occupy more than 20 percent of the rear yard area. For corner lots in the RS-3 zoning district, the side yard setback can be based upon the existing setback of the existing home, even if it is less than 25 feet. The Plan Commission will consider the actual lot, the neighborhood, and the effect the permit would have on neighboring parcels and the effect that it would have on the applicant's parcel. The rebuild approval permit may allow for the rebuilding of an accessory structure up to a maximum of 720 square feet, on a case-by-case basis, after review and approval by the Plan Commission.

**(c) Use Restrictions--Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for household occupations as defined herein and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes.

**(d) Landscaping Uses.** Accessory vegetation used for landscaping and decorating may be placed in any required yard area. Permitted vegetation includes trees, shrubs and flowers and gardens.

**(e) Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast

upon the adjoining properties. Outdoor lighting is subject to regulation under Section 13-1-104.

**(f) Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sun dials, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.

**(g) Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls.

**(h) Terrace Area Restrictions.** In addition to the definitions and restrictions contained in Sections 6-2-8 and 6-4-2(e) of this Code of Ordinances, no person shall place any accessory structure or use, including landscaping ornaments, stones and basketball backboard/hoops, in the terrace area.

## **SEC. 13-1-161 OUTSIDE STORAGE OF FIREWOOD.**

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

**(b)** Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.

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

**(d)** Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees, and woodpiles that harbor or are infested or inhabited by rats or other vermin, are public nuisances and shall be abated.

**(e)** Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one time.

## **SEC. 13-1-162 OUTSIDE STORAGE.**

No manure, rubbish, unlicensed or inoperable vehicles, salvage material or miscellaneous refuse may be stored within any zoning district when the same may be construed as a menace to the public health or safety or may be held to have a depressing influence upon property values in the area. Junk shall be placed in properly zoned junkyards only.

*Cross Reference: Section 10-5-8*

## **SEC. 13-1-163 FENCES.**

**(a) Fences Defined.** For the purpose of this Section, a "fence" is herein defined as an enclosed barrier consisting of wood, stone or metal intended to prevent ingress or egress. A fence is a barrier intended to prevent intrusion or to mark a boundary; such a barrier is constructed of posts and boards or rails, or posts and wire mesh. No fence shall be constructed of unsightly or dangerous materials, which could constitute a nuisance. A "decorative fence" is a fence that does not restrict access to the yard. Fence posts and supports must be installed on the side of the fence that faces the fenced property.

**(b) Residential Fences.**

**(1) Side Yard and Back Yard Fences.**

a. Side yard and back yard fences may be placed on the lot line with the agreement of neighboring property owners, otherwise fence must be set back two (2) feet. The owner of the fence shall be responsible for all

maintenance of the fence including the clipping of grass or weeds under the fence.

**b.** Side yard and back yard fences shall not exceed six (6) feet in height.

**c.** Side yard and back yard fences shall not be permitted closer than two (2) feet to any public right-of-way.

**d.** Corner lot side yard fences to front of house. Follow rules for side yard or back yard fences.

**(2) Street Yard Fences.** Street yard fences are not allowed except decorative fences (see below).

**(3) Decorative Fences.**

**a.** A decorative fence may be constructed to decorate the corner of a lot or to facilitate the planting of shrubs or flowers but cannot restrict access to the yard.

**b.** When a decorative fence is used as a corner accent, the length of the fence shall not exceed ten (10) feet in either direction from the corner post. A decorative fence shall not exceed three (3) feet in height.

**c.** Decorative fences must be located a minimum of two (2) feet from the lot line or from any public right-of-way, whichever is greater.

**(c) Security Fences.** Security fences are permitted on the property lines in all non-residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

**(d) Prohibited Fences.** No fence shall be constructed which is in a dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.

**(e) Fences to be Repaired.** All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.

**(f) Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days unless requested in writing, and approved by the Director of Public Works.

**(g) Nonconforming Fences and Hedges.** Any fence or hedge existing on the effective date of this Code of Ordinances and not in conformance with this Section may be maintained, but any alterations, modifications or improvements shall comply with this Section.

## **SEC. 13-1-164 SWIMMING POOLS.**

**(a) Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.

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

**(c) Permit Required.** Before work is commenced on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling or other improvements, a swimming pool building permit must be issued by the Building Inspector. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant.

**(d) Application Fee and Deposit Required.**

**(1) Fee Required.** A receipt showing payment of the appropriate fees as established by the Village Board shall accompany permit application.

**(2) Deposit Required.** An application for a permit to construct a pool shall be accompanied by a cash deposit in the amount of three hundred dollars (\$300.00) in addition to the permit fee. This deposit shall be retained by the Village Clerk until final inspection and approval. If any person shall use the pool prior to final inspection and approval, said bond shall be forfeited. The bond shall be returned upon compliance by permittee of all requirements of this Ordinance.

**(e) Final Approval Required.** No pool shall be used until the Building Inspector has made his final inspection and has approved all phases of construction, including the erection of necessary fencing. Water in the pool, except for minimal amounts for purposes of testing, shall be considered evidence of use.

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

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

**(2)** All plumbing work shall be in accordance with all applicable local, state and federal codes and requirements. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system or septic tank, or to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Plumbing Inspector.

**(3)** All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with all applicable local, state, and federal codes and requirements regulating electrical installations.

**(g) Setbacks and Other Requirements.**

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

**(2)** No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool be less than five (5) feet from any lot line.

**(h) Fence.**

**(1)** Pools within the scope of this Section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that

the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing two hundred fifty (250) pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four (4) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in any one (1) dimension. Gates or doors shall be kept locked while the pool is not in actual use.

(2) Pool fences may only be omitted under one of the following circumstances:

a. The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top, provided that the pool deck or fence shall not be more than ten (10) feet above the ground.

b. The pool fence may also be omitted when the sidewalls of the pool are at least four (4) feet in height, are completely unobstructed, and egress/ingress to the pool is always restricted by use of a folding ladder.

(i) **Compliance.** All swimming pools existing at the time of passage of this Code of Ordinances that are not satisfactorily fenced shall comply with the fencing requirements of this Section when water is placed in the pool.

(j) **Filter System Required.** All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

(k) **Dirt Bottoms Prohibited.** All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

## **SEC. 13-1-165 THROUGH SEC. 13-1-179 RESERVED FOR FUTURE USE.**



## **ARTICLE J: MODIFICATIONS.**

### **SEC. 13-1-180 HEIGHT.**

The district height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:

- (a)** Architectural projections, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys are exempt from the height limitations of this Chapter.
- (b)** Special structures, such as elevator penthouses, gas tanks, grain elevators, observation towers, and scenery lofts, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks are exempt from the height limitations of this Chapter.
- (c)** Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter, however wireless communication facilities are subject to limited height regulation under Section 13-1-145.
- (d)** Communication structures, such as radio and television transmission and relay towers, aerials, radio, and television receiving and transmitting antennas shall not exceed in height three (3) times their distance from the nearest lot line.
- (e)** Agricultural structures, such as barns, silos, and windmills, shall not exceed in height twice their distance from the nearest lot line.
- (f)** Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

### **SEC. 13-1-181 YARDS.**

The yard requirements stipulated elsewhere in this Chapter may be modified as follows:

- (a)** Uncovered stairs, landings as part of a stair system, and fire escapes may project into any yard but not to exceed six (6) feet and not closer than three (3) feet to any lot line.
- (b)** Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard; but such projection shall not exceed two (2) feet.
- (c)** Off-street parking is permitted in all yards of all districts but shall not be closer than three (3) feet to a side lot line, right-of-way, or rear lot line.
- (d)** Essential services, utilities, electric power, and communication transmission lines are exempt from the yard and distance requirements of this Chapter.
- (e)** Landscaping and vegetation are exempt from the yard requirements of this Chapter.

### **SEC. 13-1-182 ADDITIONS.**

Additions to the street side of existing structures shall not project beyond the average setback of existing structures on the abutting lots or parcels.

## **SEC. 13-1-183 AVERAGE STREET YARDS.**

The required street yards may be decreased in any residential or business districts to the average of the existing street yards of the abutting structures on each side but in no case less than fifteen (15) feet in any residential district and five (5) feet in any business district, except in the B-1 central business district.

## **SEC. 13-1-184 CORNER LOTS.**

Structures shall provide a street yard as required by this Chapter on the street that the structure faces. A second street yard shall be provided on the side of the structure abutting a second public or private street.

## **SEC. 13-1-185 EXISTING SUBSTANDARD LOTS.**

(a) A lot which does not contain sufficient area to conform to the dimensional requirements of this Chapter, but which is at least fifty (50) feet wide and six thousand (6,000) square feet in area, may be used as a single-family building site provided that the use is permitted in the zoning district, provided that the lot is of record in the County Register of Deeds' office prior to July 17, 2003, and provided that the lot is in separate ownership from abutting lands.

(b) If two (2) or more substandard lots with continuous frontage have the same ownership as of the effective date of this Chapter, the lots involved shall be considered to be an individual parcel for the purpose of this Chapter.

(c) Substandard lots granted permits under this Section shall be required to meet the setback 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 a variance by the Zoning Board of Appeals.

## **SEC. 13-1-186 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.

## **SEC. 13-1-187 ABUTTING LOTS IN DIFFERENT ZONING DISTRICTS.**

An owner of a lot sharing a common lot line with a lot in a different zoning district may appeal a building inspector's denial to the Plan Commission as it relates to an accessory structure restriction, structure height restriction or structure setback restriction, if the abutting lot's zoning restrictions would allow for such a structure (principal or accessory). The Plan Commission may grant, in its sole discretion, a building permit if it determines that the structure would be appropriate in the harmonious transition between the two zoning districts. This section shall be narrowly construed in favor of the Village's zoning powers.

## **SEC. 13-1-188 THROUGH SEC. 13-1-199 RESERVED FOR FUTURE USE.**

## **ARTICLE K: PERFORMANCE STANDARDS.**

### **SEC. 13-1-200 PERFORMANCE STANDARDS.**

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 performance standards found in this Article.

### **SEC. 13-1-201 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 forms or 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 four (4) minutes during and six (6) hour period each stack or chimney may emit smoke of Ringelmann No. 3. No activity shall emit more than ten (10) smoke units per hour per stack or chimney except that once during any six (6) hour period each stack or chimney may emit up to twenty (20) smoke units when blowing soot or cleaning fires.

### **SEC. 13-1-202 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 firefighting and fire suppression equipment and devices that are standard in the industry. All materials that range from active to intensive burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The aboveground storage capacity of materials that product flammable or explosive vapors shall not exceed the following:

<b>Closed Cup Flash Point</b>	<b>Gallons</b>
Over 187° F	400,000
105° F to 187° F	200,000
Below 105° F	100,000

### **SEC. 13-1-203 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.

## **SEC. 13-1-204 WATER QUALITY PROTECTION.**

(a) 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.

(b) 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 Chapter NR 102 of Wisconsin Administrative Code for the Milwaukee River and its use.

## **SEC. 13-1-205 NOISE.**

(a) No activity in an M-2 heavy manufacturing district 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:

<b>Octave Band Frequency (Cycles Per Second)</b>	<b>Sound Level (Decibels)</b>
0 to 75	
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
above 4800	32

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

<b>Octave Band Frequency (Cycles Per Second)</b>	<b>Sound Level (Decibels)</b>
0 to 75	
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
above 4800	32

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

## **SEC. 13-1-206 ODORS.**

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter 13, Air Pollution Abatement Manual -- (Current Edition), prepared by the Manufacturing Chemists' Association, Inc., Washington, D.C. Farmers actively engaged in farming practices are expressly exempt from odor regulation.

## **SEC. 13-1-207 RADIOACTIVITY AND ELECTRICAL DISTURBANCES.**

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

## **SEC. 13-1-208 VIBRATION.**

No activity in any district shall emit vibrations, which are discernible without instruments outside its premises. No activity shall emit vibrations, which exceed the following displacement measured with a three (3) component measuring system:

Frequency (Cycles Per second)	Displacement (Inches)	
	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

## **SEC. 13-1-209 THROUGH SEC. 13-1-219 RESERVED FOR FUTURE USE.**

## **ARTICLE L: ADMINISTRATION.**

### **SEC. 13-1-220 GENERAL ADMINISTRATIVE SYSTEM.**

The Village Zoning Administrator is charged with administration and enforcement of this Chapter. Certain considerations, particularly with regard to conditional uses, changes in zoning districts and the zoning map, and amending the text of this Zoning Chapter require review and recommendation by the Plan Commission and ultimate action by the Village Board. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

### **SEC. 13-1-221 ZONING FEES.**

**(a) Fees.** All persons, firms, or corporations performing work which, by this Chapter, requires the issuance of a permit variance, review and/or approval shall pay a fee to the Village Clerk/Treasurer to help defray the cost of the administration, investigation, advertising, and processing. Such fees shall be in accordance with the current schedule of fees as adopted by the Village Board. The fee schedule may be amended from time to time by action of the Village Board.

**(b) Permit Fees.** Permit fees do not include and are in addition to permit fees established by the Building Code.

**(c) Double Fee.** A double fee may be charged by the Village Plan Commission if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Chapter.

### **SEC. 13-1-222 VIOLATIONS AND PENALTIES.**

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

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

**(c) Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-6 of this Code of Ordinances. Each violation and each day a violation continues or occurs shall constitute a separate offense. The Village shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution provided for in Section 1-1-6.

