

TITLE 13

Zoning

Chapter 1

Zoning Code

Title 13 ► Chapter 1

Zoning Code

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- (56) **Floor Area (Business and Manufacturing Buildings).** For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.
- (57) **Foster Family Home.** The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under Sec. 48.62, Wis. Stats., and amendments thereto.
- (58) **Frontage.** The smallest dimension of a lot abutting a public street measured along the street line.
- (59) **Garage.** A building or portion thereof used exclusively for parking or temporary storage of self-propelled vehicles.
- (60) **Garage, Public.** A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.
- (61) **Gasoline Station.** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.
- (62) **Gift Stores.** Retail stores where items such as art, antiques, jewelry, books, and notions are sold.
- (63) **Grade.** When used as a reference point in measuring height of building, the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.
- (64) **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.
- (65) **Hardware Stores.** Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods and paints are sold.

- (66) **Home Occupation.** Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building thereto and meeting the standards of Section 13-1-72.
- (67) **Hotel.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
- (68) **House Trailer.** A nonself-propelled vehicle, containing living or sleeping accommodations which is designed and used for highway travel.
- (69) **Junk Yard.** An open space where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A "junk yard" also includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.
- (70) **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
- (71) **Lodging House.** See "Boardinghouse."
- (72) **Lot.** A parcel of land having frontage on a public street, or other officially approved 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, yard, parking area and other open space provisions of this Chapter. No land included in any street, highway or railroad right-of-way shall be included in computing lot area.
- (73) **Lot, Corner.** A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.
- (74) **Lot, Interior.** A lot situated on a single street which is bounded by adjacent lots along each of its other lines.
- (75) **Lot Lines and Area.** The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (76) **Lot of Record.** A platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the adoption of this Chapter, is on record with the Iowa and Grant Counties Register of Deeds and which exists as described therein.
- (77) **Lot, Reversed Corner.** A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
- (78) **Lot, Substandard.** A parcel of land held in separate ownership having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Chapter.
- (79) **Lot, Through.** A lot having a pair of opposite lot lines along two (2) or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

- (80) **Lot Width.** The width of a parcel of land measured at the setback line.
- (81) **Lot, Zoning.** 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.
- (82) **Machine Shops.** Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.
- (83) **Marquee or Canopy.** A roof-like structure of permanent nature which projects from the wall of a building.
- (84) **Manufactured Home.** A structure certified and labeled as a manufactured home under 42 USC Secs. 5401-5426, which, when placed on the site:
 - a. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(1), Wis. Stats., and COMM 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
 - b. Is installed in accordance with the manufacturer's instructions;
 - c. Is properly connected to utilities;
 - d. Has an area of at least one thousand two hundred (1,200) square feet of living space, with a minimum of twenty four (24) square feet in width, and is used exclusively as a single-family residence; and
 - e. Meets other applicable standards of this Chapter.
- (85) **Minor Structures.** Any small, movable accessory erection or construction, such as birdhouses; tool houses; pethouses; play equipment; arbors; and walls and fences under four (4) feet in height.
- (86) **Mobile Home.** A manufactured home that is HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (U.S.C. Title 42, Chapter 70). A mobile home is a structure, which is, or was originally constructed, designed to be transportable in one or more sections, which in traveling mode, is eight (8) body feet or more in width or forty (40) body feet in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein and any additions, attachments, annexes, foundations and appurtenances. Excluded from this definition are certified manufactured homes.
- (87) **Mobile Home Lot.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (88) **Mobile Home Park.** A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or

private association, or corporation, and where individual lots are rented to individual mobile home users. A mobile home park is also any lot on which two (2) or more mobile homes are parked for the purpose of permanent habitation, regardless of whether or not a charge is made for such accommodation, and including any associated service, storage, recreation and other community service facilities designed for the exclusive use of park occupants.

- (89) **Mobile Home Subdivision.** A land subdivision, as defined by Ch. 236, Wis. Stats., and any Village Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.
- (90) **Motel.** A building containing lodging rooms having adjoining individual bathrooms, and where each lodging has a doorway opening directly to the outdoors, and more than fifty percent (50%) of the lodging rooms are for rent to transient tourists for a continuous period of less than thirty (30) days.
- (91) **Motor Freight Terminal.** A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.
- (92) **Motor Vehicle.** Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.
- (93) **Nonconforming Uses or Structures.** Any structure, use of land, use of land and structure in combination, or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.
- (94) **Nursery.** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.
- (95) **Nursery School.** Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.
- (96) **Nursing Home.** Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.
- (97) **Other Officially Approved Access.** A private road or easement extending from a private property to a component of the public street system which the Village Planning Committee or Village Board has approved as a primary means of access.
- (98) **Parking Area, Semi-Public.** An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.

- (99) **Parking Lot.** A structure or premises containing ten (10) or more parking spaces open to the public.
- (100) **Parking Space.** An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways, appurtenant thereto and giving access thereto.
- (101) **Parties in Interest.** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (102) **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.
- (103) **Place.** An open unoccupied space other than a street or alley, permanently reserved as the principal means of access to abutting property.
- (104) **Places of Assembly.** Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.
- (105) **Planned Residential Development.** A tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.
- (106) **Property Lines.** The lines bounding a platted lot as defined herein.
- (107) **Public Way.** Any sidewalk, street, alley, highway or other public thoroughfare.
- (108) **Professional Home Offices.** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed the standards in Section 13-1-72 and only one (1) nonresident person is employed.
- (109) **Railroad Right-of-Way.** A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.
- (110) **Recreational Vehicle.** Any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:
 - a. Is not used as the permanent residence of the owner or occupant;
 - b. Is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;
 - c. Is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities;Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pickup campers, camping buses, and self-contained, self-propelled truck chassis mounted vehicles providing living accommodations.
- (111) **Recreational Vehicle Camp.** A part, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or

accommodations for any recreational vehicles as defined herein, and upon which said recreational vehicles are parked.

- (112) **Roadside Stand.** A structure having a ground area of not more than three hundred (300) square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises.
- (113) **School, Private.** An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not including a school for the mentally handicapped or a college or other institution of higher learning.
- (114) **School, Commercial.** A school limited to special instruction such as business, art, music, trades, handicraft, dancing or riding.
- (115) **Seat.** Furniture upon which to sit having a linear measurement not less than twenty-four (24) inches across the surface used for sitting.
- (116) **Setback.** The minimum horizontal distance between the lot line and the nearest point of the building or structure. Uncovered steps shall not be included in measuring the setback.
- (117) **Sign, Awning.** A sign that is mounted or painted on, or attached to an awning, canopy, or marquee.
- (118) **Sign, Copy.** The message or advertisement, and any other symbols on the face of a sign.
- (119) **Sign, Face.** The area or display surface used for the message.
- (120) **Sign, Ground.** Any sign placed upon or supported by the ground independent of any other structure.
- (121) **Sign, Portable.** A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable.
- (122) **Sign, Projecting.** A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.
- (123) **Sign, Roof.** A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
- (124) **Sign, Wall.** A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.
- (125) **Sign, Window.** A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window.

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- (l) **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 this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Chapter imposes greater restrictions, the provisions of the Chapter shall govern.

Sec. 13-1-6 Interpretation.

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

Sec. 13-1-7 Effective Date.

This Chapter shall be originally effective after a public hearing, adoption by the Village Board and publication or posting as provided by law.

Sec. 13-1-8 Definitions.