## **SEC. 13-1-223 ROLE OF SPECIFIC VILLAGE OFFICIALS IN ZONING ADMINISTRATION.**

**(a) Zoning Administrator.** The Village Board shall designate the Building Inspector to serve as the Zoning Administrator and as the administrative enforcement officer for the provisions of this Chapter. In this Chapter, the terms "Building Inspector" and "Zoning Administrator" shall both be interpreted to include the other, as well as any designee, in the conduct of Village business. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:

- (1)** Maintain records of all permits issued, inspections made, work approved and other official actions.
- (2)** Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- (3)** Inspect all structures, lands and waters as often as necessary to assure compliance with this Chapter.
- (4)** Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this Chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the Village Attorney in a manner specified by him.
- (5)** Prohibit the use or erection of any structure, land or water until he has approved such use or erection.
- (6)** Request assistance and cooperation from the Village Engineer, Village Marshall and Village Attorney as deemed necessary.

**(b) Village Board.** The Village Board, the governing body of the Village, subject to recommendations by the Plan Commission and the holding of public hearings by said Board, has authority to make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map, to amend the text of this Chapter and to make Similar Use Determinations for permitted uses under Section 13-1-226. The Village Board may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this Chapter.

**(c) Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article N of this Chapter for additional provisions.

## **SEC. 13-1-224 VILLAGE PLAN COMMISSION.**

**(a) Creation and Composition.** The Village of Fredonia has created a Plan Commission in accordance with Section 62.23 Wisconsin Statutes. The commission has a total of seven members. The Village President serves on the Plan Commission and is responsible for appointing the other six members. The members of the commission shall be appointed to hold office for a period of 3 years. Appointments shall be made by the Village President during the month of April for terms that expire in April or at any other time if a vacancy occurs during the middle of a term. The Plan Commission shall always have at least three (3) citizen members who are not Village officials. Citizen members shall be persons of recognized experience and qualifications.

**(b) Expenses.** The Plan Commission shall have power and authority to employ experts and a staff, and to pay their wages and such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made for such

Commission by the Village Board, or placed at its disposal through gift, and subject to any ordinance or resolution enacted by the Village Board.

**(c) Rules of Procedure.** The Plan Commission may adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

**(d) Master Plan.** It shall be the function and duty of the Commission to make and adopt a master plan and from time to time amend, extend, or add to the master plan as provided in Section 62.23(3) of the Wisconsin Statutes.

**(e) Similar Use Interpretations for Conditional Uses.** It shall be the duty of the Plan Commission to review requests for similar use interpretations when the unclassified or unspecified use is similar to a use that is listed as a conditional use in a given zoning district under Section 13-1-44. The Plan Commission shall follow procedures as set forth under Section 13-1-226 in making the similar use interpretation. Applications for interpretations related to uses that are similar to permitted uses in any given district are heard by the Village Board under Section 13-1-226.

**(f) Site Plan and Architectural Review.**

**(1) Purpose.** For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall use, erect, construct, alter, or enlarge any structure, other than single-family and two-family dwellings and A-1 agricultural buildings and structures, nor shall any substantial changes be made to any site improvements in any district, without first obtaining the approval of detailed site and architectural plans as set forth in this section. This section shall not apply to interior remodeling work that has no effect on the exterior design or appearance of such building or structure.

**(2) Plan Commission Review.** The Plan Commission may take action to approve, approve with conditions or deny items which come before it. The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, other utilities, utilization of landscaping and open space, and the proposed operation in accordance with Village Ordinances and proper planning principals. Plan Commission action is final for some types of items, whereas others require additional levels of review and approval as follows:

**a. Site Plan and Architectural Review.** The Plan Commission considers applications and approves, denies, or conditionally approves the proposal. Following Plan Commission action, the Village Board is informed of the Plan Commission decision. Once Plan Commission approval is achieved, the item requires Architectural Control Board Review and approval.

**b. Subdivision Review.** The Plan Commission considers plats and certified survey maps, and approves, denies or conditionally approves the proposal. Plan Commission action is advisory to the Village Board which has final approval authority.

**c. Conditional Uses.** The Plan Commission holds public hearings prior to the issuance of permits for conditional uses in the Village. The Plan Commission may approve, deny or conditionally approve the application for a conditional use permit. Plan Commission action is final. The Village Board is informed of the Plan Commission action on the matter.

**d. Rezoning.** The Plan Commission considers applications for rezoning and makes a recommendation to the Village Board which has authority to approve or deny rezoning requests.

**(3) Site Plan.** A drawing or set of drawings to scale that show the existing site, the proposed improvements, grading, landscape, and site encumbrances such as easements. The site plan shall include one or more of the following



as determined by the village engineer based on physical characteristics of the property:

- a. Existing Buildings
- b. Existing pavement identifying use and type of pavement.
- c. Existing structures or other site improvements
- d. Existing landscape and green areas identified by type (e.g. lawn, meadow, woods, etc.)
- e. Existing trees over 6 inches in diameter
- f. Existing utilities above and below ground
- g. Existing easements
- h. Existing grades with 2' or smaller contour interval
- i. Plat of survey showing the property boundary that meets the requirements of Wisconsin Administrative Code AE-7
- j. Proposed buildings
- k. Proposed parking
- l. Proposed walks
- m. Proposed drives
- n. Proposed structures
- o. Proposed utilities above and below ground
- p. Proposed easements
- q. Proposed landscaping
- r. Proposed stormwater facilities
- s. Proposed erosion control practices
- t. Proposed grades with 1' or smaller contour intervals
- u. Proposed first floor, top of slab, or top of block elevation as appropriate
- v. Scale shall be appropriate for the size of the site to facilitate review.

Applicant shall submit 10 copies of the site plan to the Village

**(4) Standard Of Review.** In determining whether to approve site and architectural plans for new structures, uses and changes or additions to existing structures and uses, the Plan Commission shall consider the following:

- a. Whether the design or exterior appearance of the structure is compatible with its surroundings or is of such unorthodox or abnormal character in relationship to its surroundings as to be unsightly or offensive with the surrounding area.
- b. Whether the design or exterior appearance of the structure is identical with those adjoining as to create excessive monotony or drabness.
- c. Whether any exposed facade of the structure is constructed or faced with a finished material which is aesthetically incompatible with the other facades or presents an unattractive appearance to the public and to surrounding properties.
- d. Whether the structure or use 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. Whether the structure and use would have a negative impact on the maintenance of safe and healthful conditions in the Village.
- f. Whether the structure and use shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The Plan Commission may require that drainage easements be executed. Property owners shall comply with existing subdivision or development grading plans.
- g. Whether there shall be adequate provision for safe traffic circulation and safe driveway locations. In considering the location of driveways, the Commission shall consider those factors set forth elsewhere in the Code.

**h.** Whether there shall be adequate provision for parking and loading areas.  
**i.** Whether lighting shall be installed in accordance with all applicable ordinances.

**j.** Whether there shall be adequate provision for public services.

**k.** Whether the structure and uses shall make appropriate use of open spaces and shall provide appropriate landscaping and planting screens.

**l.** Whether appropriate erosion control measures are being utilized.

**(5) Sureties.** The Plan Commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule.

**(6) Appeals.** Any person or persons aggrieved by any decisions of the Plan Commission or Building Inspector related to plan review may appeal the decision to the Board of Zoning Appeals. Such appeal shall be filed with the Zoning Administrator within twenty (20) days after the decision.

**(g) ADDITIONAL MATTERS TO BE REFERRED TO THE VILLAGE PLAN COMMISSION.** In addition to matters specifically required by the Ordinance to be referred to the Village Plan Commission, the Village Board shall refer to the Plan Commission for its consideration and report, before a final action is taken by it, the following matters:

**(1)** The location and architectural design of any public building.

**(2)** The location of any statue or other memorial.

**(3)** The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land, or lease of land for any street, alley or other public way, park, playground, area for parking vehicles, or other memorial or public grounds.

**(4)** The location, extension, abandonment, or authorization for any public utility, whether publicly or privately owned.

**(5)** All plats of land in the Village or within the territory over which the Village is given platting jurisdiction by Chapter 236 of Wisconsin Statutes which shall be reviewed in accordance with the provisions of this Section in addition to those of the Village of Fredonia Subdivision Ordinance.

**(6)** The location, character and extent of acquisition, leasing, or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children.

**(7)** The amendment or repeal of any Ordinance adopted pursuant to Section 62.23 of the Wisconsin Statutes.

Unless such report is made within thirty (30) days, or such longer period as may be stipulated by the Village Board, the Village Board may take final action without it.

**(h) MISCELLANEOUS POWERS OF THE VILLAGE PLAN COMMISSION.** The Plan Commission may make reports and recommendations relating to the plan and development of the Village to public officials and agencies, public utility companies, civic, educational, professional and other organizations, and citizens. It may recommend to the Village Board programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the Plan Commission, within a reasonable time, such available information as it may require for its work. The Plan Commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. In general, the Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning.

## **SEC. 13-1-225 PROCEDURES BEFORE THE ARCHITECTURAL CONTROL BOARD.**

**(a) Principles.** To implement and define criteria for the purposes set forth in the ordinances establishing the Architectural Control Board, the following principles are established:

(1) No building shall be permitted, the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.

(2) 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.

(3) No building shall be permitted where any exposed façade 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.

(4) No building 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.

**(b) Compliance.** No structure shall hereafter be erected, moved, reconstructed, extended, enlarged, or have its exterior altered or changed where the Building Inspector deems that the structure does not comply with the principles set forth in Subsection (a) until the Architectural Control Board has reviewed and approved plans for the structure.

**(c) Applications.** Applications for review by the Architectural Control Board shall be made to the Building Inspector and shall be accompanied by a building application and, in addition, shall be accompanied by plans showing the exterior elevations of the existing and proposed structure, description of the proposed

materials, and proposed floor grades, and a list of the names and addresses of the parties in interest. Plans presented to the Architectural Control Board should be in substantial conformity with those presented to the Plan Commission, for any project which require Plan Commission approval.

**(d) Hearings.** Building plans requiring architectural review shall be reviewed at a public meeting. The Architectural Control Board shall schedule a reasonable time and place for the meeting and cause notice to be mailed to the applicant, the Building Inspector, and the parties in interest at least five (5) days prior to the meeting. The applicant may appear in person, by agent, or by attorney.

**(e) Findings.** The Architectural Control Board shall not approve any application unless it finds by a preponderance of the evidence after viewing the site that the purposes set forth in Subsection (a) have been fulfilled. The findings of the Architectural Control Board shall be indicated in the minutes of its proceedings and shall be a public record.

**(f) Appeals.** Any person or persons aggrieved by any decisions of the Architectural Control Board may appeal the decision to the Zoning Board of Appeals under the procedures set forth in Article N.

## **SEC. 13-1-226 SIMILAR USE INTERPRETATIONS.**

### **(a) Need and authority to make Similar Use Interpretations.**

The authority to make Similar Use Interpretations shall be as follows:

**(1) Similar Use Interpretations for Permitted Uses.** Where a proposed unclassified or unspecified use is similar in character to a permitted use in a given district the Village Board is authorized to make a similar use interpretation. The standards contained in this section shall guide similar use interpretations for permitted uses.

**(2) Similar Use Interpretations for Conditional Uses.** Where a proposed unclassified or unspecified use is similar in character to a conditional use in a given district the Plan Commission is authorized to make a similar use interpretation. The standards contained in this section shall guide similar use interpretations for conditional uses.

**(b) Considerations Used in Making Similar Use Interpretations.** The following considerations shall be used to determine what category a use is in and whether the activities are to be considered principal or accessory uses:

- (1)** The similarity of the proposed or projected use or activity to already-permitted uses and activities
- (2)** The relative amount of site area or floor space and equipment devoted to the activity
- (3)** Relative amounts of sales from each activity
- (4)** The type of customer for each activity
- (5)** The relative number of employees in each activity
- (6)** Hours of operation
- (7)** Building and site arrangement
- (8)** Vehicles used in the activity
- (9)** The relative number of vehicle trips generated by the use or activity
- (10)** Signage
- (11)** How the use or activity advertises itself
- (12)** Whether the use or activity is likely to be found independent of the other uses or activities on the site.

### **(c) Additional Standards for Similar Use Interpretations.**

**(1)** No Similar Use Interpretation shall permit any use in any zoning district unless evidence shall be presented demonstrating that it will comply with all applicable use standards and all other applicable requirements and standards of this Ordinance.

(2) No Similar Use Interpretation shall permit any use in a zoning district unless the use is similar to other uses allowed in the zoning district and is more similar to such uses than to other uses that are not allowed in that zoning district.

(3) If the proposed use is more similar to a use allowed only as a Conditional Use in the zoning district in which it is proposed to be located, then any Similar Use Interpretation permitting that use shall require a Conditional Use Permit.

**(d) Effect of Similar Use Interpretations.** A Similar Use Interpretation finding that a particular use is conditionally permitted in a specific district shall not automatically authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure. It merely authorizes the preparation, filing and processing of applications for any permits and approvals that may be required by the Village of Fredonia's codes and ordinances or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to Site Plan and Architectural Review, Conditional Use Permits, building permits and Certificates of Occupancy.

## **SEC. 13-1-227 ISSUANCE OF ZONING PERMITS.**

**(a)** A zoning permit shall be required for all non-residential uses, household occupations and cottage industries. The zoning permit shall be obtained prior to commencement of new uses and upon any change of ownership for existing uses.

**(b) Exceptions.**

**(1) Conditional Uses.** Issuance of a conditional use permit shall authorize the issuance of a zoning permit without further review, although fees must be paid in accordance with the Village Board established fee schedule. A zoning permit application and review shall be required upon the change in ownership of any use for which a conditional use permit has been issued.

**(2) Projects which require Site Plan and Architectural Review.** Zoning permits shall be issued without further review upon completion of Site Plan Review and Architectural Review and approval. Zoning permit fees must be paid in accordance with the Village Board approved fee schedule

**(c) Application Procedure.**

**(1)** The Zoning Administrator is authorized to issue zoning permits upon the satisfactory completion of the application process, compliance with all applicable codes and ordinances, and the payment of such fees as are listed in the Village Board approved fee schedule. The Zoning Administrator may, at his discretion, refer zoning permit applications to the Plan Commission for review and approval.

**(2)** The application shall include:

- a.** Name, address and telephone number of applicant and property owner.
- b.** Address of the property and a general description of the proposed use and any new construction or modification to existing structures.
- c.** Plan of operation, including number of employees and hours of operation.
- d.** Floor plan.

## **SEC. 13-1-228 THROUGH SEC. 13-1-239 RESERVED FOR FUTURE USE.**

## **ARTICLE M: CHANGES AND AMENDMENTS TO THE ZONING CODE.**

### **SEC. 13-1-240 AUTHORITY.**

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

### **SEC. 13-1-241 INITIATION OF CHANGES OR AMENDMENTS.**

The Village Board, the Plan Commission, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this Chapter by reference.

### **SEC. 13-1-242 PROCEDURE FOR CHANGES OR AMENDMENTS.**

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

(1) Plot plan, drawn to a scale of one (1) inch equals one hundred (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 three hundred (300) feet of the area proposed to be rezoned.

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

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

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

**(c) Hearings.**

(1) The Plan Commission shall schedule a public hearing upon each proposed change or amendment to be held at a future meeting date. Once scheduled, notice shall be given of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. At least ten (10) days' prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendments. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

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

(d) **Board's Action.** Following such hearing and after consideration of the Plan Commission's recommendation, the Village Board shall vote on the proposed ordinance effecting the proposed change or amendment.

(e) **Fee.** The fee for a re-zoning shall be paid upon filing in accordance with the Village Board adopted fee schedule.

## **SEC. 13-1-243 PROTEST.**

(a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Village Board membership.

(b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Village Board membership to adopt such amendment.

## **SEC. 13-1-244 THROUGH SECTION 13-1-259 RESERVED FOR FUTURE USE.**

## **ARTICLE N: APPEALS.**

### **SEC. 13-1-260 APPEALS TO THE ZONING BOARD OF APPEALS.**

**(a) Who may Appeal.** Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or affected by any decision of the Building Inspector, Zoning Administrator, Plan Commission or Architectural Control Commission as follows:

(1) The owner, mortgagee, purchaser under a land contract, optionee or occupant under a written lease for one year or more of the property for which relief is sought.

(2) Any officer (other than the Zoning Administrator), department, board or bureau affected by a decision or order of the Zoning Administrator.

(3) Any person aggrieved and whose use and enjoyment of property within the Village is directly and adversely affected by the decision being appealed.

**(b) Time of Appeal.** Appeals shall be filed within thirty (30) days after the date of receipt of the written decision or order from which the appeal is taken by filing in duplicate a notice of appeal with the Village Clerk-Treasurer. The date of receipt of the decision shall not be counted in determining the term for filing of the appeal. Sundays and holidays shall be counted, except if the last day falls on a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next secular day. See Section 13-1-261 for further detail.

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

**(d) Meetings.**

(1) **Open to Public.** All meetings and hearings of the Zoning Board of Appeals shall be open to the public, except that the Zoning Board of Appeals may go into executive session to deliberate after a hearing or an appeal. The final vote on an appeal shall be taken in open session by roll call vote, recorded and open for public inspection in the Zoning Board of Appeals office. Public notice of all regular and special meetings shall be given to the public and news media as required by the Wisconsin Open Meeting Law.

(2) **Special Meetings.** Special meetings may be called by the Chairman or by the Secretary of the Zoning Board of Appeals at the request of two (2) members. Notice of a special meeting shall be mailed to each member at least forty-eight (48) hours prior to the time set for the meeting, or announcement of the meeting shall be made at any meeting at which all members are present.

(3) **Hearing.** Hearings may be held at any regular or special meeting at the time set by the Chairman.

(4) **Quorum.** A quorum for any meeting or hearing shall consist of four (4) members, but a lesser number may meet and adjourn to a specified time.

**(e) Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Zoning Board of Appeals shall have the following powers:

(1) **Errors.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator, Building Inspector or other administrative official in the



enforcement of the Zoning Code or any ordinance adopted under Sections 61.35, 62.23, 62.231 (wetlands), 87.30 or 144.26 flood plains) or Chapter 91 (farmland preservation), Wis. Stats.

**(2) Variances.** To hear and rule on appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Zoning Code will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public health, safety, welfare and justice secured.

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

**(4) 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 Zoning Board of Appeals permits such a substitution, the use may not thereafter be changed without application.

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

**(f) Zoning Board of Appeals Action.** In exercising the powers under Subsection (e), the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.

**(g) Voting.**

**(1) Personal Interest.** No Zoning Board of Appeals member shall participate in the decision of or vote upon any case in which the member is financially interested, directly or indirectly, but the Chairman shall direct an alternate member to act instead. Disqualification of a member for interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.

**(2) Record of Vote.** The Secretary shall record the vote of each member on every question in the minutes or, if the member is absent or fails to vote, shall indicate such fact in the record of the proceedings.

## **SEC. 13-1-261 APPLICATIONS FOR HEARINGS BEFORE THE ZONING BOARD OF APPEALS.**

**(a) Appeal and Application Forms.** Every appeal or application shall be made upon forms furnished by the Village Clerk-Treasurer which have been approved by the Zoning Board of Appeals. A plat of survey prepared by a surveyor registered in the State of Wisconsin or scale drawing shall accompany each form showing the location and size of the property, existing improvements, all abutting properties and improvements thereon and any change or addition requested. The applicant or appellant shall provide all information requested on the form and any additional information requested in writing by the Chairman or Secretary of the Zoning Board of Appeals which is necessary to inform the Board of the facts of the appeal.

Failure to supply such information shall be grounds for dismissal of the appeal or application.

**(b) Filing Appeal or Application.** The appellant or applicant shall file the required appeal form in duplicate with the Village Clerk-Treasurer. The Village Clerk-Treasurer shall deliver one (1) copy to the Zoning Administrator or other officer or body from whose decision an appeal is taken. Upon receipt of an appeal, the Zoning Administrator or other officer or body responsible for the original determination shall transmit to the Secretary of the Zoning Board of Appeals all notes or papers relating to the order or decision from which the appeal is being taken.

**(c) Election to Have Appeal or Application Handled as a Contested Case.** The applicant or appellant may elect to have the appeal or application handled as a contested case. The appeal or application form shall explain that a contested case includes the right of all parties to cross examine witnesses, to object to improper evidence and to have a record of the proceedings made by a court reporter or qualified stenographer or by tape recording. Election to have the matter treated as a contested case must be made in writing at the time of filing of the appeal or application.

**(d) Fee.** All appeals and applications shall be filed with the Village Clerk-Treasurer and accompanied by payment of the appropriate fee as set forth in the Village Board adopted fee schedule. If the appellant or applicant elects the contested-case method, he or she shall also pay the amount determined by the Zoning Board of Appeals to cover the additional administrative costs involved.

**(e) Insufficient Notice.** No appeal or application shall be considered by the Zoning Board of Appeals unless it is made on the required form. Upon receipt of any communication purporting to be an appeal or application, the Village Clerk-Treasurer shall supply the applicant with the proper forms which must be filed within ten (10) days, in addition to the thirty (30) days specified in Section 13-1-260(b), in order to be considered by the Zoning Board of Appeals.

## **SEC. 13-1-262 HEARINGS BEFORE THE ZONING BOARD OF APPEALS.**

**(a) Notice of Hearings.** Notice of the time, date and place of the hearing of an appeal or application shall be given in the following manner:

(1) By mail or personal service to the appellant or applicant and to the Zoning Administrator or other administrative official or body from whose decision an appeal is taken, not less than ten (10) days prior to the date of the hearing.

(2) In every case involving a variance, conditional use, exception, planned unit development or public utility exception, the Village Clerk-Treasurer shall mail notice to the owners of record of all land within the area included in the application and within one hundred (100) feet of any part of the building or premises affected not less than (10) days prior to the hearing. Names and last-known addresses of such owners shall be furnished by the applicant at the time of filing the appeal or application.

(3) By publication of a Class 1 notice under Chapter 985, Wis. Stats.

(4) Notice of an application for a proposed special exception in a shoreland-wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources at least ten (10) days prior to the hearing.

**(b) Appearances.** The appellant or applicant may appear in person or by his agent or attorney. In the absence of an appearance for or against an appeal or application, the Zoning Board of Appeals may dismiss the appeal or application or may dispose of the matter on the record before it.

**(c) Compelling Attendance of Witnesses.** The Chairman, or, in his absence, the presiding officer, may compel the attendance of witnesses by subpoena. Written request for subpoenas shall be filed with the Secretary of the Zoning Board of Appeals not less than two (2) days prior to the hearing except by special permission of the Chairman.

**(d) Order of Business.**

**(1) General Hearing.** At the hearing, the order of business shall be as follows;

- a. Statement of the nature of the case by the Chairman.
- b. Appellant's side of the case.
- c. Questions by Zoning Board of Appeals members.
- d. Zoning Administrator's, other Administrator or body whose decision is being challenged side of the case.
- e. Questions by Zoning Board of Appeals members.
- f. Statements by interested persons such as neighbors or abutting landowners.
- g. Questions by Zoning Board of Appeals members.
- h. Appellant's or applicant's rebuttal.

**(2) Contested Cases.** If the applicant or appellant elects to have his or her appeal or application treated as a contested case, the order of business shall be as follows:

- a. Call to order by the Chairman.
- b. Appellant or applicant's opening statement.
- c. Zoning Administrator's opening statement, or that of other Administrator or body whose decision is being challenged.
- d. Opening statement of persons aggrieved and other interested parties. The right to make an opening statement is limited to persons who will present evidence.
- e. Applicant's or appellant's case-in-chief.
- f. Questions by Zoning Board of Appeals members.
- g. Cross-examination. No more than one (1) person for each party shall cross-examine witnesses. Chairman may limit the number of parties who may cross-examine.
- h. Zoning Administrator's case-in-chief, or that of other Administrator or body whose decision is being challenged.
- i. Questions by Zoning Board of Appeals members.
- j. Cross-examination as under (2)g.
- k. Case-in-chief of other parties.
- l. Questions by Zoning Board of Appeals members.
- m. Cross examination under (2)g.
- n. Rebuttal by appellant or applicant. Rebuttal is limited to matters raised by the adverse parties by way of evidence or argument.
- o. Statements of opinion of neighbors or abutting land owners - not subject to cross-examination.
- p. Closing statements of those who made or waived opening statements.

**(e) Evidence and Official Notice.** Except in contested case hearings, written and oral testimony will be received. In contested case hearing, no hearsay evidence will be allowed or relied upon as the sole evidence of any factual determination. The Zoning Board of Appeals may take official notice of the ordinances of the municipality, the zoning and location of the subject property and geographical features or other facts which are common knowledge in the municipality or can be verified by reference to public record. In contested case hearings, all witnesses shall be sworn and no person shall be permitted to testify unless he or she submits to cross-examination. See Sec. 227.08, Wis. Stats.

**(f) Adjournments.** When all appeals or applications cannot be disposed of on the day set, the Zoning Board of Appeals may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a

continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Zoning Board of Appeals.

**(g) Withdrawal.** An appellant or applicant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or dismiss the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant or applicant to remission of the filing fee.

## **SEC. 13-1-263 DECISION AND DISPOSITION OF CASES BEFORE THE ZONING BOARD OF APPEALS.**

**(a) Time of Decision.** The Zoning Board of Appeals shall render its decision either at the termination of the hearing or within thirty (30) days thereafter and shall notify the parties in interest and the Zoning Administrator in writing of its decision.

**(b) Form of Decision.** The final disposition of an appeal or application shall be in the form of a written decision or order signed by the Chairman and Secretary of the Zoning Board of Appeals. Such decision shall state the reasons for the Board's determination with findings of fact and conclusions of law and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal or grant or deny the special exception, conditional use or variance. Copies of the decision shall be sent to the applicant, Village Clerk-Treasurer, the Secretary of the Plan Commission and any Village Committee involved.

**(c) Basis of Decision; Findings.** At the conclusion of a hearing, the Zoning Board of Appeals should reduce to writings its findings of fact and conclusions of law regarding the proper interpretation and application of the Zoning Code.

**(d) Vote Required.** All orders or decisions of the Zoning Board of Appeals granting a variance, exception or conditional use or reversing any action or order of the administrator require the affirmative vote of four (4) members. Whenever only four (4) members of the Board are present and the vote stands three (3) to one (1) in favor of the appellant or applicant, the matter shall be laid over for consideration and final determination at the next meeting of the Board or a special meeting noticed and called for that purpose.

**(e) Conditions.** Variances or conditions imposed in any permit shall be stated in the decision or order embodying the Zoning Board of Appeals decision and shall also be set forth in the building, conditional use or occupancy permit issued under that order by the Zoning Administrator. A permit shall be valid only as long as the conditions upon which it is granted are observed. Whenever the Zoning Board of Appeals grants an application or appeal affecting the use of any premises, such authorization shall be deemed revoked unless the owner, occupant or his agent shall, upon request, file with the Zoning Board of Appeals Secretary a written report certifying that all conditions or limitations imposed by the Zoning Board of Appeals have been conformed to and maintained. Variances, substitutions or conditional use permits approved by the Zoning Board of Appeals shall expire six (6) months after issuance if the performance of work is required and substantial work has not commenced.

**(f) Filing of Decision.** Every order or decision of the Zoning Board of Appeals shall be immediately filed with the Secretary who shall thereupon forward the decision to the Village Clerk-Treasurer and mail a copy to the applicant or appellant. Copies of decisions granting conditional uses or variances in a shoreland or wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources.

**(g) Reconsideration.**

**(1) Resubmission.** No appeal or application which has been dismissed or denied shall be considered again without material alteration or revision within one (1) year of the Zoning Board of Appeals decision, except pursuant to court order or by motion to reconsider made by a member voting with the majority or as provided in Subsection (g) (2) below.