- (a) **General Interpretation.** The following rules of construction apply to this Chapter: words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number; the word "shall" is mandatory and not directory. The word "person" includes individuals, all partnerships, associations, and bodies political and corporate. The word "lot" includes the word "plot" or "parcel" or "tract". The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used or occupied".
- (b) **Definitions.** The following terms, for purpose of this Chapter shall have the meaning stated below:
- (1) **Abutting.** Have a common property line or district line.
 - (2) **Accessory Apartment.** A separate complete housekeeping unit that is substantially contained within the structure of a single-family dwelling, but can be isolated from it.

- (3) **Accessory Use or Structure.** A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.
- (4) **Acre, Net.** The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within forty-three thousand five hundred sixty (43,560) square feet.
- (5) **Advertising Sign, Outdoor.** A structural poster panel or painted sign, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
- (6) **Advertising Structure, Outdoor.** Anything constructed or erected, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
- (7) **Alley.** A special public right-of-way affording only secondary access to abutting properties.
- (8) **Apartment.** A suite of rooms or a room in a multiple dwelling which suite or room is arranged, intended, or designed to be occupied as a residence of a single family, individual, or group of individuals, with separate facilities and utilities which are used or intended to be used for living, sleeping, cooking and eating.
- (9) **Apartment House.** See "Dwelling, Multiple."
- (10) **Arterial Street.** A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.
- (11) **Authority.** A person, committee, or board to whom the power to issue a permit, or make a determination, decision, or judgment has been delegated.
- (12) **Automobile Wrecking/Salvage Yard.** Any premises on which two (2) or more self-propelled vehicles not in running order or operating condition are stored in the open.
- (13) **Basement or Cellar.** A story partly underground but having at least one-half (1/2) of its height, or five (5) or more feet, below the mean level of the adjoining ground. See COMM Chapters 20, 21 and 22.
- (14) **Bed and Breakfast Establishment.** An owner-occupied, single-family dwelling unit at which overnight sleeping accommodations are offered to travelers by the owner.
- (15) **Boardinghouse.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
- (16) **Building.** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

- (17) **Building, Alterations Of.** Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.
- (18) **Building Area.** The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.
- (19) **Building, Detached or Accessory.** A building surrounded by open space on the same lot.
- (20) **Building, Front Line Of.** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
- (21) **Building, Height Of.** The vertical distance from the mean elevation of a finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip or gambrel roofs.
- (22) **Building, Principal.** A building in which the principal use of the lot on which it is located is conducted.
- (23) **Buffer Zone.** A designated neutral area designed to separate conflicting land uses. A natural vegetative screening of trees, shrubs or other plantings is usually employed in such a designated area.
- (24) **Buildable Lot Area.** The portion of a lot remaining after required yards have been provided.
- (25) **Business.** An occupation, employment, or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.
- (26) **Carport.** An automobile shelter having one or more sides open.
- (27) **Clinic.** A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or nonboarding basis only.
- (28) **Clothing Repair Shops.** Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but not employing over five (5) persons.
- (29) **Clothing Stores.** Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery and millinery shops.
- (30) **Club.** A building owned, leased or hired by an association of persons who are bona fide members, the use of which is restricted to said members and their guests.
- (31) **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.
- (32) **Community Living Arrangement.** The following facilities licensed or operated, or permitted under the authority of Wisconsin Statutes: Child welfare agencies under Sec. 48.60, Wis. Stats., group foster homes for children under Sec. 48.02(7m), Wis. Stats., and community-based residential facilities under Sec. 50.01, Wis. Stats.; but does not include nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformity with applicable sections of the Wisconsin Statutes, including Secs. 46.03(22), 59.97(15), 62.23(7)(i), and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.
- (33) **Conditional Uses.** Uses of a special nature as to make impractical their predetermination as a principal use in a district, allowed only under conditions specified under this Chapter.
- (34) **Conforming Use.** Any lawful use of a building or lot which complies with the provisions of this Chapter.
- (35) **Court.** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.
- (36) **Curb Break.** Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.
- (37) **Curb Level.** The level of the established curb in the front of the building measured at the center of such front.
- (38) **Day Care Center.** A place or home which provides care for four (4) or more children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Sec. 48.65, Wis. Stats.
- (39) **Development.** Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to building, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.
- (40) **District.** A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and buildings are uniform.
- (41) **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.
- (42) **District, Overlay.** Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.
- (43) **Double Wide Mobile Home.** A double wide mobile home is a mobile home consisting of two (2) mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement.

- (44) **Drive-In Restaurant.** An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises.
- (45) **Dwelling.** A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.
- (46) **Dwelling, Efficiency.** A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
- (47) **Dwelling, One-Family.** A detached building designed, arranged or used for and occupied exclusively by one (1) family, whether attached, detached or semi-attached. Shall include specially designed buildings covered by earth and manufactured homes.
- (48) **Dwelling, Two-Family.** A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
- (49) **Dwelling, Multiple.** A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, attached townhouses and condominiums, with the number of families in residence not to exceed the number of dwelling units provided.
- (50) **Dwelling Unit.** A building or portion thereof used exclusively for human habitation, including single-family, two-family and multi-family dwellings, but not including hotels, motels or lodging houses.
- (51) **Emergency Shelters.** Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.
- (52) **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.
- (53) **Family.** One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family, or not to exceed more than four (4) persons if not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Chapter if he is dwelling for the purpose of adoption or for a foster care program.
- (54) **Farm.** Land consisting of five (5) acres or more on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale.
- (55) **Floor Area.** The sum of the gross horizontal areas of the several floors of a dwelling unit, exclusive of porches, balconies, garages, basements and cellars, measured from

- (126) **Story.** That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.
- (127) **Story, Half.** A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.
- (128) **Street.** A public or private thoroughfare which affords the principal means of access to abutting property.
- (129) **Street Yard.** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof excluding uncovered steps. Where the street line is an arc, the street yard shall be measured from the arc. In some ordinances, the street yard is also called a setback.
- (130) **Structure.** Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.
- (131) **Structural Alterations.** Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.
- (132) **Temporary Structure.** A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.
- (133) **Trailer Park.** Any lot on which are parked two (2) or more house trailers or mobile homes for longer than forty-eight (48) hours.
- (134) **Use.** The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this Chapter.
- (135) **Use, Accessory.** A subordinate use on the same lot which is incidental and customary in connection with the principal use.
- (136) **Use, Nonconforming.** Any use of a building or premises which the effective date of this Chapter does not, even though lawfully established, comply with all of the applicable use regulations of the zoning district in which such building or premise is located.
- (137) **Use, Principal.** The main use of land or building as distinguished from a subordinate or accessory use.
- (138) **Use, Permitted.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.
- (139) **Utilities.** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

- (140) **Vending Machine.** A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.
- (141) **Village.** The Village of Livingston, Iowa and Grant Counties, Wisconsin.
- (142) **Vision Setback Area.** An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets or at the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersecting highway, street or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from the intersection as specified in this Chapter.
- (143) **Yard.** An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted. The front and rear yards extend the full width of the lot.
- (144) **Yard, Corner Side.** A side yard which adjoins a public street.
- (145) **Yard, Front.** A yard extending along the full length of the front lot line between the side lot lines.
- (146) **Yard, Interior Side.** A side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.
- (147) **Yard, Rear.** A yard extending along the full length of the rear lot line between the side lot lines.
- (148) **Yard, Side.** A yard extending along a side lot line from the front yard to the rear yard.
- (149) **Yard, Street.** Yard abutting a street.
- (150) **Yard, Transitional.** That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.
- (151) **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.
- (152) **Zoning District.** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

Sec. 13-1-9 through Sec. 13-1-19 Reserved for Future Use.