**(2) Rehearing.** No rehearing shall be held except upon the affirmative vote of four (4) or more members of the Zoning Board of Appeals upon finding that substantial, new evidence is submitted which could not reasonably have been presented at the previous hearing. Requests for rehearing shall be in writing, shall state the reasons for request and shall be accompanied by necessary data and diagrams. Rehearings shall be subject to the same notice requirements as original hearings.

## **SEC. 13-1-264 VARIANCES.**

### **(a) Purpose.**

**(1)** A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship. A variance granted to a nonconforming use shall bring that use into a greater degree of conformance with the district and zoning requirements.

**(2)** The Zoning Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, or permit standards lower than those required by state law.

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

**(b) Application for Variation.** The application for a variance shall be filed pursuant to Section 13-1-261.

**(c) Public Hearing of Application.** The public hearing for a variance shall be conducted pursuant to Section 13-1-262.

**(d) Prohibited Variances.** The Zoning Board of Appeals shall not grant use variances in wetland and conservancy districts. In all other districts, no use variance shall be granted unless the applicant has first petitioned for a zoning amendment or a conditional use permit, if applicable, and upon a showing that no lawful and feasible use of the subject property can be made in the absence of such variance. Any use variance granted shall be limited to the specific use described in the Zoning Board of Appeals decision and shall not permit variances in yard, area or other requirements of the district in which located.

**(e) Action of the Zoning Board of Appeals; Standards.** No variance to the provisions of this Chapter shall be granted by the Zoning Board of Appeals unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

**(1) Preservation of Intent.** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

**(2) *Exceptional Circumstances.*** There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, that do not apply generally to other properties in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

**(3) *Economic Hardship and Self-Imposed Hardship Not Grounds for Variance.*** No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

**(4) *Preservation of Property Rights.*** That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

**(5) *Absence of Detriment.*** That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Chapter or the public interest.

**(f) *Conditions.*** The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

## **SEC. 13-1-265 REVIEW BY COURT OF RECORD.**

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

## **SEC. 13-1-266 THROUGH SEC. 13-1-279 RESERVED FOR FUTURE USE.**

## ARTICLE 0: DEFINITIONS.

### SEC. 13-1-280 DEFINITIONS.

(a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.

**(b) General Definitions.**

**(1) Abutting.** Have a common property line or district line.

**(2) Accessory Building or Use.** A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

a. An accessory building or use is one which:

1. Is customary and clearly incidental to the principal building or principal use;
2. Serves exclusively the principal building or principle use;
3. Is subordinate in area, extent or purpose to the principal building or principal use;
4. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
5. Is located on the same zoning lot as the principal use served, with exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.

b. An accessory building or use includes, but is not limited to, the following:

1. A children's playhouse, garden house or private greenhouse;
2. A garage, carport, shed or building for storage incidental to a permitted use;
3. Incinerators incidental to a permitted use;
4. Storage of goods used in or permitted manufacturing activities on the same zoning lot with such activities, unless such storage is excluded by the district regulations;
5. The production, processing, cleaning, servicing, testing, repair or storage of merchandise normally incidental to a permitted retail service or business use if conducted by the same ownership as the principal use;
6. Off-street motor vehicle parking areas and loading facilities;
7. Signs, as permitted and regulated in each district incorporated in this Chapter; and
8. Earth station dish antennas over three feet in diameter, which are ground-mounted or building mounted.

**(3) Acre, Net.** The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.

**(4) Alley.** A public way not more than twenty-four (24) feet wide which affords only a secondary means of access to abutting property.

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

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

**(7) Awning.** An awning is a retractable, roof-like cover, temporary in nature, which projects from the wall of a building.

**(8) Basement.** That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations.

**(9) Block.** A block is a tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad right-of-way, bulkhead lines or shorelines of waterways. A block may be located in part beyond the boundary lines of corporate limits of the Village.

**(10) Board of Appeals/Adjustment.** The body established under Chapter 62.23, Wis. Stats., for cities or villages and designated "board of appeals," or as established under Chapter 59.99, Wis. Stats., for counties and designated "board of adjustment."

**(11) Buildable Lot Area.** The portion of a lot remaining after required yards have been provided.

**(12) Building.** A building is any structure built for the support, shelter or enclosure of persons, animals, chattel or movable property of any kind and which is affixed to the land. When any portion thereof is completely separated from every other portion by masonry or fire wall without any window, which wall extends from the ground to the roof, then such portion shall be deemed to be a separate building.

**(13) Building, Completely Enclosed.** A completely enclosed building is a building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

**(14) Building, Detached.** A detached building is a building surrounded by open space on the same lot.

**(15) Building Height.** Building height is a vertical distance from the curb level or the approved ground level opposite the center of the front of a building to the highest point of the roof in the case of a flat roof, to the deck line of a mansard roof, and to the mean-height level between eaves and ridges of a gable, hip or gambrel roof. No building or parts of a building shall exceed the maximum building height of the zoning district in which it is situated.

**(16) Building Line.** A line parallel to a lot line and at a specified minimum distance from the lot line to comply with the building setback requirements of the Village Zoning Ordinance.

**(17) Building, Principal.** A building in which the principal use of the lot on which it is located is conducted.

**(18) Building Setback Line.** See Building Line.

**(19) Bulk.** Bulk is the term used to indicate the size and setbacks of buildings or structures and the location of such buildings or structures with respect to one another and includes the following:

- a. Size and height of buildings;
- b. Location of exterior walls at all levels in relations to lot lines, streets or to other buildings;
- c. Gross floor area of buildings in relation to lot area (floor area ratio).
- d. All open spaces allocated to buildings; and
- e. Amount of lot area provided per dwelling unit or lodging room.

**(20) Bulkhead Line.** A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Sec. 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high-water mark,



except where such filling is prohibited by the floodway provisions of this Chapter.

**(21) Business.** An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.

**(22) Certificate of Compliance.** A certification by the Zoning Administrator stating that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all the provisions of this Chapter.

**(23) Channel.** A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water. Those floodlands normally occupied by a stream of water under average annual high water flow conditions which confined within generally well-established banks.

**(24) Commercial Feed Lot.** Confinement of two hundred (200) or more head of livestock on a farm or other site for the purpose of intensive feeding prior to slaughter or shipment in such concentration that ground vegetation is substantially destroyed where:

a. The farm or site does not produce a minimum of sixty percent (60%) of the feed necessary to sustain the herd.

b. The farm or site is insufficient in size to provide for the disposal of all animal wastes in a manner that they will not run off, seep, percolate, or wash into surface or subsurface waters.

**(25) Conditional Uses.** Uses of a special nature as to make impractical their predetermination as a permitted use in a district.

**(26) Conforming Building or Structure.** A conforming building or structure is any building or structure which:

a. Complies with all the regulations of this Chapter or any amendment hereto governing bulk or the zoning district in which such building or structure is located; or

b. Is designed or intended for a conforming use.

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

**(28) Controlled Access Arterial Street.** The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.

**(29) Corner Lot.** See Lot, Corner.

**(30) Curb Level.** The curb level for any building is the level of the established curb in front of such building measured at the center of such front.

**(31) Decorative Fence.** A fence that does not restrict access to the yard.

**(32) Density.** The number of residential dwelling units allowed per acre of land.

**(33) Department.** The Wisconsin Department of Natural Resources.

**(34) Development.** Any artificial change to improved or unimproved real estate, including but not limited to construction of buildings, structure or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities. Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or

accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.

**(35) District, Basic.** A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and building are uniform.

**(36) District, Overlay.** Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

**(37) Dwelling.** A building or part of a building containing one (1) or more dwelling units and also containing other directly associated elements such as hallways, storage areas or common laundry facilities.

**(38) Dwelling, Attached.** A dwelling separated from another dwelling unit and having any portion of any roof, wall or floor in common with another dwelling unit.

**(39) Dwelling, Detached.** A detached dwelling is one which is entirely surrounded by open space on the same lot.

**(40) Dwelling, Multiple-Family.** A multiple-family dwelling is a building, or portion thereof, containing three (3) or more dwelling units.

**(41) Dwelling, Single-Family.** A single-family dwelling is a building containing one (1) dwelling unit only.

**(42) Dwellings, Bi-Level and Tri-Level.** Dwellings with horizontally offset levels shall be considered to be bi-level and tri-level type construction.

**(43) Dwelling, Two-Family.** A two-family dwelling is a building containing two (2) dwelling units only.

**(44) Dwelling Size.** Dwelling size shall be measured from outside wall to outside wall, and shall only include interior living area finished at time of occupancy. In the case where unfinished area is on the same floor with finished area, such as lower level containing a basement and a walk-out finished area, the finished area calculation shall be measured to the outside of any exterior wall of the dwelling to the inside wall of the finished area abutting the unfinished area. The square footage requirements shall exclude garages (attached or detached), porches, breezeways, decks, utility rooms and any other accessory structure.

**(45) Dwelling Unit.** An area within a dwelling that is designed, occupied or intended to be occupied by a family (or by a non-family household as permitted by this Chapter) as separate living quarters with private kitchen, sanitary, sleeping and living quarters within the unit.

**(46) Emergency Shelter.** Public or private enclosures designed to protect people from aerial radiological, biological, or chemical warfare; fire, flood, windstorm, riots, and invasions.

**(47) Encroachment.** Any fill, structure, building, use or development in the floodway.

**(48) Environmental Corridor.** An area in the landscape containing especially high value natural, scenic, historic, scientific, or recreational features. The Southeastern Wisconsin Regional Planning Commission or approved equivalent shall delineate boundaries of the area. Residential development shall be permitted at very low densities not to exceed one dwelling unit per five acres. The five-acre parcel shall be under single ownership with an appropriate deed restriction to protect and preserve the area or outlot not designated as home site. At least 85% of the environmental corridor's natural qualities shall be retained. No more grading, filling or vegetative removal is allowed except that which is minimally necessary to accommodate the proposed building.

**(49) Equal Degree of Encroachment.** The effect of any encroachment into the floodway must be computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic reach. This computation assures that property owners up, down, or across the river or stream will have the same rights of hydraulic encroachment. Encroachments are analyzed on

the basis of the effect upon hydraulic conveyance, not upon the distance the encroachment extends into the floodway.

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

**(51) Establishment, Business.** A business establishment is a place of business carrying on operations which are physically separate and distinct from those of any other place of business located on the same zoning lot.

**(52) Family.** An individual or group of two (2) or more individuals who are related by blood, marriage or adoption, or not more than five (5) persons not so related, living as a single household in a dwelling unit. For purposes of this Chapter, family includes "non-family households."

**(53) Farming - General.** General farming shall include floriculture, forest and game management, orchards, raising of grain, grass, mint and seedcrops, raising of fruits, nuts and berries, sod farming and vegetable farming. General farming includes the operating of such an area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities. General farming does not include operation of a commercial feed lot.

**(54) Fence.** A barrier intended to prevent intrusion or to make a boundary. Such a barrier is constructed of posts and boards or rails, or posts and wire mesh.

**(55) Floor Area** (For Determining Off-Street Parking and Off-Street Loading Requirements). Floor area when prescribed as a basis of measurement for off-street parking spaces and loading berths for any use shall mean the sum of the gross horizontal areas of the several floors of the building, or buildings, devoted to such use, including accessory storage areas located within selling or working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area for the purpose of measurement for off-street parking spaces shall not include:

- a. Floor area devoted primarily to storage purposes, except as otherwise noted herein.

- b. Floor area devoted to indoor parking or loading facilities.

- c. Basement floor area, other than area devoted to retailing activities or to the production or processing of goods or to business or professional offices.

**(56) Floor Area Ratio.** An intensity measured as a ratio derived by dividing the total gross floor area of a building, structure or group of buildings or structure including any accessory structure, by the total lot or parcel area, excluding any right-of-way.

**(57) Frontage.** The smallest dimension of a lot abutting a public street measured along the street line.

**(58) Garage-Private.** A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles belonging to or used by the occupant of the premises.

**(59) Garage-Public.** Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.

**(60) Greenspace.** The required open space to be provided on the site, normally planted with grass and landscape materials, as measured perpendicular from the

nearest property line to any structure, pavement or hard surface, or man-made impediment. The greenspace may be bisected by a perpendicular ingress/egress drive, and a sidewalk system to connect the site to the right-of-way. Any storm water management and/or water quality basin shall not be permitted within the minimum greenspace setback. Wetlands shall not be counted toward the greenspace requirement.

**(61) Gross Density.** The number of residential dwelling units allowed per acre of land minus any existing right-of-way on the land prior to subdivision or development approval.

**(62) Guest, Permanent.** A permanent guest is a person who occupies or has the right to occupy on a monthly or longer basis a hotel or apartment hotel accommodation as his domicile and place of permanent residence.

**(63) Hearing Notice.** Publication or posting meeting the requirements of Ch. 985, Wis. Stats., Class 1 notice is the minimum required for appeals: Published once at least one (1) week (seven days) before the hearing. Class 2 notice is the minimum required for all zoning ordinances and amendments including map amendments, published twice, once each week consecutively, the last at least a week (7 days) before the hearing, with the day of the hearing not counting toward the 7 day requirement. Local ordinances or bylaws may require additional notice, exceeding these minimums.

**(64) Hotel.** A facility containing more than five (5) sleeping rooms with private or semi-private bathroom facilities offered overnight lodging to the public for compensation and catering primarily to the traveling public. A hotel shall offer services such as maid, telephone, desk and vending services. It may offer a restaurant, recreational facilities and meeting facilities.

**(65) Household.** A family or non-family group living in a nontransient manner in a single dwelling unit.

**(66) Household Occupations.** Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises, does not exceed twenty-five percent (25%) of the area of any floor, uses only household equipment, and no stock in trade is kept or sold except that made on the premises. A household occupation includes uses such as babysitting, millinery, dressmaking, canning, laundering, and crafts, but does not include the display of any goods nor such occupation as barbering, beauty shops, dance schools, real estate brokerage, or photographic studios.