- than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Village Board, upon the recommendation of the Planning Committee, may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
- (d) **Dedicated Street.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
 - (e) **Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. This does not apply to adjacent residential districts. 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) **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 written consent of the owner of the abutting property and with the approval of the Village Board, following a recommendation from the Planning Committee; 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.
 - (g) **Decks/Porches.** For purposes of this Chapter, particularly regarding setbacks, decks and/or porches shall be considered a part of the principal building or structure being served.
 - (h) **Double-Frontage Lots.** Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the street setback requirements for accessory buildings on both streets be complied with.

Sec. 13-1-24 through Sec. 13-1-39 Reserved for Future Use.

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Article B: General Provisions

Sec. 13-1-20 Jurisdiction and Compliance.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall include all structures, air, lands and water within the corporate limits of the Village of Livingston, Iowa and Grant Counties, Wisconsin.
- (b) **Compliance.** No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this Chapter and all other applicable Village, county and state regulations.

Sec. 13-1-21 Use Restrictions.

The following use restrictions and regulations shall apply:

- (a) **Principal Uses.** Only those principal uses specified for a district, their essential services and the following shall be permitted in that district:
- (b) **Performance Standards.** Performance standards listed in Article H shall be complied with by all uses in all districts.
- (c) **Conditional Uses.** Provisions applicable to conditional uses generally:
 - (1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Village Board, upon the recommendation of the Planning Committee, 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 Planning Committee to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.
 - (3) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Village Board, upon the recommendation of the Planning Committee in accordance with Article D.
 - (4) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Village Board, upon the recommendation of the Planning Committee, in accordance with Article D.
 - (5) Conditional uses authorized by the Village Board, upon the recommendation of the Planning Committee shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
 - (6) Conditional uses authorized by the Village Board, upon the recommendation of the Planning Committee, shall not be subject to substitution with other conditional uses,

whether similar type or not, without Board approval and the procedures required in Article D.

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

- (1) Uses not specified in this Chapter which are found by the Village Board, upon the recommendation of the Planning Committee, to be sufficiently similar to specified permitted uses for a district shall be allowed by the Village Board, upon the recommendation of the Planning Committee.
- (2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Village Board, upon the recommendation of the Planning Committee, public hearing and approval in accordance with Article D.

Sec. 13-1-22 Reduction or Joint Use.

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

Sec. 13-1-23 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 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 Village Board, 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/she so desires. Thereafter, the Village Board may affirm, modify, or withdraw its determination of unsuitability.
- (b) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of forty (40) feet at the street edge to be buildable; the lot shall comply with the frontage requirements of the Zoning District in which it is located.
- (c) **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. Except in any residential lot, the Village Board, upon the recommendation of the Planning Committee, may permit as a conditional use more than one (1) principal structure per lot in any district where more

- (c) **Conditional Uses.** The following are permitted as conditional uses within the R-1 District:
- (1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
 - (2) Bed and breakfast inns [7011]. (See Section 13-1-67.)
 - (3) Public utility structures, except those incompatible with the characteristics of the district.
 - (4) Planned residential developments.
 - (5) Golf courses and private clubs.
 - (6) Nursery schools.
 - (7) Public and semipublic conditional uses as prescribed in Section 13-1-70.
 - (8) Residential conditional uses as prescribed in Section 13-1-67, 13-1-68, 13-1-69 and 13-1-71.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot.**
 - a. Area: Minimum ten thousand (10,000) square feet.
 - b. Width: Minimum ninety (90) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Building Area.** One thousand two hundred (1,200) square foot minimum.
 - (4) **Yards.**
 - a. Street: Minimum thirty (30) feet.
 - b. Rear: Minimum twenty-five (25) feet.
 - c. Side: Minimum ten (10) feet each side; twenty-five (25) feet for a side yard on a street.

Sec. 13-1-43 R-2 Single-Family and Two-Family Residential District (Medium Density).

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of primarily single-family detached dwelling units or two-family units at a medium dwelling unit per acre density. It particularly reflects older and/or pre-existing neighborhoods in the Village.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-2 District:
- (1) Single-family detached dwellings constructed on a frost wall or full basement and served by public sewer, excluding all mobile homes; for purposes of this Chapter, manufactured homes are included in the definition of single-family dwelling.
 - (2) Manufactured homes or other conventional housing of new construction complying with all of the following requirements and limitations:
 - a. The home shall be a double wide (two or more fabricated units) of at least twenty-four (24) feet in width and one thousand two hundred (1,200 sq. ft) in area.

- b. The home shall be installed on a full basement foundation system. The wheels and axles must be removed. The foundation shall be approved by the Building Inspector and/or Village Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of three (3) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Livingston,
- (3) Two-family dwellings (duplex).
- (4) One (1) private garage per Section 13-1-140 specifications.
- (5) Accessory uses and buildings as permitted in Article J.
- (6) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
- (7) Foster family care.
- (8) Home occupations and professional home offices. (See Section 13-1-68.)
- (9) Family day care limited to eight (8) children. Family day care homes shall be subject to state licensing requirements.
- (10) Neighborhood packs, playgrounds and greenways.
- (11) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the R-2 District:
 - (1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
 - (2) Bed and breakfast inns [7011]. (See Section 13-1-67.)
 - (3) Public utility structures, except those incompatible with the characteristics of the district.
 - (4) Planned residential developments.
 - (5) Golf courses and private clubs.
 - (6) Nursery schools.
 - (7) Public and semipublic conditional uses as prescribed in Section 13-1-70.
 - (8) Residential conditional uses as prescribed in Section 13-1-67, 13-1-68, 13-1-69 and 13-1-71.
- (d) **Area, Height and Yard Requirements.**
 - (1) **Lot.**
 - a. Area: Minimum seven thousand two hundred (7,200) square feet; twelve thousand (12,000) square feet for two-family lots.

- b. Width: Minimum seventy-five (75) feet for one-family dwellings; one hundred (100) feet for two-family dwellings.
- (2) **Building Height.** Maximum thirty-five (35) feet.
- (3) **Building Area.** One thousand (1,000) square feet minimum for one-family dwellings; one thousand four hundred (1,400) square feet total for a two-family dwelling.
- (4) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum twenty-five (25) feet.
 - c. Side: Minimum ten (10) feet each side (25 feet for a side yard on a street) for one-family or two-family dwellings.

Sec. 13-1-44 R-3 Multiple-Family Residential District.

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of multiple-family dwelling units at varying dwelling units per acre densities.
- (b) **Permitted Uses.**
 - (1) Multiple-family rental apartments under twelve (12) units in size.
 - (2) Condominiums.
- (c) **Conditional Uses.**
 - (1) Professional home offices and home occupations.
 - (2) Planned residential developments.
 - (3) Golf courses and private clubs.
 - (4) Mobile home parks/courts as prescribed in Section 13-1-75.
 - (5) Condominiums.
 - (6) Nursery schools.
 - (7) Retirement homes.
 - (8) Day care centers (state licensed).
 - (9) Public and semipublic conditional uses as prescribed in Section 13-1-70.
 - (10) Residential conditional uses as prescribed in Section 13-1-67, 13-1-68, 13-1-69 and 13-1-71.
- (d) **Area, Height and Yard Requirements.**
 - (1) **Lot.**
 - a. Area:
 - 1. Two-family dwellings: Six thousand (6,000) square feet per residential unit.
 - 2. Multi-family (over two): Five (5) times floor area.
 - b. Width: Minimum one hundred twenty (120) feet.
 - (2) **Building Height.** Maximum forty-five (45) feet.
 - (3) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum thirty (30) feet.
 - c. Side: Minimum fifteen (15) feet each side (25 feet for a side yard on a street).

Sec. 13-1-45 C-1 Conservancy District.

- (a) **Purpose.** The purpose of this District is to preserve, protect, and maintain the natural environment and character of areas exhibiting significant natural resource features which contribute to the productive, recreational, or aesthetic value of the community.
- (b) **Permitted Uses.**
 - (1) Farming and related agricultural uses when conducted in accordance with conservation standards.
 - (2) Forest and game management.
 - (3) Hunting, fishing and hiking.
 - (4) Parks and recreation areas; arboreta; botanical gardens; greenways.
 - (5) Stables.
 - (6) Utilities.
 - (7) Non-residential buildings used solely in conjunction with the raising of water, fowl or fish.
 - (8) Harvesting of wild crops.
 - (9) Recreation related structures not requiring basements.
- (c) **Conditional Uses.**
 - (1) Animal hospitals, shelters and kennels.
 - (2) Archery and firearm ranges, sports fields and skating rinks.
 - (3) Land restoration, flowage, ponds.
 - (4) Golf courses and clubs.
 - (5) Ski hills and trails.
 - (6) Recreation camps.
 - (7) Public and private campgrounds.
 - (8) Riding stables.
 - (9) Sewage disposal plants.
 - (10) Governmental, cultural and public buildings or uses.
 - (11) Utilities.
 - (12) Hunting and fishing clubs.
 - (13) Farm structures.
- (d) **Area, Height and yard Requirements.**
 - (1) **Lot.**
 - a. Area: Minimum eighteen thousand (18,000) square feet.
 - b. Width: Minimum one hundred fifty (150) feet.
 - (2) **Building Height.** Maximum forty-five (45) feet.
 - (3) **Other Structures Height.** Maximum one-half (1/2) the distance from the structures nearest lot line.
 - (4) **Yards.**
 - a. Street: Minimum thirty (30) feet.

- b. Rear: Minimum thirty (30) feet.
- c. Side: Minimum twenty (20) feet except structures used for the housing of shelters of animals must be one hundred (100) feet from lot lines.

Sec. 13-1-46 P-1 Public/Semipublic District.

- (a) **Purpose.** Uses associated with essential governmental and institutional activities related to the conduct of the public business; provision of necessary public and semipublic service; and/or implementation of planned community development programs.
- (b) **Permitted Uses.** Public and semipublic uses such as:
 - (1) Arboretums.
 - (2) Churches, schools and libraries.
 - (3) Public offices and meeting rooms.
 - (4) Community centers.
 - (5) Fishing, swimming and wading facilities.
 - (6) Parks, playgrounds and sports fields.
 - (7) Sledding, skating and skiing facilities.
 - (8) Sports arenas, rinks, and gymnasias.
 - (9) Pumping stations.
 - (10) Water and wastewater treatment facilities.
 - (11) Fire stations, garages and protective devices.
 - (12) Water control and measurement facilities.
 - (13) Land, soil and water conservation practices.
 - (14) Wildlife preserves.
 - (15) Related institutional needs.
- (c) **Conditional Uses.**
 - (1) All buildings and structures.
 - (2) Also see Sections 13-1-70 and 13-1-74.
- (d) **Lot and Yard Requirements.**

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| Minimum Lot (1) | Width | 150 ft. |
| | Area | 18000 sf. |
| Maximum Bldg. (2) | Height | 40 ft. |
| Minimum Yards (3) | Street | 30 ft. |
| | Rear | 30 ft. |
| | Side | 20 ft. |

- (1) Lots shall be of sufficient size and width to accommodate present and identified future needs.

- (2) No space above the third floor above grade shall be accessible to persons other than the owner, his/her employees, service or work crews, or maintenance personnel.
- (3) Yards shall be in accord with the average of those in abutting properties or zoning districts, and with the required setback from the centerline of abutting arterial highways.

Sec. 13-1-47 B-1 Central Commercial District.

- (a) **Purpose.** The B-1 District is intended to provide an area for the business, financial, professional, and commercial needs of the community, especially those which can be most suitably located in a compact and centrally located business district.
- (b) **Permitted Uses.** The following uses of land are permitted in the B-1 District:
 - (1) Paint, glass and wallpaper stores. [523]
 - (2) Hardware stores. [525]
 - (3) Department stores, variety stores, general merchandise stores. [53]
 - (4) General grocery stores, supermarkets, fruit and vegetable stores, delicatessens, meat and fish stores and miscellaneous food stores. [54]
 - (5) Candy, nut or confectionery stores. [544]
 - (6) Dairy products stores, including ice cream stores. [545]
 - (7) Retail bakeries, including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery. [546]
 - (8) Clothing and shoe stores. [56]
 - (9) Furniture, home furnishings, floor covering and upholstery shops/stores. [57]
 - (10) Restaurants, lunch rooms and other eating places, except drive-in type establishments. [5812]
 - (11) Taverns, bars and other drinking places with permit by Village Board. [5813]
 - (12) Drug stores and pharmacies. [591]
 - (13) Liquor stores. [592]
 - (14) Antique stores and secondhand stores. [593]
 - (15) Sporting goods stores and bicycle shops. [5941]
 - (16) Bookstores. [5942]
 - (17) Stationery stores. [5943]
 - (18) Jewelry and clock stores. [5944]
 - (19) Camera and photographic supply stores. [5946]
 - (20) Gift, novelty and souvenir shops. [5947]
 - (21) Florist shops. [5992]
 - (22) Tobacco and smokers' supplies stores. [5993]

- (23) News dealers and newsstands. [5994]
- (24) Wholesale merchandise establishments, only for retail items listed above; e.g., #19 would allow wholesale camera sales.
- (25) Banks and other financial institutions. [60-62]
- (26) Offices of insurance companies, agents, brokers and service representatives. [63-64]
- (27) Offices of real estate agents, brokers, managers and title companies. [65-67]
- (28) Miscellaneous business offices.
- (29) Heating and plumbing supplies.
- (30) Retail laundry and dry cleaning outlets, including coin-operated laundries and dry cleaning establishments, commonly called laundromats and launderettes. Tailor shops, dressmakers' shops, and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments. [721]
- (31) Photographic studios and commercial photography establishments. [722]
- (32) Barbershops, beauty shops and hairdressers. [723-4]
- (33) Shoe repair shops and shoe shine parlors. [725]
- (34) Trade and contractor's offices (office only).
- (35) Advertising agencies, consumer credit reporting, news agencies, employment agencies. [731-2, 735-6]
- (36) Duplicating, blueprinting, photocopying, addressing, mailing, mailing list and stenographic services; small print shops. [733]
- (37) Computer services. [737]
- (38) Commercial parking lots, parking garages, parking structures. [752]
- (39) Watch, clock and jewelry repair services. [763]
- (40) Motion picture theaters, not including drive-in theaters. [7832]
- (41) Miscellaneous retail stores. [5999]
- (42) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrists and chiropractors, but not veterinarian's offices. [801-4]
- (43) Law offices. [811]
- (44) The offices, meeting places, churches, and premises of professional membership associations; civic, social, and fraternal associations; business associations, labor unions and similar labor organizations; political organizations; religious organizations; charitable organizations; or other non-profit membership organizations. [86]
- (45) Engineering and architectural firms or consultants. [891-3]
- (46) Accounting, auditing and bookkeeping firms or services. [8721]
- (47) Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations. [899]
- (48) The offices of governmental agencies and post offices. [91-92, 431]
- (49) Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages. [411-14]
- (50) Telephone and telegraph offices. [481-2]