**(67) Human Habitation.** A human residence or dwelling.

**(68) Junk.** Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.

**(69) Junk Yard.** A junk yard is an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handles, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junk yard includes an automobile wrecking or dismantling yard, but does not include uses established entirely within enclosed buildings.

**(70) Land Use.** Any nonstructural use made of unimproved or improved real estate. (Also see Development.)

**(71) 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.

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

**(73) Lot Area.** The lot area is the area of a horizontal plane contained within the exterior, or peripheral, boundaries or lot lines of a lot excluding streets and land under navigable bodies of water.

**(74) Lot, Corner.** A corner lot is a lot of which at least two (2) adjacent sides abut for their full lengths upon a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five degrees (135°). A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than one hundred thirty five degrees (135°). Corner lots shall meet front yard setback requirements for all street sides.

**(75) Lot Coverage (Residential).** The area of a lot occupied by the principal building or buildings and accessory building.

**(76) Lot Coverage (Except Residential).** The area of a lot occupied by the principal building or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.

**(77) Lot Depth.** The lot depth is the mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

**(78) Lot, Interior.** A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.

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

**(80) Lot Line, Front.** The front lot line, in the case of a lot abutting upon only one (1) street, shall mean the line separating such lot from such street.

**(81) Lot Line, Rear.** The lot line opposite to and most distant from the front lot line. In the case of an irregular, triangular or gore-shaped lot, the rear lot line shall be an imaginary line, parallel to and farthest from the front lot line, not less than ten feet (10') long and wholly within the lot. In cases where neither of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.

**(82) Lot Line, Side.** A side lot line shall mean any lot line that is not a front lot line or a rear lot line.

**(83) Lot Lines.** Lot lines shall mean the property lines bounding the lot.

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

**(85) Lot of Record.** A lot of record is a lot which is part of a subdivision or a certified survey map which has been recorded in the Office of the Register of Deeds of Ozaukee County or a parcel of land, the deed to which was recorded in the Office of said Register of Deeds prior to the effective date of this Chapter. Any lot or parcel of land created through a violation of any other applicable laws or ordinances of the State of Wisconsin and the Village of Fredonia shall not, in this instance, be considered a lot of record.

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

**(87) Lot, Through.** A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

**(88) Lot Width.** The lot width is the horizontal distance between the side lot lines of a lot, measured at right angles to the lot depth, said measurement to be made at the rear line of the required front yard.

- (89) **Lot, Zoning.** A zoning lot or lots is a single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. Therefore, a zoning lot or lots may or may not coincide with a lot of record.
- (90) **Mobile Home.** A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. For the purpose of this Chapter, it does not include recreational vehicles or travel trailers.
- (91) **Model Home.** A model home is a residential structure used for display, advertising and selling of homes.
- (92) **Municipality or Municipal.** The Village governmental units enacting, administering and enforcing this Chapter.
- (93) **NGVD or National Geodetic Vertical Datum.** Elevations referenced to mean sea level datum, 1929 adjustment.
- (94) **Nameplate.** A nameplate is a sign indicating the name and address of a building, or the name of an occupant thereof, and the practice of a permitted occupation therein.
- (95) **Natural Resource Preservation Requirements.** The minimum protection of resources on a site, which may include wetlands, floodplains, lakes, ponds, streams, creeks, brooks, storm water management basins, woodlands, forests, and poor soil conditions, archaeological sites, etc. An assessment of on-site natural resources shall be presented to the Plan Commission with any development application. Where a Primary Environmental Corridor, Secondary Environmental Corridor or Isolated Natural Area exists on a site proposed for development, the Village may require, in the public interest, increased preservation standards above those stated in this ordinance.
- (96) **Net Density.** The number of residential dwelling unit allowed per acre of land minus any existing right-of-way on the land prior to subdivision or development and minus the acres of natural areas of the land to be preserved, including wetlands, floodplains, woodlands and forests, also including storm water management basins.
- (97) **Nonconforming Building or Structure.** An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Chapter for the area which it occupies. A nonconforming building or structure is any building or structure which:
- a. Does not comply with all of the regulations of this Chapter or of any amendment hereto governing bulk for the zoning district in which such building or structure is located; or
  - b. Is designed or intended for a nonconforming use.
- (98) **Nonconforming Use.** A nonconforming use is any use of land, buildings or structures which does not comply with all the regulations of this Chapter or of any amendment hereto governing use for the zoning district in which such use is located. (such as a residence in the floodway.)
- (99) **Nonfamily Households.** A group of individuals not exceeding five (5) in number who do not constitute a "family" as defined herein and who live as a single household in a dwelling unit.
- (100) **Nursing Home.** A place where 5 or more persons who are not related to the operator or administrator reside, receive care or treatment and , because of their mental or physical condition, require access to 24-hour nursing services, including limited nursing care, intermediate level nursing care and skilled nursing services, as defined in s. 50.01, Wis. Stats.
- (101) **Open Space Use.** Those uses having a relatively low flood damage potential and not involving structures.
- (102) **Ordinary High-Water Mark.** The point on the bank or shore up to which the presence and action or surface water is so continuous as to leave a distinctive

mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

**(103) Parking Lot.** A structure or premises containing five (5) or more parking spaces.

**(104) Parking Space.** A graded and surfaced area of not less than one hundred eighty (180) square feet.

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

**(106) Party Wall.** A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above and which separates contiguous buildings but is in joint use for each building.

**(107) Person.** An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

**(108) Private Sewage System.** A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the State of Wisconsin including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one (1) structure or a system located on a different parcel than the structure.

**(108a) Private Street.** A street owned and maintained by a private individual, organization, or company rather than by the Village of Fredonia, Ozaukee County, State of Wisconsin or the United States of America. Consequently, unauthorized use of the street may be considered trespassing, and some of the usual rules of the streets may not apply. The most common type of private streets are residential streets maintained by a homeowners association, housing co-op, or other group of individual homeowners.

**(109) Public Utilities.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

**(110) Public Way.** A public way is any sidewalk, street, alley, highway or other public thoroughfare.

**(111) Railroad Right-of-Way.** A railroad right-of-way is a strip of land containing railroad tracks and customary auxiliary facilities only for track operation. For the purpose of this Chapter, a railroad right-of-way does not include land used or intended to be used for switching, spur, lead, team or siding tracks, freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, car yards or classification yards.

**(112) Reach.** A longitudinal segment of a stream generally including those floodlands wherein flood stages are primarily and commonly controlled by the same manmade or natural obstructions to flow.

**(113) Retail.** The sale of goods or merchandise in small quantities to the consumer.

**(114) Roadside Stand.** A roadside stand is a temporary structure which is not permanently affixed to the ground and is readily removable in its entirety, which is used solely for the display or sale of farm products produced on the premises upon which such roadside stand is located. No roadside stand shall be more than three hundred (300) square feet in ground area and there shall not be more than one (1) roadside stand on any one (1) premises.

**(115) Rummage Sale.** Also known as garage sale or yard sale. A sale conducted for a maximum of 18 (eighteen) days or less per year, with no sale lasting more than three consecutive days, excluding the village-wide rummage sale, for the sale of personal household possessions, with no overnight outside display of items. Not for any commercial venture. No permit required.

**(116) Satellite Lot.** A confined designated area, either subdivided or in common ownership with adjacent areas, containing a single use building that is designed as an integral part of an unified commercial/retail center or business center.

**(117) Screening.** Screening is a hedge, wall or fence to provide a visual separator and physical barrier not less than four (4) feet nor more than six (6) feet in height, unless otherwise provided for in this Chapter.

**(118) Setback.** The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed twenty-four (24) inches. Any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by

increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.

**(119) Shoreyard Setback.** The minimum distance, measured perpendicular from the nearest point from a structure, road, driveway or parking surface to a delineated wetland boundary that is within or part of a State of Wisconsin defined shoreland-wetland corridor, generally 300 feet from the ordinary high water mark of a navigatable stream or 1,000 feet of the ordinary high water mark of a body of water.

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

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

**(122) Story, Half.** That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one-family dwellings, two-family dwellings and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.

**(123) Street.** A public right-of-way not less than fifty (50) feet wide.

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

**(125) Structures.** Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

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

**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 a Wisconsin State Historical Society or listed on the National Register of Historic Places. 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. (For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structures.)

**(126) Substantial Improvements.** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed 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:

**(127) Temporary structures.** A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

**(128) Trailer.** A trailer is any structure which is or may be mounted upon wheels for moving about and is propelled by its own or drawn by other motive power and



which is used as a dwelling or as an accessory building or structure in the conduct of a business, trade or occupation or issued for hauling purposes.

**(129) Unified Development.** A development that results in land division or multiple buildings to be constructed.

**(130) Unnecessary Hardship.** Those circumstances which are special conditions affecting a particular property, which are not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the

**(131) Usable Open Space.** Usable open space is that part of the ground level of a zoning lot, other than in a required front or corner side yard, which is unoccupied by principal or accessory building, service driveways, off-street parking spaces and/or loading berths and is obstructed to the sky. This space of minimum prescribed dimensions shall be available to all occupants of the buildings and shall be usable for greenery, drying yards, recreational space and other leisure activities normally carried on outdoors. Where and to the extent prescribed in these regulations, balconies and roof areas designed and improved for outdoor activities may also be considered as usable open space. Ground level for this purpose may include open terraces above the average level of the adjoining ground, but not including a permanently roofed-over terrace or porch.

**(132) Use.** The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.

**(133) Use, Accessory.** A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.

**(134) Use, Conditional.** A conditional use is a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. After due consideration, as provided for in this Chapter, of the impact of such use upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be granted.

**(135) Use, Permitted.** A permitted use is a use which may be lawfully established in a particular district or districts provided it conforms with all requirements and regulations of such district in which such use is located.

**(136) Use, Principal.** The main use of land or building as distinguished from subordinate or accessory use.

**(137) Utilities.** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer station, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards, power plants or wireless telecommunication facilities.

**(138) Utility Room.** A room that contains any one or a combination of heating, ventilating and air conditioning equipment, water treatment devices, and contained water heating devices.

**(139) Variance.** An authorization granted by the Zoning Board of Appeals to construct, alter or use a structure in a manner which is inconsistent with the dimensional standards contained in this Chapter.

**(140) Vision Clearance.** An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

**(141) Watershed.** The entire region or area contributing runoff or surface water to a particular watercourse or body of water.

**(142) Well.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater regardless of its intended use.

**(143) Wetland Setback.** The minimum distance, measured perpendicular from the nearest point, from a structure, road, driveway or parking surface to a delineated wetland boundary that is not part of a State of Wisconsin defined shoreland corridor. The setback shall be measured to the back of any curb and gutter; however, pavement or hard surface as part of a planned pedestrian and/or bicycle trail system may be allowed within the setback. This required setback shall also be defined as an ordinary high water mark of a storm water management basin, or the ordinary high water mark of a stream or creek not defined as navigatable by the Wisconsin Department of Natural Resources.

**(144) Woodlands and Forests.** The sum total of a wooded or forested ecosystem on a site, measured by the area surrounding the exterior tree canopy of a site, and any isolated trees on a site that are either eight (8) inches or greater in caliper for deciduous trees or taller than eight (8) feet in height above adjacent ground level for coniferous trees. When both conditions exist on the site, the seventy percent (70%) protection standards shall mean seventy percent (70%) of the ecosystem shall be preserved and independently, seventy percent (70%) of the isolated trees shall be preserved.

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

**(146) Yard, Front.** A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building. The side where the address is shall be considered the front yard.

**(147) Yard, Rear.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the side of the dwelling containing the "front door" or main entryway on a corner lot.

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

**(149) Yard, Street.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.

**(150) Zero Lot Line.** The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.

**(151) Zoning Permit.** A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and water subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.

#### **(c) Use Definitions.**

#### **EDUCATIONAL USES**

"Day care center" means an establishment in which the operator is provided with compensation in return for providing one or more individuals with care for less than 24 hours at a time. The term includes, but is not limited to, a day nursery, nursery school, adult day care center or other supplemental care facility. This term does not include a family day care home.

#### **COMMERCIAL AND OFFICE USES**

"Artist studio" means work space for one or more artists or artisans, including the accessory sale of art produced on the premises.

"Bank or other financial institution" means an establishment providing retail banking, credit and mortgage services. This term does not include a currency exchange, a payday loan agency or a title loan agency.

"Broadcasting or recording studio" means an establishment containing one or more broadcasting studios for over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures. This term does not include a transmission tower.

"Currency exchange" means, in accordance with s. 218.05, Wis. Stats., any person except banks incorporated under the laws of this state and national banks organized pursuant to the laws of the United States and any credit union operating under ch. 186, Wis. Stats., which obtains a certificate of authority from the Wisconsin commissioner of credit unions, engaged in the business of and providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. This term does not include any person engaged in the business of transporting for hire, bullion, currency, securities, negotiable or nonnegotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any business in this state, who in the course of such business or profession and, as an incident thereto, cashes checks, drafts, money orders or other evidences of money.

"Garden supply or landscaping center" means an establishment providing the retail sale of plants and the sale or rental of garden and landscape materials and equipment. This term includes outdoor storage of plants, materials or equipment. See "Plant Nursery or Greenhouse".

"Home improvement center" means an establishment providing the sale or rental of building supplies, construction equipment or home decorating fixtures and accessories. This term includes a lumber yard or a contractors' building supply business and may include outdoor storage or tool and equipment sales or rental. This term does not include an establishment devoted exclusively to retail sales of paint, wallpaper or hardware or activities classified under vehicle/equipment sales and services, including vehicle towing services.