- (c) **Conditional Uses.** The following are permitted as conditional uses in the B-1 District; provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from motor-driven equipment, unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances; and provided that where operations necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers, or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Village Board with regard to such matters.
- (1) Miscellaneous repair shops and related services. [769]
 - (2) Garment pressing establishments, hand laundries, hat cleaning and blocking shops and coin-operated dry cleaning establishments. [721]
 - (3) Establishments engaged in the publishing and printing of newspapers, periodicals or books. [2711]
 - (4) Dwelling units, provided that no dwelling shall be permitted below the second floor and business uses are not permitted on any floor above the ground floor, except in those buildings or structures where dwelling units are not established.
 - (5) Farm supplies, wholesale trade. [5191]
 - (6) Establishments engaged in the retail sale of automobiles, trailers, mobile homes, or campers; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances. [551-2, 556]
 - (7) Stores for the sale and installation of tires, batteries, mufflers or other automotive accessories; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances. [553]
 - (8) Gasoline service stations; provided, further, that all gasoline pumps, storage tanks and accessory equipment must be located at least thirty (30) feet from any existing or officially proposed street line; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances. [5541]
 - (9) Establishments engaged in the daily or extended-term rental or leasing of house trailers, mobile homes or campers; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances. [703]
 - (10) Establishments engaged in daily or extended-term rental or leasing of passenger automobiles, limousines or trucks, without drivers, or of truck trailers or utility trailers; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances. [751]

- (11) Establishments for the washing, cleaning or polishing of automobiles, including self-service car washes; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances. [754]
 - (12) Hotels, motor hotels, motels, tourist courts, tourist rooms, etc. [70]
 - (13) Farm implement sales.
 - (14) Mini-warehouses.
 - (15) Veterinarian's offices/clinics.
 - (16) Retail business conditional uses as prescribed in Section 13-1-72 and 13-1-71(d).
 - (d) **Lot, Yard and Building Requirements.**
 - (1) **Lot Width.** Minimum forty (40) feet or building width plus required yards.
 - (2) **Lot Area.** Minimum four thousand eight hundred (4,800) square feet or building plus required yards.
 - (3) **Principal Building.**
 - a. Front Yard: None required.
 - b. Side Yard: Minimum ten (10) feet; if sideyard is necessary to be compatible with neighborhood. (None for pre-existing nonconforming structures.)
 - c. Rear Yard: Minimum twenty-five (25) feet. (None for pre-existing nonconforming structures).
- NOTE:** Pre-existing structures may be nonconforming. In blocks in the business districts which are already developed, the dimensional requirements of this Chapter can be modified if in the opinion of the Board of Appeals, such action would be in keeping with the purpose of this Code where a practical difficulty or hardship would result from a literal enforcement of the requirements.
- (4) **Building Height.** Maximum thirty-five (35) feet.
 - (5) **Minimum Building Floor Area.** One thousand two hundred (1,200) square feet.
 - (6) **Alley Setback.** Minimum fifteen (15) feet.

Sec. 13-1-48 B-2 Highway Commercial District.

- (a) **Purpose.** The purpose of the B-2 District is to encourage the growth and development of business activities and establishments which require highway frontage and exposure due to their automobile and vehicular orientations.
- (b) **Permitted Uses.** The following are specific permitted uses in this District:
 - (1) Amusement activities.
 - (2) Automobile and truck retail services.
 - (3) Bars and taverns.
 - (4) Candy, nut and confectionery sales.
 - (5) Gasoline service stations.

- (6) Gift, novelty and souvenir sales.
- (7) Hotels, motels and tourist courts.
- (8) Night clubs and dance halls.
- (9) Restaurants.
- (10) Sales, service and installation of tires, batteries and accessories.
- (11) Animal hospital, shelters and kennels.
- (12) Commercial recreation facilities.
- (13) Off-season storage facilities.
- (14) Lodges and fraternal buildings.
- (15) Drive-in food and beverage establishments.
- (16) Drive-banks.
- (17) Vehicle sales and service.
- (18) Public parking lots.
- (19) Governmental, cultural, and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
- (20) Utilities.
- (21) Schools and churches.
- (22) Mobile home sales.
- (23) Farm implement sales.
- (24) Mini-warehouses.
- (25) Highway-oriented conditional uses as prescribed in Section 13-1-73.
- (26) Recreational conditional uses as prescribed in Section 13-1-74.
- (27) Other uses similar to or customarily incident to any of the above uses.
- (c) **Conditional Uses.** The following are specific conditional uses in this District:
 - (1) Automobile repair services.
 - (2) Residential dwelling units.
 - (3) Public assembly uses.
 - (4) Nursing homes.
 - (5) Nursery and day care centers.
 - (6) Retirement homes.
 - (7) Log stacks are a conditional accessory use in the B-2 District, provided that they are located a minimum of sixty (60) from the center of adjacent public road right-of-ways.
- (d) **Area, Height and Yard Requirements.**
 - (1) Lot.
 - a. Area: Fifteen thousand (15,000) square feet.
 - b. Width: Minimum one hundred fifty (150) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Yards.**
 - a. Street: Minimum fifty (50) feet (may include parking).

- b. Rear: Minimum twenty (20) feet.
- c. Side: Minimum twenty (20) feet each side.

Sec. 13-1-49 I-1 Industrial District.

- (a) **Purpose.** This District is intended to provide an area for manufacturing, marketing, and industrial and agribusiness activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions, or which for these or other reasons may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.
- (b) **Permitted Uses.** The following are permitted uses in the I-1 District:
 - (1) Manufacturing establishments, usually described as factories, mills or plants, in which raw materials are transformed into finished products, and establishments engaged in assembling component parts of manufactured products. [20, 23-28, 30, 32-39]
 - (2) Building construction contractors. [15-17]
 - (3) Motor freight transportation. [41-42]
 - (4) Light industry and service uses.
 - a. Cleaning, pressing, dyeing.
 - b. Commercial bakeries.
 - c. Commercial greenhouses.
 - d. Distributors.
 - e. Food locker plants.
 - f. Printing and publishing.
 - g. Trade and contractor's facilities.
 - h. Offices.
 - i. Painting services.
 - j. Retail sales and service facilities such as retail and surplus outlet stores, and restaurants and food service facilities when established in conjunction with a permitted manufacturing or processing facility.
 - k. Recreation vehicle, boat and miscellaneous storage.
 - (5) Public facilities and uses.
 - a. Governmental, cultural and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
 - b. Schools and churches.
 - c. Airports, airstrips and landing fields.
 - (6) Agriculture related industry and service uses.
 - a. Production of natural and processed cheese.