"Office, general" means use of a building for business, professional or administrative offices. A general office is characterized by a low proportion of vehicle trips attributable to visitors or clients in relationship to employees. Examples include, but are not limited to, offices of firms or organizations providing architectural, computer software consulting, data management, engineering, interior design, graphic design, real estate, insurance, investment or legal services. This term does not include a bank or other financial institution or the office of a physician, dentist, optometrist or chiropractor.

"Office, Government" means an administrative, clerical or public contact office of a government agency, including a postal facility, together with incidental storage and maintenance of the agency's vehicles.

"Outdoor merchandise sales" means retail sale of produce, other foodstuffs or other products, primarily outside an enclosed structure, for more than 90 days in any calendar year. This term shall not include a motor vehicle sales facility, garden supply or landscaping center, lumber yard, building supply or home improvement center, or Christmas tree lot.

"Plant nursery or greenhouse" means an establishment engaged in growing crops of any kind within or under a greenhouse, cold frame, cloth house or lath house, or growing nursery stock, annual or perennial flowers, vegetables or other garden or landscaping plants. This term does not include a garden supply or landscaping center. See "Garden supply or landscaping center".

"Retail establishment, adult" means an establishment in which ten percent (10%) or more of the gross public floor area is devoted to, or ten percent (10%) or more of the stock-in-trade consists of, the following: books, magazines and other periodicals, movies, videotapes, compact discs, digital versatile discs, novelty items, games, greeting cards and other materials which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, oral copulation or sodomy; fondling or other erotic touching of human genitals (pubic region), buttocks or female breasts; or specified anatomical areas.

"Retail establishment, general" means an establishment providing retail sale of new products to the public and rendering services incidental to the sale of such products, including, but not limited to, sales of: art supplies and picture frames, art works, auto parts, baked goods, bicycles, books, newspapers and magazines, collectibles, dry goods, notions and novelties, flowers and plants, food and beverages, furniture and floor coverings, hardware, hobbies, toys and games, household goods, jewelry, luggage, major appliances, music, records, compact discs and tapes, paint and wallpaper, pets, pharmaceutical products, photo equipment and processing, sewing apparatus, sporting goods, stationery, tobacco products and wearing apparel. This term includes, but is not limited to, a grocery store, specialty food store, antique store, liquor store, butcher shop, delicatessen, portrait studio, furniture or appliance rental establishment or video rental or sales business. This term does not include an adult book store, lumber yard, building supply or home improvement center, garden center or secondhand store.

"Secondhand store" means an establishment in which used merchandise is sold at retail. This term includes a pawn shop but does not include an antique or collectibles store or other general retail establishment.

## **HEALTH CARE AND SOCIAL ASSISTANCE**

"Health clinic" means a group of associated offices for 4 or more physical or mental health care professionals who provide specialized diagnostic, testing, physical therapy or treatment services, including clerical and administrative services, to persons for periods of less than 24 hours. This term does not include a medical office or hospital.

"Hospital" means a state-licensed institution providing primary health services and medical, psychiatric, or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other physical or mental conditions, and, as an integral part of the institution, related accessory uses or facilities, including, but not limited to, laboratories, central service facilities for inpatient or outpatient treatment, as well as training, research and administrative services for patients and employees. Also included are health services and care, and services and functions which support health services and care, which are shared with other hospitals or other health care providers

"Medical office" means an establishment providing diagnostic and outpatient medical care on a routine basis, but which is unable to provide prolonged inpatient medical or surgical care. Such facility may be staffed by up to three doctors, dentists, ophthalmologists, optometrists, chiropractors, physical therapists or similar practitioners licensed for practice by the state. This term includes a medical or dental laboratory incidental to the medical office use. See also "health clinic."

"Medical research laboratory" means an establishment providing medical or dental laboratory services or photographic, analytical or testing services for medical or medical research purposes. This term does not include a research and development facility that primarily serves an educational or industrial establishment.

"Medical service facility" means an establishment operated such that physicians are present during less than fifty percent (50%) of normal business hours and which provides medical services for the specialized diagnosis, testing and treatment of alcoholism, chemical substance abuse, mental illness or sexually transmitted diseases. This term includes, but is not limited to, a facility offering methadone treatment programs, a prison parole or probation drug treatment distribution center, or a facility where components of human blood are removed and purchased for use in research or the manufacture of consumer or industrial products.

"Social service facility" means a facility operated by an organization which provides services such as training, counseling, health or the distribution of food or clothing. This term includes, but is not limited to, a facility offering life skills training, substance abuse counseling, housing services or a neighborhood recovery center. This term does not include an emergency residential shelter.

## **SERVICE USES**

### **General Service Uses**

"Building maintenance service" means an establishment providing routine maintenance of buildings. This term includes, but is not limited to, a window washing, building cleaning, pest extermination or disinfecting service.

"Business service" means an establishment providing services to business establishments on a fee or contract basis, including, but not limited to, advertising services, business equipment and furniture sales or rental or protective services. This term includes, but is not limited to, an employment agency, photocopy center, commercial photography studio or mailing service. This term does not include maintenance, repair and office uses such as accounting, advertising, architectural design, city planning, environmental analysis, insurance, interior design, investment, landscape design, law, management consulting, title research and real estate.

"Catering service" means an establishment providing the processing, assembly and packaging of food into servings for consumption off-premises without provision for on-site pickup or consumption. This term includes, but is not limited to, the preparation of meals by a catering business or by a nonprofit organization operating a meal program.

"Dry cleaning establishment" means an establishment which launders or dry cleans articles dropped-off on the premises directly by the customer or where articles are dropped off, sorted and picked up but where laundering or cleaning is done elsewhere.

"Funeral home" means an establishment providing services involving the care, preparation or disposition of human dead. This term includes, but is not limited to, a crematorium or a mortuary.

"Furniture and appliance rental and leasing" means an establishment providing the rental or leasing of furniture, electronics, small appliances, major appliances or other household items. This term includes incidental storage and maintenance of such items.

"Household maintenance and repair service" means an establishment providing the repair or servicing of household goods, furniture, appliances or lawn and garden equipment.

"Laundromat" means an establishment providing washing, and/or drying machines on the premises for rental use to the general public for laundering purposes.

"Personal service establishment" means an establishment providing services which are of a recurring and personal nature to individuals. This term includes, but is not limited to, a barber shop, beauty salon, shoe repair shop, seamstress, tailor, fortune teller, tanning salon, massage establishment, body piercing establishment or tattoo establishment. This term does not include a portrait studio, dry cleaning establishment, laundromat, photocopy center, health club or repair shop for household items.

"Tool/equipment rental facility" means an establishment providing the rental of tools, lawn and garden equipment, party supplies and similar goods and equipment, including storage and incidental maintenance. This term does not include a motor vehicle rental facility.

## **Animal Services**

"Animal boarding facility" means an establishment in which more than 3 dogs or 3 cats, or any combination thereof, over the age of 5 months may be kept for boarding, breeding, safekeeping, convalescence, humane disposal, placement, sale or sporting purposes. This is the same type of facility referred to as a "kennel" in ch. 78.

"Animal grooming or training facility" means an establishment providing bathing, trimming or training services for domestic animals on a commercial basis.

"Animal hospital/clinic" means an establishment providing medical and surgical treatment of domestic animals, including grooming and boarding for not more than 30 days if incidental to the medical care. This term also includes an animal crematorium.

## **MOTOR VEHICLE USES**

### **General Motor Vehicle**

"Car wash" means an establishment providing washing, waxing or cleaning of light motor vehicles, including access and queuing lanes.

"Drive-through facility" means a facility which is used for dispensing services or products to customers in motor vehicles. Such facility may include access lanes, signing, lighting and audio systems. This term does not include a drive-in theater.

"Filling station" means an establishment providing retail sale of fuel for motor vehicles, but not motor vehicle maintenance or repair work on the premises. This term includes accessory retail sales, such as convenience stores and fast food restaurants.

### **Light Motor Vehicle**

"Light motor vehicle body shop" means an establishment providing the repair or rebuilding of light motor vehicle bodies by the replacement, smoothing, sanding or painting of the exterior surfaces of such vehicles within an enclosed building.

"Light motor vehicle limited wholesale facility" means an office for wholesale trade in light motor vehicles where no more than three vehicles to be sold are stored on the premises.

"Light motor vehicle rental facility" means an establishment where contracts are prepared or reservations accepted for the rental or leasing of light motor vehicles. This term includes incidental storage of vehicles, but does not include on-premise maintenance of vehicles or a tool/equipment rental facility.

"Light motor vehicle repair facility" means an establishment providing the repair or servicing of light motor vehicles, including the sale, installation and servicing of related equipment and parts, where all such work is performed within an enclosed building. This term includes, but is not limited to, the repair or servicing of batteries, tires, mufflers, brakes, shocks, transmissions, engines or upholstery. This term includes, but is not limited to, an auto repair shop, wheel and brake shop, tire sales and installation, or upholstery shop. This term does not include vehicle dismantling or salvage, tire re-treading or recapping, or body bumping and painting.

"Light motor vehicle sales facility" means an establishment providing wholesale and retail sale of light motor vehicles, including incidental storage and maintenance. This term does not include a light motor vehicle limited wholesale facility.

### **Heavy Motor Vehicle**

"Heavy motor vehicle body shop" means an establishment providing the repair or rebuilding of heavy motor vehicle bodies by the replacement, smoothing, sanding or painting of the exterior surfaces of such vehicles within an enclosed building.

"Heavy motor vehicle rental facility" means an establishment where contracts are prepared or reservations accepted for the rental or leasing of heavy motor vehicles. This term includes incidental storage of vehicles, but does not include on-premise maintenance of vehicles or a tool/equipment rental facility.

"Heavy motor vehicle repair facility" means an establishment providing the repair or servicing of heavy motor vehicles, including the sale, installation and servicing of related equipment and parts, where all such work is performed within an enclosed building. This term includes, but is not limited to, the repair or servicing of batteries, tires, mufflers, brakes, shocks, transmissions, engines or upholstery. This term does not include vehicle dismantling or salvage, tire retreading or recapping, or body bumping and painting.

"Heavy motor vehicle sales facility" means an establishment providing retail sale of heavy motor vehicles, including incidental storage and maintenance.

## **Parking**

"Parking lot, principal use" means surface parking spaces for 5 or more light motor vehicles, and adjacent access drives and aisles, where the parking spaces are not located in a structure and the parking of motor vehicles is the principal use of the premises. This term includes both commercial parking operations and private surface parking lots, but does not include the parking of heavy motor vehicles.

"Parking lot, accessory use" means surface parking spaces for five (5) or more light motor vehicles, adjacent access drives and aisles, where the parking spaces are not located in a structure and the parking of motor vehicles is not the principal use of the premises. This term does not include commercial parking operations, which shall be considered a principal use, or the parking of heavy motor vehicles.

## **ACCOMMODATION AND FOOD SERVICE USES**

"Assembly hall" means an establishment providing meeting space for social gatherings, including but not limited to wedding receptions, graduation parties and business or retirement functions. This term includes, but is not limited to, a banquet hall, rental hall, non-alcoholic social club, non-denominational chapel or a meeting space for a club or membership organization. This term does not include a convention center.

"Bed and breakfast" means any place of lodging that provided six (6) or fewer rooms for rent for more than ten (10) nights in a twelve month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

"Hotel" means an establishment in which at least five (5) rooms or units or at least seventy percent (70%) of the accommodations, whichever is greater, are regularly used or available for occupancy for periods of less than thirty (30) days or are available for more than thirty (30) days but are not the primary residences of the occupants. This classification includes, but is not limited to, a motor lodge, motel or extended-stay hotel.

"Restaurant, sit-down" means an establishments primarily engaged in the retail sale of prepared food and drinks for consumption on the premises. Caterers and institutional food service establishments are included. The term shall not apply to churches, religious, fraternal, youths' or patriotic organizations, service clubs and civic or union organizations which occasionally prepare or serve or sell meals to transients or the general public, nor shall it include any public or private school lunchroom. This term does not include a tavern.

"Restaurant, fast-food/carry-out" means a restaurant other than a sit-down restaurant where the manner of preparation, packaging and serving of food or beverages encourages their consumption outside the building. This term does not include a tavern.

"Tavern" means an establishment providing alcohol beverages by the drink to the public, where food or packaged alcohol beverages may be served or sold only as accessory to the primary use. This term does not include an assembly hall or a recreation facility.



## **ENTERTAINMENT AND RECREATION USES**

"Clubs and Lodges" means a non-profit association of persons who are bona fide members paying annual dues which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a Board of Directors, Executive Committee or similar body chosen by the members at their annual meeting. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facilities are available. Where properly licensed under existing Village ordinance, the consumption of intoxicating beverages by members of such club or lodge or their guests may be permitted.

"Convention and exposition center" means a commercial facility used for assemblies or meetings of the members or representatives of groups, including exhibition space. This term does not include banquet halls, clubs, lodges or other meeting facilities of private or nonprofit groups that are primarily used by group members.

"Entertainment establishment, adult" means adult oriented establishment, as defined under Section 7-5-1 and licensed under Section 7-5-2 of Fredonia Village ordinances, providing live or recorded entertainment.

"Health club" means an establishment for the conduct of indoor sports and exercise activities, along with related locker and shower rooms, offices and classrooms, where use of such establishment is offered on a membership basis.

"Outdoor racing facility" means an establishment engaged in operating a track for racing, including but not limited to the racing of motor vehicles, dogs or horses.

"Sports and Recreation facility, indoor" means a facility for the indoor conduct, viewing or participation in recreational activities. This term includes, but is not limited to, an indoor driving range, volleyball court, bowling alley, ice or roller skating rink, billiard hall, video game center, archery or shooting range, soccer field or basketball court, but does not include a "Health Club" as defined herein.

"Sports and Recreation facility, outdoor" means a facility for the outdoor conduct, viewing or participation in recreational activities. Such a facility may include one or more structures. This term includes, but is not limited to, a golf facility, tennis, basketball or volleyball court, soccer, baseball or football field, or amusement park or water park.

"Theater" means an establishment or facility for presenting motion pictures or live performances for observation by patrons. This term includes an outdoor stage, bandshell or amphitheater, but does not include an adult oriented establishment, as defined in Section 7-5-1 and licensed under Section 7-5-2 of Fredonia Village ordinances.

## **STORAGE, RECYCLING AND WHOLESALE TRADE USES**

"Mixed-waste processing facility" means an establishment engaged in the processing, separating and sorting of recyclable materials from non-hazardous waste streams or from commingled consumer recyclable materials, such as paper, plastics, beverage cans or household metals.

"Recycling collection facility" means a facility for the deposit, sorting or batching, but not processing, of post-consumer recyclable materials. This term includes, but is not limited to, a residential self-help, drop-off facility or a transfer station which receives residential solid waste collected by city forces or deposited by city residents.

"Wholesale and distribution facility, indoor" means an establishment providing indoor storage and sale of factory-direct merchandise and bulk goods. This term includes, but is not limited to, mail-order and catalog sales, importing, wholesale or retail sale of goods received by the establishment, and wholesale distribution, but does not include sale of goods for individual consumption.

"Wholesale and distribution facility, outdoor" means an establishment providing outdoor storage and sale of factory-direct merchandise and bulk goods. This term includes, but is not limited to, mail-order and catalog sales, importing, wholesale or retail sale of goods received by the establishment, and wholesale distribution, but does not include sale of goods for individual consumption.

"Storage facility, indoor" means an establishment providing indoor storage of materials, vehicles or goods. This term does not include a hazardous materials storage facility or an indoor wholesale and distribution facility. This term includes, but is not limited to, a mini-warehouse, self-storage facility, cold storage, or heated storage.

"Storage facility, outdoor" means an establishment providing outdoor storage of materials or goods. This term does not include a hazardous materials storage facility, an indoor wholesale and distribution facility or light or heavy motor vehicle outdoor storage.

## **TRANSPORTATION USES**

"Ambulance service" means a privately-owned facility for the dispatch, storage and maintenance of emergency medical care vehicles.

"Ground transportation service" means an establishment providing the storage, maintenance or dispatching of:

- Public passenger vehicles, as defined in s. 100-3-21.
- Vehicles licensed or otherwise regulated as human service vehicles by the state of Wisconsin and used for the transportation of elderly or handicapped persons.
- School buses, as described in s. 341.26(2)(d) and (dm), Wis. Stats.
- Tow trucks, as defined in s. 340.01(67n), Wis. Stats.

"Helicopter landing facility" means a facility used for the takeoff and landing of helicopters, including, but not limited to, any heliport, helipad or helistop. Accessory features such as hangars, parking pads, terminals and service areas are also part of such a facility.

"Railroad switching, classification yard, or freight terminal" means a facility for the operation of a line-haul or short-line freight railroad.

"Truck freight terminal" means a facility for truck-based freight service and operations, including but not limited to local pickup, local sorting and terminal operations, line-haul loading and unloading, destination sorting and terminal operations and local delivery.

## **INDUSTRIAL USES**

"Contractor's shop" means an establishment used for the indoor repair, maintenance or storage of a contractor's vehicles, equipment or materials, and may include the contractor's business office.

"Contractor's yard" means an establishment used for the outdoor repair, maintenance or storage of a contractor's vehicles, equipment or materials.

"Manufacturing, heavy" means an establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, where such activity involves the use or production of explosives, highly flammable liquids or gases, or toxic or hazardous materials or produces toxic, hazardous or noxious odors, fumes or dust.

"Manufacturing, medium" means an establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line. This term includes, but is not limited to:

- Processing and packaging of alcohol beverages.
- Chemical manufacturing.
- Stonework or concrete product manufacturing.
- Fabrication of metal products.
- Manufacturing of agricultural, construction or mining machinery.
- Motor vehicle manufacturing.
- Lumber milling.
- Ship or boat construction.

"Manufacturing, light" means an establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services, where there are few external effects across property lines. This term includes, but is not limited to, a business engaged in the processing, fabrication, assembly, treatment or packaging of food, textile, leather, wood, paper, chemical, plastic or metal products, but does not include basic industrial processing from raw materials.

"Research and development" means an establishment which conducts research, development or controlled production of high-technology electronic, industrial, or scientific products or commodities for sale or laboratories conducting educational or medical research or testing. This term includes, but is not limited to, a biotechnology firm or a manufacturer of nontoxic computer components.

## **UTILITY AND PUBLIC SERVICE USES**

"Substation/distribution equipment, indoor" means a facility, other than a transmission tower and contained entirely within a building, which performs either of the following functions:

- Aids in the distribution of a utility, including but not limited to electric power or telephone service.

- Is used to operate, maintain or provide access to facilities for the transmission of voice, data, text, internet, sound or full-motion-picture video between network termination points.

"Substation/distribution equipment, outdoor" means a facility, other than a transmission tower and not contained entirely within a building, which performs either of the following functions:

- Aids in the distribution of a utility, including but not limited to electric power or telephone service.
- Is used to operate, maintain or provide access to facilities for the transmission of voice, data, text, internet, sound or full-motion-picture video between network termination points.

"Transmission tower" means a structure designed to support one or more reception/transmissions systems. This term includes, but is not limited to, a radio tower, television tower, telephone exchange/microwave relay tower or cellular telephone transmission/personal communications systems tower.

## **TEMPORARY USES**

"Concrete/batch plant, temporary" means a temporary facility that produces or processes concrete or asphalt only for use in a particular construction project and only for the duration of that project.

"Live entertainment special event" means a concert, carnival, circus, fair or similar event lasting less than fifteen (15) days.

"Seasonal market" means a temporary facility used to conduct retail trade for a period not exceeding ninety (90) days in a calendar year.

"Temporary real estate sales office" means a temporary office, including a manufactured building or model home, for marketing, sales or rental of residential, commercial or industrial development for a maximum period of one year from the date of permit approval.

## **MISCELLANEOUS USES**

**Community Living Arrangement.** The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7m) and community-based residential facilities under Section 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin State Statutes, including Section 46.03(22), 69.97(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

**Family Day Care.** The provision of day care for children for compensation within a dwelling whether or not licensed by the State, including educational services so long as the care and services are taking place within a dwelling.

**Foster Family Home.** The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin Statutes and amendments thereto.

**Group Foster Home.** Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.

**Kennel, Animal.** An animal kennel is any premises, or portion thereof, where dogs, cats and other household pets are maintained, boarded, bred or cared for in return for remuneration, or are kept for the purpose of sale.

## Chapter 2

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### Floodplain Zoning

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### **13-2-1 STATUTORY AUTHORIZATION.**

This chapter is adopted pursuant to the authorization in ss. 61.35, 62.23, and the requirements in s. 87.30, Stats.

### **13-2-2 FINDING OF FACT.**

Uncontrolled development and use of the floodplains and rivers of the Village of Fredonia would impair the public health, safety, convenience, general welfare and tax base.

### **13-2-3 STATEMENT OF PURPOSE.**

This chapter is intended to regulate floodplain development to:

- A.** Protect life, health and property;
- B.** Minimize expenditures of public funds for flood control projects;
- C.** Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- D.** Minimize business interruptions and other economic disruptions;
- E.** Minimize damage to public facilities in the floodplain;
- F.** Minimize the occurrence of future flood blight areas in the floodplain;
- G.** Discourage the victimization of unwary land and homebuyers;
- H.** Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- I.** Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

### **13-2-4 TITLE.**

This chapter shall be known as the Floodplain Zoning Chapter for the Village of Fredonia, Ozaukee County, Wisconsin.

### **13-2-5 GENERAL PROVISIONS.**

- A. Areas to be regulated.** This chapter regulates all areas that would be covered by the regional flood or base flood.
- B. Official maps and revisions.** The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Village of Fredonia, Ozaukee County, and Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Building Inspector, Village of Fredonia, Ozaukee County. If more than one map or revision is referenced, the most restrictive information shall apply.
  - 1. OFFICIAL MAPS : Approved by: The DNR and FEMA
    - a. Flood Insurance Rate Map (FIRM), panel numbers 55089CO102F,

55089CO104F, AND 55089CO106F dated December 4, 2007; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated December 4, 2007;

These maps and profiles, respectively, are the official floodplain zoning maps and profiles. These maps are on file in the office of the zoning administrator.

**C. Establishment of districts.** The regional floodplain areas are divided into four districts as follows:

1. The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
2. The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
3. The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.
4. The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

**D. Locating floodplain boundaries.** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs 1. or 2. below. If a significant difference exists, the map shall be amended according to Section 13-2-28. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to 13-2-24 C. and the criteria in 1. and 2. below.

1. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
2. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

**E. Removal of lands from floodplain.** Compliance with the provisions of this chapter shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to 13-2-28.

**F. Compliance.** Any development or use within the areas regulated by this chapter shall be in compliance with the terms of this chapter, and other applicable local, state, and federal regulations.

**G. Municipalities and state agencies regulated.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if s. 13.48(13),



Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.2022, Stats., applies.

- H. Abrogation and greater restrictions.** This chapter supersedes all the provisions of any municipal zoning chapter enacted under ss.61.35 or ss.87.30, Stats., which relate to floodplains. If another chapter is more restrictive than this chapter, that chapter shall continue in full force and effect to the extent of the greater restrictions, but not otherwise. This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- I. Interpretation.** In their interpretation and application, the provisions of this chapter are the minimum requirements liberally construed in favor of the Village Board and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this chapter, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.
- J. Warning and disclaimer of liability.** The flood protection standards in this chapter are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This chapter does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this chapter create liability on the part of, or a cause of action against, the Village of Fredonia or any officer or employee thereof for any flood damage that may result from reliance on this chapter.
- K. Severability.** Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.
- L. Annexed areas.** The Ozaukee County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the Village of Fredonia for all annexed areas until the Village of Fredonia adopts and enforces a chapter which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the Village of Fredonia's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.
- M. General development standards.** The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water

from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this chapter.

### **13-2-6 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS – HYDRAULIC AND HYDROLOGIC ANALYSES.**

- A. Except as allowed in par. (3) below, no floodplain development shall:
1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
  2. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
  3. The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of 13-2-9 are met.
  4. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this chapter, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with 13-2-28.

### **13-2-7 WATERCOURSE ALTERATIONS.**

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

### **13-2-8 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT.**

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning chapter are made according to 13-2-28.

### **13-2-9 FLOODWAY DISTRICT (FW).**

- A. Applicability.** This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to 13-2-15.
- B. Permitted uses.** The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other chapter; and they meet the standards in 13-2-10 and 13-2-11; and all permits or certificates have been issued according to 13-2-22:
1. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  2. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of 13-2-10 D.
  4. Uses or structures accessory to open space uses, or classified as historic structures that comply with 13-2-10 and 13-2-11.
  5. Extraction of sand, gravel or other materials that comply with 13-2-10 D.
  6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31, Stats.
  7. Public utilities, streets and bridges that comply with 13-2-10 C.

### **13-2-10 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS.**

- A. General.**
1. Any development in floodway areas shall comply with 13-2-6 and have low flood damage potential.
  2. Applicants shall provide the following data to determine the effects of the proposal according to 13-2-6:
    - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
    - b. An analysis calculating the effects of this proposal on regional flood height.
  3. The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. b. above.
- B. Structures.** Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
1. The structure is not designed for human habitation and does not have a high flood damage potential;
  2. It must be anchored to resist flotation, collapse and lateral movement;

3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  4. It must not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- C. Public utilities, streets and bridges.** Public utilities, streets and bridges may be allowed by permit, if:
1. Adequate floodproofing measures are provided to the flood protection elevation; and
  2. Construction meets the development standards of 13-2-6.
- D. Fills or deposition of materials.** Fills or deposition of materials may be allowed by permit, if:
1. The requirements of 13-2-6 are met;
  2. No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
  3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
  4. The fill is not classified as a solid or hazardous material.

### **13-2-11 PROHIBITED USES.**

All uses not listed as permitted uses in 13-2-9 B are prohibited, including the following uses:

- A.** Habitable structures, structures with high flood damage potential, or those not Associated with permanent open-space uses;
- B.** Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- C.** Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- D.** Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas.
- E.** Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local chapters and chs. NR 811 and NR 812, Wis. Adm. Code;
- F.** Any solid or hazardous waste disposal sites;
- G.** Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- H.** Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

### **13-2-12 FLOODFRINGE DISTRICT (FF).**

- A. Applicability.** This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to 13-2-15.
- B. Permitted uses.** Any structure, land use, or development is allowed in the floodfringe

district if the standards in 13-2-13 are met, the use is not prohibited by this or any other chapter or regulation and all permits or certificates specified in 13-2-22 have been issued.

### **13-2-13 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS.**

Section 13-2-6 shall apply in addition to the following requirements according to the use requested.

- A. Residential uses.** Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;
1. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines make compliance impractical;
  2. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
  3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. 4.
  4. In developments where existing street or sewer line elevations make compliance with par. 3. impractical, the Village of Fredonia may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
    - a. The Village of Fredonia has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
    - b. The Village of Fredonia has a natural disaster plan approved by Wisconsin Emergency Management and the Department.
- B. Accessory structures or uses.** Any accessory structure or use which is erected, altered or moved into the floodfringe area shall meet the requirements of 13-2-13 A.
- C. Commercial uses.** Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of 13-2-13 A. Subject to the requirements of 13-2-13 F., storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- D. Manufacturing and industrial uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in 13-2-26. Subject to the requirements of 13-2-13 F., storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

- E. Storage of materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with 13-2-26. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- F. Public utilities, streets and bridges.** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
  - 1. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with 12-2-26 to the flood protection elevation;
  - 2. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- G. Solid waste disposal sites.** Disposal of solid or hazardous waste is prohibited in floodfringe areas.
  - 1. Deposition of materials. Any deposited material must meet all the provisions of this chapter.