- b. Production of shortening, table oils, margarine and other edible fats and oils.
 - c. Production of condensed and evaporated milk.
 - d. Wet milling of corn.
 - e. Production of creamery butter.
 - f. Drying and dehydrating fruits and vegetables.
 - g. Creameries and dairies.
 - h. Production of flour and other grain mill products; blending and preparing of flour.
 - i. Fluid milk processing.
 - j. Production of frozen fruits, fruit juices, vegetables and other specialties.
 - k. Fruit and vegetable sauces and seasoning, and salad dressing preparation.
 - l. Poultry and small game dressing and packing providing that all operations be conducted within an enclosed building.
 - m. Production of sausages and other meat products providing that all
- (7) Mini-warehouses.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the I-1 District. Such use shall be subject to the consideration of the Village Board and Planning Committee with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors:
- (1) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
 - (2) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening to prevent a view of the premises from any other property or public right-of-way; and said premises are not less than three hundred (300) feet from any Residential or Public/Semi-Public District. [50, 51]
 - (3) Wholesale establishments and warehouses. [50-51]
 - (4) Automotive body repair.
 - (5) Automotive upholstery.
 - (6) Agriculture-related industry involving preparation of feeds for animal and fowl.
 - (7) Adult entertainment establishments, subject to the requirements of the AEO Adult Entertainment Overlay District.
 - (8) Corn shelling, hay baling and threshing services.
 - (9) Grist mill services.
 - (10) Horticultural services.
 - (11) Canning of fruits, vegetables, preserves, jams and jellies.
 - (12) Canning of specialty foods.
 - (13) Grain elevators and bulk storage of feed grains.
 - (14) Fertilizer production, sales, storage, mixing and blending.

- (15) Sales or maintenance of farm implements and related equipment.
- (16) Animal hospitals, shelters and kennels.
- (17) Veterinarian services.
- (18) Sawmills.

(d) **Prohibited Uses.**

- (1) Specifically excluded from this designation and expressly prohibited is any use or business which is dangerous or which would create a public nuisance.
- (2) All residential uses are expressly prohibited.
- (3) Also specifically excluded and expressly prohibited is any use or business involving the wrecking of automobiles, junk yards, scrap yards, garbage removal or the slaughter of animals or poultry.

(e) **Lot, Yard and Building Requirements.**

- (1) **Lot Frontage.** No minimum.
- (2) **Lot Area.** Minimum fifteen thousand (15,000) square feet.
- (3) **Front Yard.** Minimum thirty (30) feet.
- (4) **Side Yards.** Minimum twenty (20) feet.*
- (5) **Rear Yard.** Minimum thirty (30) feet.*
- (6) **Building Height.** Maximum sixty (60) feet.
- (7) **Percentage of Lot Coverage.** Maximum seventy percent (70%).

* **Required Buffer Strips in Industrial Districts.** Where an Industrial District abuts a Residential District, there shall be provided along any rear, side or front line, coincidental with any industrial-residential boundary, a buffer strip not less than forty (40) feet in width as measured at right angles to said lot line. Plant materials at least six (6) feet in height of such variety and growth habits as to provide a year-round, effective visual screen when viewed from the Residential District shall be planted in the exterior twenty-five (25) feet abutting the Residential District. If the required planting screen is set back from the industrial-residential boundary, the portion of the buffer strip facing the Residential District shall be attractively maintained. Fencing may be used in lieu of planting materials to provide said screening. The fencing shall be not less than four (4) nor more than eight (8) feet in height, and shall be of such materials as to effectively screen the industrial area. The exterior twenty-five (25) feet of the buffer strip shall not be devoted to the parking of vehicles or storage of any material or accessory uses. The interior fifteen (15) feet may be devoted to parking of vehicles.

Sec. 13-1-50 A-1 General Agricultural 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 agriculture, 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 for the use of the occupants of the premises, provided that such use shall not be located within one hundred fifty (150) feet of a dwelling unit other than the dwelling unit on the property in question.
- (3) Forestry, grazing, hatcheries, nurseries, orchards, paddocks, poultry raising, stables, and truck farming.
- (4) Harvesting of wild crops and management of wildlife including nonresidential buildings used solely in conjunction with such activity.
- (5) In-season roadside stands for the sale of farm products produced on the premises, and up to two (2) unlighted signs not larger than eight (8) square feet each advertising such sale.
- (6) Customary home occupations.
- (7) One (1) and two (2) family farm residences and a single mobile home, but only when occupied by owners and/or persons engaged in farming activities on the farm on which it is located.
- (8) Woodlots and tree farms.
- (9) Production of forest crops, including tree plantations.

(c) **Permitted Accessory Uses.**

- (1) Attached or detached private garages and carports accessory to permitted or permitted accessory uses.
- (2) General farm buildings including barns, silos, sheds, storage bins and 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 Chapter.
- (3) One (1) farm dwelling. The only residences allowed as permitted uses on newly established parcels are those to be occupied by a person who or a family at least one (1) member of which earns a substantial part of his or her livelihood from farm operations on the parcel or is related to the operator of the larger farm parcel from which the new parcel is taken. Preexisting residences located in areas subject to zoning under this Section which do not conform to this paragraph may be continued.

in residential use. The minimum parcel size to establish a residence or a farm operation is thirty-five (35) acres. No structure or improvement may be built on the land unless consistent with agricultural uses.

- (4) Private garages and parking space.
- (5) Private swimming pool and tennis court.
- (6) Home occupation.
- (7) Signs as regulated by the Village.
- (8) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed time necessary for such constructing.
- (9) Gardening and other horticultural uses where no sale of products is conducted on the premises.

(d) **Conditional Uses.**

- (1) Airports, airstrips and landing fields provided that the site is not less than twenty (20) acres.
- (2) Commercial feed lots, livestock sales facilities and fur farms.
- (3) Housing for farm laborers and seasonal or migratory farm workers.
- (4) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
- (5) Utilities.
- (6) Veterinary clinics, provided that no structure or animal enclosure shall be located closer than one hundred fifty (150) feet to a property boundary. [074, 075]
- (7) Public and parochial schools, provided no building shall be located within fifty (50) feet of any lot line.
- (8) Churches, including those related structures located on the same site which are an integral part of the church proper, convents or homes for persons related to a religious function on the same site, provided no more than ten (10) persons shall reside on the site and no building shall be located within fifty (50) feet of any lot line.
- (9) Golf courses, country clubs, tennis clubs or public swimming pools serving more than one (1) family. The principal structure for any of the above listed uses shall be one hundred (100) feet or more from any abutting lot in a Residential District, and accessory structures shall be a minimum of fifty (50) feet from any lot line.
- (10) Essential service structures, including but not limited to buildings such as telephone exchange stations, booster or pressure-regulating stations, wells, pumping stations, elevated tanks, lift stations and electrical power substations, provided no building shall be located within ten (10) feet from any lot line of an abutting lot in a Residential District. Prior to granting such permit, it shall be found that the architectural design of service structures is compatible to the neighborhood in which it is to be located and thus will promote the general welfare.
- (11) Hospitals for human care, sanitariums, rest homes, and nursing homes, provided that all structures, except fences, shall be located one hundred (100) feet or more from the lot line of any abutting lot in a Residential District.

- (12) Cemeteries.
- (13) Fur farms, kennels, greenhouses and other agricultural uses that may cause noxious odors or noise, or create health or sanitation hazards.
- (14) Campgrounds, tourist camps and travel trailer parks, subject to the provisions of this Chapter and the Wisconsin Administrative Code.
- (15) Trap or skeet shooting facilities, target ranges, gun clubs, shooting preserves.
- (16) Riding stables.
- (17) Golf courses.
- (e) **Lot, Yard and Building Requirements.**
 - (1) **Lot Frontage.** Minimum one hundred fifty (150) feet.
 - (2) **Lot Area.** Minimum three (3) acres.
 - (3) **Principal Building.**
 - a. Front Yard: Minimum sixty (60) feet.
 - b. Side Yards: Minimum thirty (30) feet.
 - c. Rear Yard: Minimum forty (40) feet.