#### **13-2-14 GENERAL FLOODPLAIN DISTRICT (GFP) – APPLICABILITY.**

- A. The provisions** for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.
- B. Permitted uses.** Pursuant to 13-2-15, it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (13-2-9 B.) and floodfringe areas (13-2-12 B.) are allowed within the general floodplain district, according to the standards of 13-2-14, provided that all permits or certificates required under 13-2-22 have been issued.
- C. Standards for Development in the General Floodplain District.** Chapter 13-2-9 applies to floodway areas, 13-2-12 applies to floodfringe areas. The rest of this chapter applies to either district.

#### **13-2-15 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS.**

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- A.** Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- B.** Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:

1. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
  2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
  3. Profile showing the slope of the bottom of the channel or flow line of the stream;
  4. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- C.** Transmit one copy of the information described in pars. A. and B. to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of 13-2-22 B. 3. apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

### **13-2-16 FLOOD STORAGE DISTRICT (FSD).**

- A. Statement of Purpose.** The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.
- B. Applicability.** The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.
- C. Permitted uses.** Any use or development which occurs in a flood storage district must meet the applicable requirements in 13-2-13.
- D. Standards for development in flood storage districts.**
1. Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a foot in the height of the regional flood.
  2. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
  3. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district on this waterway is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without flood plain storage, as per 13-2-28 of this chapter.
  4. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

### **13-2-17 NONCONFORMING USES - GENERAL.**

- A. Applicability.** If these standards conform with s. 62.23(7)(h), Stats., they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this chapter or any amendment thereto.
- B.** The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this chapter may continue subject to the following conditions:
1. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this chapter. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.
  2. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this chapter;
  3. The Village of Fredonia shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
  4. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with 13-2-13 A. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this paragraph;
  5. Except as provided in 13-2-17. B. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current chapter requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds 50 percent of the structure's present equalized assessed value.
  6. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under



applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

7. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with 13-2-10 A., flood resistant materials are used, and construction practices and floodproofing methods that comply with 13-2-26 are used.

### **13-2-18 FLOODWAY AREAS.**

No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

- A. Has been granted a permit or variance which meets all chapter requirements;
- B. Meets the requirements of 13-2-17;
- C. Will not increase the obstruction to flood flows or regional flood height;
- D. Any addition to the existing structure shall be floodproofed, pursuant to 13-2-26, by means other than the use of fill, to the flood protection elevation;
- E. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
  2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  4. The use must be limited to parking or limited storage.

### **13-2-19 FLOODFRINGE AREAS.**

- A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the Village of Fredonia, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in 13-2-13 and 13-2-26, except where 13-2-19 B. is applicable.
- B. Where compliance with the provisions of 13-2-19 A. would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in 13-2-21, may grant a variance from those provisions of 13-2-19 A. for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

1. No floor is allowed below the regional flood elevation for residential or commercial structures;
  2. Human lives are not endangered;
  3. Public facilities, such as water or sewer, will not be installed;
  4. Flood depths will not exceed two feet;
  5. Flood velocities will not exceed two feet per second; and
  6. The structure will not be used for storage of materials as described in 13-2-13 F.
- C.** If neither the provisions of 13-2-19 A. or B. can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
1. Meets all other regulations and will be granted by permit or variance;
  2. Does not exceed 60 square feet in area; and
  3. In combination with other previous modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.

### **13-2-20 Flood storage areas.**

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in 13-2-16 are met.

### **13-2-21 Administration.**

The zoning administrator is appointed to administer this chapter.

### **13-2-22 Zoning Administrator.**

- A.** The zoning administrator is authorized to administer this chapter and shall have the following duties and powers:
1. Advise applicants of the chapter provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
  2. Issue permits and inspect properties for compliance with provisions of this chapter, and issue certificates of compliance where appropriate.
  3. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
  4. Keep records of all official actions such as:
    - a. All permits issued, inspections made, and work approved;
    - b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
    - c. Records of water surface profiles, floodplain zoning maps and chapters, nonconforming uses and structures including changes, appeals, variances and amendments.
    - d. All substantial damage assessment reports for floodplain structures.
  5. Submit copies of the following items to the Department Regional office:

- a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  - b. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
  - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- 6. Investigate, prepare reports, and report violations of this chapter to the municipal Planning Commission and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- 7. Submit copies of text and map amendments and biennial reports to the FEMA Regional office.
- 8. Issue citations for violations of this chapter.
- 9. Issue stop work orders for violations of this chapter. Removal of said orders shall be unlawful and a violation of this chapter.

**B. Land use permit.** A land use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

- 1. GENERAL INFORMATION
  - a. Name and address of the applicant, property owner and contractor;
  - b. Legal description, proposed use, and whether it is new construction or a modification;
- 2. SITE DEVELOPMENT PLAN. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
  - a. Location, dimensions, area and elevation of the lot;
  - b. Location of the ordinary highwater mark of any abutting navigable waterways;
  - c. Location of any structures with distances measured from the lot lines and street center lines;
  - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
  - e. Location and elevation of existing or future access roads;
  - f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
  - g. The elevation of the lowest floor of proposed buildings and any fill using vertical datum from the adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
  - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of 13-2-9 or 13-2-12 are met; and
  - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to 13-2-6. This may include any of the information noted in 13-2-10 A.

3. Data requirements to analyze developments.
  - a. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs. The applicant shall provide:
    1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
    2. A map showing location and details of vehicular access to lands outside the floodplain; and
    3. A surface drainage plan showing how flood damage will be minimized.
    4. Expiration. All permits issued under the authority of this chapter shall expire 180 days after issuance.
- C. **Certificate of compliance.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
  1. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this chapter;
  2. Application for such certificate shall be concurrent with the application for a permit;
  3. If all chapter provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
  4. The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that floodproofing measures meet the requirements of 13-2-26.
- D. **Other permits.** The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s.s404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

### **13-2-23 PLAN COMMISSION.**

- A. The Plan Commission shall:
  1. oversee the functions of the office of the zoning administrator; and
  2. review and advise the Village Board on all proposed amendments to this chapter, maps and text.
- B. This Plan Commission shall not
  1. Grant variances to the terms of the chapter in place of action by the Board of Appeals; or

2. Amend the text or zoning maps in place of official action by the Village Board.

## **13-2-24 BOARD OF APPEALS.**

The Board of Appeals, created under s. 62.23(7)(e), Stats., is hereby authorized or shall be appointed to act for the purposes of this chapter. The Board of Appeals shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board of Appeals.

**A. Powers and duties.** The Board of Appeals shall:

1. Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter.
2. Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
3. Variances - Hear and decide, upon appeal, variances from the chapter standards.

**B. Appeals to the Board of Appeals.**

1. Appeals to the Board of Appeals may be taken by any person aggrieved, or by any officer or department of the Village of Fredonia affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board of Appeals, by filing with the official whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board of Appeals all records regarding the matter appealed.
2. Notice and hearing of appeals including variances:
  - a. Notice - The Board of Appeals shall:
    1. Fix a reasonable time for the hearing;
    2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
    3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
  - b. Hearing - Any party may appear in person or by agent. The Board of Appeals shall:
    1. Resolve boundary disputes according to 13-2-24 C.
    2. Decide variance applications according to 13-2-24 D.
    3. Decide appeals of permit denials according to 13-2-24.
3. Decision: The final decision regarding the appeal or variance application shall:
  - a. Be made within a reasonable time;
  - b. Be sent to the Department Regional office within 10 days of the decision;
  - c. Be a written determination signed by the chairman or secretary of the Board of Appeals;
  - d. State the specific facts which are the basis for the Board of Appeals decision;

- e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
- f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board of Appeals proceedings.

**C. Boundary disputes.** The following procedure shall be used by the Board of Appeals in hearing disputes concerning floodplain district boundaries:

- 1. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- 2. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals.
- 3. If the boundary is incorrectly mapped, the Board of Appeals should inform the Planning Commission or the person contesting the boundary location to petition the Village Board for a map amendment according to 13-2-28.

**D. Variance:**

- 1. The Board of Appeals may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that:
  - a. Literal enforcement of the chapter provisions will cause unnecessary hardship;
  - b. The hardship is due to adoption of the floodplain chapter and unique property conditions, not common to adjacent lots or premises. In such case the chapter or map must be amended;
  - c. The variance is not contrary to the public interest; and
  - d. The variance is consistent with the purpose of this chapter in 13-2-30.
- 2. In addition to the criteria in par. 1., to qualify for a variance under FEMA regulations, the following criteria must be met:
  - a. The variance may not cause any increase in the regional flood elevation;
  - b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
  - c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the chapter.
- 3. A variance shall not:
  - a. Grant, extend or increase any use prohibited in the zoning district.
  - b. Be granted for a hardship based solely on an economic gain or loss.
  - c. Be granted for a hardship which is self-created.
  - d. Damage the rights or property values of other persons in the area.
  - e. Allow actions without the amendments to this chapter or map(s) required in 13-2-28.
  - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

4. When a floodplain variance is granted the Board of Appeals shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

### **13-2-25 REVIEW APPEALS OF PERMIT DENIALS.**

- A. The Board of Appeals shall review all data related to the appeal. This may include:
  1. Permit application data listed in 13-2-22 B.
  2. Floodway/floodfringe determination data in 13-2-14 D.
  3. Data listed in 13-2-10(2) where the applicant has not submitted this information to the zoning administrator.
  4. Other data submitted with the application, or submitted to the Board of Appeals with the appeal.
- B. For appeals of all denied permits the Board of Appeals shall:
  1. Follow the procedures of 13-2-21;
  2. Consider Planning Commission recommendations; and
  3. Either uphold the denial or grant the appeal.
- C. For appeals concerning increases in regional flood elevation the Board of Appeals shall:
  1. Uphold the denial where the Board of Appeals agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
  2. Grant the appeal where the Board of Appeals agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

### **13-2-26 Floodproofing.**

- A. No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- B. Floodproofing measures shall be designed to:
  1. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  2. Protect structures to the flood protection elevation;
  3. Anchor structures to foundations to resist flotation and lateral movement; and
  4. Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human **intervention**.
- C. Floodproofing measures could include:
  1. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
  2. Adding mass or weight to prevent flotation.
  3. Placing essential utilities above the flood protection elevation.

4. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
5. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

### **13-2-27 PUBLIC INFORMATION.**

- A. Place marks on structures to show the depth of inundation during the regional flood.
- B. All maps, engineering data and regulations shall be available and widely distributed.
- C. All real estate transfers should show what floodplain zoning district any real property is in.

### **13-2-28 AMENDMENTS - GENERAL.**

The Village Board may change or supplement the floodplain zoning district boundaries and this chapter in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- A. Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- B. Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- C. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- D. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- E. Any upgrade to a floodplain zoning chapter text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the Village of Fredonia.
- F. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

### **13-2-29 PROCEDURES.**

Chapter amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats. Such petitions shall include all necessary data required by 13-2-15 and 13-2-22 B..

- A. The proposed amendment shall be referred to the Planning Commission for a public hearing and recommendation to the Village Board. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.
- B. No amendments shall become effective until reviewed and approved by the Department.
- C. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the Village Board.



- D. For amendments in areas with no water surface profiles, the Planning Commission shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See 13-2-5 D).

### **13-2-30 ENFORCEMENT AND PENALTIES.**

Any violation of the provisions of this chapter by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the Village of Fredonia a penalty of not less than \$200.00 and not more than \$1,000.00, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the Village of Fredonia, the state, or any citizen thereof pursuant to s. 87.30, Stats.

### **13-2-31 DEFINITIONS.**

Unless specifically defined, words and phrases in this chapter shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

- A. "A ZONES" - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- B. "ACCESSORY STRUCTURE OR USE" - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- C. "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- D. "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- E. "BUILDING" - See STRUCTURE.
- F. "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal chapter and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this chapter.
- G. "CERTIFICATE OF COMPLIANCE" - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this chapter.
- H. "CHANNEL" - A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

- I. "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- J. "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- K. "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- L. "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- M. "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- N. "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- O. "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- P. "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- Q. "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions: the overflow or rise of inland waters, or the rapid accumulation or runoff of surface waters from any source, or the inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or the sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- R. "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
- S. "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- T. "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both

- the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- U.** "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
  - V.** "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
  - W.** "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
  - X.** "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
  - Y.** "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
  - Z.** "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
  - AA.** "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
  - AB.** "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
  - AC.** "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
  - AD.** "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
  - AE.** "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
  - AF.** "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning chapters and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local chapters or bylaws may require additional notice, exceeding these minimums.

- AG.** "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- AH.** "HISTORIC STRUCTURE" - Any structure that is either: listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register, or certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district, or individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- AI.** "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- AJ.** "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- AK.** "VILLAGE OF FREDONIA" or "MUNICIPAL" - The village governmental unit enacting, administering and enforcing this zoning chapter.
- AL.** "NAVD" or "NORTH AMERICAN VERTICAL DATUM" –Elevations referenced to mean sea level datum, 1988 adjustment.
- AM.** "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- AN.** "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- AO.** "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- AP.** "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

- AQ.** "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- AR.** "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this chapter, as described in 21.04.050(2), which has been approved by the Department and FEMA.
- AS.** "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- AT.** "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- AU.** "PERSON" - An individual, or group of individuals, corporation, partnership, association, Village of Fredonia or state agency.
- AV.** "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- AW.** "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- AX.** "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- AY.** "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- AZ.** "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- BA.** "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.

- BB.** "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- BC.** "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the chapter.
- BD.** "VARIANCE" - An authorization by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning chapter.
- BE.** "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning chapter. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- BF.** "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- BG.** "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.