Sec. 13-1-51 A-2 Exclusive Agricultural District.

- (a) **Purpose.** The A-2 District is intended for farm operations and farming practices designed to:
 - (1) Preserve agricultural land for food and fiber production;
 - (2) Maintain viable agricultural processing and service industries;
 - (3) Promote conservation practices and reduce soil loss;
 - (4) Prevent conflicts between incompatible land uses;
 - (5) Implement provisions of the county Farmland Preservation Plan; and
 - (6) Comply with provisions of the Farmland Preservation Law so as to permit eligible landowners to receive tax credits under Sec. 71.09(11), Wis. Stats.
- (b) **Permitted Uses.** Those agricultural land uses identified as principal uses, or enumerated as permitted uses, in the A-1 General Agricultural District provided such uses are also in accord with the applicable provisions of the Grant County and/or Iowa County laws as they apply to Exclusive Agriculture Zoning.
- (c) **Lot, Yard and Building Requirements.**
 - (1) **Lot Frontage.** Minimum one hundred fifty (150) feet.
 - (2) **Lot Area.** Minimum three (3) acres.
 - (3) **Principal Building.**
 - a. Front Yard: Minimum sixty (60) feet.
 - b. Side Yards: Minimum thirty (30) feet.
 - c. Rear Yard: Minimum forty (40) feet.

Sec. 13-1-52 MW Wellhead Protection Overlay District.

- (a) **Purpose.** The Village recognizes that consequences of certain land use activities, whether intentional or accidental, can seriously impair groundwater quality. The purpose of the Municipal Well Recharge Area Overlay District (MW) is to protect municipal groundwater resources from certain land use activities by imposing appropriate restrictions upon lands located within the approximate groundwater recharge area of the Village's municipal wells. The restrictions imposed herein are in addition to those of the underlying residential, commercial or industrial zoning districts or any other provisions of the Zoning Ordinance.
- (b) **Overlay Zones.** The Municipal Well Recharge Area Overlay District is hereby divided into Zone A and Zone B as follows:
 - (1) Zone A is identified as the primary source of water for the municipal well aquifer and as the area most likely to transmit groundwater contaminants to the municipal wells. Zone A is more restrictive than Zone B.
 - (2) Zone B is identified as a secondary source of water for the municipal well aquifer and as an area where there is a lower probability of surface contaminants reaching the municipal well fields. Zone B is less restrictive than Zone A.
- (c) **Zone A Prohibited Uses.** The following land uses are hereby found to have a high potential to contaminate or have already caused groundwater contamination problems in Wisconsin and elsewhere. The following principal or accessory uses are hereby prohibited within Zone A of the Municipal Well Recharge Area Overlay District:
 - (1) Areas for dumping or disposing of garbage, refuse, trash or demolition material.
 - (2) Asphalt products manufacturing plants.
 - (3) Automobile laundries.
 - (4) Automobile service stations.
 - (5) Building materials and products sales.
 - (6) Cartage and express facilities.
 - (7) Cemeteries.
 - (8) Chemical storage, sale, processing or manufacturing plants.
 - (9) Dry cleaning establishments.
 - (10) Electronic circuit assembly plants.
 - (11) Electroplating plants.
 - (12) Exterminating shops.
 - (13) Fertilizer manufacturing or storage plants.
 - (14) Foundries and forge plants.
 - (15) Garages — for repair and servicing of motor vehicles, including body repair, painting or engine rebuilding.
 - (16) Highway salt storage areas.
 - (17) Industrial liquid waste storage areas.
 - (18) Junk yards and auto graveyards.

- (19) Metal reduction and refinement plants.
- (20) Mining operations.
- (21) Motor and machinery service and assembly shops.
- (22) Motor freight terminals.
- (23) Pain products manufacturing.
- (24) Petroleum products storage or processing.
- (25) Photography studios, including the developing of film and pictures.
- (26) Plastics manufacturing.
- (27) Printing and publishing establishments.
- (28) Pulp and paper manufacturing.
- (29) Residential dwelling units on lots less than fifteen thousand (15,000) square feet in area. However, in any residence district, on a lot of record on the effective date of this Ordinance, a single-family dwelling may be established regardless of the size of the lot, provided all other requirements of the Village's Zoning Ordinance are complied with.
- (30) Septage disposal sites.
- (31) Sludge disposal sites.
- (32) Storage, manufacturing or disposal of toxic or hazardous materials.
- (33) Underground petroleum products storage tanks for industrial, commercial, residential or other uses.
- (34) Woodworking and wood products manufacturing.
- (d) **Zone A Conditional Uses.** The following conditional uses may be allowed in the Municipal Well Recharge Area Overlay District, subject to the provisions of Article E:
 - (1) Any other business or industrial use not listed as a prohibited use.
 - (2) Animal waste storage areas and facilities.
 - (3) Center-pivot or other large-scale irrigated agriculture operations.
- (e) **Zone B Prohibited Uses.** The following principal or accessory uses are hereby prohibited within Zone B of the Municipal Well Recharge Area Overlay District:
 - (1) Underground petroleum products storage tanks for industrial, commercial, residential or other uses.
- (f) **Zone B Conditional Uses.** The following conditional uses may be allowed in the Municipal Well Recharge Area Overlay District, subject to the provisions of Article E:
 - (1) Any business or industrial use.

Sec. 13-1-53 AEO Adult Entertainment Overlay District.

- (a) **Authority.**
 - (1) The Village Board has authority, to be liberally construed in favor of the Village, under its general police powers set forth in Ch. 61, Wis. Stats., to act for the good

- order of the municipality and for the health, morals, safety and welfare of the public; and may carry out its powers by regulation and suppression; and
- (2) The Village Board recognizes it lacks authority to regulate obscenity under Sec. 66.0107(3), Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and
 - (3) Adult establishments in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and
 - (4) The Village Board recognizes the U.S. Supreme Court has held that material with adult content is within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and
 - (5) However, the Village Board is aware, based on the experiences of other communities, that adult establishments may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Livingston; and
 - (6) Among these secondary effects are:
 - a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
 - b. The potential depreciation of property values in neighborhoods where adult establishments featuring nude dancing exist;
 - c. Health risks associated with the spread of sexually transmitted diseases; and
 - d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and
 - (7) The Village Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Village of Livingston; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and
 - (8) The Village Board has determined that the enactment of a zoning ordinance provision allowing adult establishments viable areas in which to exist within the Village while keeping those adult establishments separated from each other, residential areas, schools, churches, day care centers, or bars or taverns, promotes the goal of

minimizing, preventing and controlling the negative secondary effects associated with such adult establishments.

- (b) **Purpose.** The purpose of the AEO Adult Entertainment Overlay District is to create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments sufficient area and opportunity to operate within the Village so as not to suppress their existence.
- (c) **Definitions.** For purposes of this District, the following definitions shall be applicable:
- (1) **Adult Establishment.** Shall include, adult book stores, adult motion picture theaters, adult novelty stores, and further means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display of specified sexual activities or specified anatomical areas.
 - (2) **Adult Bookstore.** An establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, videocassettes, magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
 - (3) **Adult Entertainment.** Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.
 - (4) **Adult Motion Picture Theater.** Any establishment for the presentation of motion pictures that as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, or specified anatomical areas for observations by patrons therein.
 - (5) **Adult Novelty Store.** Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
 - (6) **Specified Anatomical Areas.** Means either:
 - a. Less than completely and opaquely covered human genitals pubic region.
 - b. Human male genitals in a discernible turgid state, even if opaquely covered.
 - c. Less than completely and opaquely covered nipples or areolas of the human female breast.
 - (7) **Specified Sexual Activities.** Means simulated or actual:
 - a. Showing of human genitals in a state of sexual stimulation or arousal; or

- b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
 - c. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (8) **Substantial.** Forty percent (40%) or more of business stock in trade, display space, floor space or retail sales in any one month. Upon reasonable belief that an entity is in excess of the forty percent (40%) threshold, that entity shall provide all necessary records, receipts and documentation to the Village upon request. Failure to do so shall result in a presumption that the entity is operating in excess of the threshold.
- (d) **Location.**
- (1) No adult establishment shall be located:
 - a. Within any zoning district other than general commercial, limited commercial, highway commercial, industrial, and heavy industrial.
 - b. Within two hundred fifty (250) feet (plus) feet of an existing adult establishment.
 - c. Within two hundred fifty (250) feet of any dwelling as defined by this Zoning Code.
 - d. Within two hundred fifty (250) feet of any pre-existing school, church or daycare, as defined in this Zoning Code.
 - e. Within two hundred fifty (250) feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.
 - (2) For purposes of this District, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult establishment, to the nearest property line of another establishment, dwelling, school, church, daycare or establishment selling or dispensing fermented malt beverages or intoxicating liquor.
- (e) **Hours of Operation.**
- (1) No adult establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m., Monday through Friday, between the hours of 2:30 a.m. and 8:00 a.m. on Saturdays, or between the hours of 2:30 a.m. and 12:00 noon on Sundays.
 - (2) All adult establishments shall be open to inspection at all reasonable times by the law enforcement authorities, Zoning Administrator and/or other Village representatives.

Sec. 13-1-54 through Sec. 13-1-59 Reserved for Future Use.

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 of Livingston 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 Planning Committee and Village Board; Requirements.

- (a) The Village Board hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearing, and approval from the Planning Committee 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. Such Village Board and Planning Committee action, and the resulting conditional use permit 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 Village Board and Planning Committee shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) 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 Village Board or Planning Committee shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

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

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 (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

Sec. 13-1-63 Application for Conditional Use; Hearing; Determination.

- (a) **Application.** An application for a conditional use shall be filed on a form prescribed by the Village, with fee payment as prescribed in Section 1-3-1. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-64 hereinafter. The Village Board or Planning Committee may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
- (b) **Hearing on Application.** All requests for conditional uses shall be applied for with the Village Clerk-Treasurer or the Village Board or Planning Committee can, on its own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Village Board on its own motion from referring the request for conditional use to the Planning Committee. Upon receipt of the application and statement referred to in Subsection (a) above, the Planning Committee shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Committee. 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 Planning Committee shall, by rule, prescribe from time to time.
- (c) **Notice of Hearing on Application; Determination.**
 - (1) Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 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 Planning Committee, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing.

- (2) The Planning Committee shall report its action to the Village Board within forty-five (45) days after a matter has been referred to it, after which the Village Board shall take formal action.
- (d) **Denial of Application for Conditional Use Permit.** When an advisory recommendation of denial of a conditional use application is made by the Planning Committee or an actual denial by the Village Board, the Planning Committee and/or Village Board shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Committee and/or Village Board has used in determining that each standard was not met.
- (e) **Validity of Conditional Use Permit.** Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within twenty-four (24) months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. 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 Village Board 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. 13-1-64 Standards — Conditional Uses.

- (a) **Standards.** No application for a conditional use shall be granted by the Village Board or recommended by the Planning Committee unless the Village Board or Planning Committee shall find all of the following conditions are present:
 - (1) 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.
 - (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.

- (3) 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.
- (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (5) 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.
- (6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- (7) That the proposed use does not violate flood plain regulations governing the site.
- (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (b) **Application of Standards.** When applying the above standards to any new construction of a building or an addition to an existing building, the Village Board or Planning Committee 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.
- (c) **Additional Considerations.** In addition, in passing upon a Conditional Use Permit, the Village Board or Planning Committee shall also evaluate the effect of the proposed use upon:
 - (1) The maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (6) The location of the site with respect to existing or future access roads.
 - (7) The need of the proposed use for a shoreland location.
 - (8) Its compatibility with uses on adjacent land.
 - (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

Sec. 13-1-65 Conditions and Guarantees.

The following conditions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Planning Committee may recommend and the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as

deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-64 above. In all cases in which conditional uses are granted, the Village 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, 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 recommendation, the Planning Committee shall evaluate each application and may request assistance from any source which can provide technical assistance. The Committee 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 Village Board, upon the recommendation of the Planning Committee.
- (d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Village Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
- (e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that 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.

Sec. 13-1-66 Complaints Regarding Conditional Uses.

The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-64 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 13-1-63(c) above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-64 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-64 will be met, the Village Board may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

Sec. 13-1-67 Bed and Breakfast Establishments.

- (a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to this Article.
- (b) **Definition.** "Bed and Breakfast Establishment" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.
- (c) **State Standards.** Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wis. Adm. Code.

Sec. 13-1-68 Home Occupations/Professional Home Offices.

- (a) **Intent.** The intent of this Section is to provide a means to accommodate a small family home-based business or professional home office as a conditional use without the necessity

of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.

- (b) **Restrictions on Home Occupations/Professional Home Office.** Except as provided in Subsection (c) below, home occupations and professional home offices are a conditional use in all Residential Districts and are subject to the requirements of the District in which the use is located, in addition to the following:

- (1) The occupation or profession shall be carried on wholly within the enclosed areas of the principal building or other structure accessory thereto, but it shall utilize no more than forty percent (40%) of the gross floor area of the building.
- (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
- (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation/profession shall be visible outside any structure located on the premises. There shall not be outside storage of any kind related to the home occupation/profession.
- (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
- (5) Only one (1) sign may be used to indicate the type of occupation or business as allowed by Article G of this Chapter. Such sign shall not be illuminated and shall comply with district sign regulations.
- (6) The home occupation shall not involve the use of commercial vehicles, other than those owned by the applicant for delivery of products or materials to and from the premises. This shall not be interpreted to include delivery and/or pickup services such as United Parcel Service, Federal Express, etc., in the conduct of their normal operations.
- (7) No traffic shall be generated by such home occupation/profession in greater volumes than would normally be expected in a residential neighborhood.
- (8) There shall be no demand for parking beyond that which is normal to the neighborhood. In no case shall the home occupation cause more than two (2) additional vehicles to be parked on or near the premises.
- (9) The home occupation is restricted to a service-oriented business; the manufacturing of items or products or the retail sale of items or products on the premises is prohibited.
- (10) The types and number of equipment or machinery may be restricted by the Village Board.
- (11) Sale or transfer of the property shall cause the Conditional Use Permit to be null and void.

- (12) No more than one (1) non-resident employee may work on the premises. The home occupation is to be conducted only by members of the family residing in the dwelling unit, plus no more than one nonresident assistant or employee employed on the premises at any one time. Persons engaged in building trades, similar fields and other activities using their dwelling units or residential premises as an office for business activities carried on off the premises, may have more employees than the limitations set forth herein if they are not employed on the premises.
- (13) No activity associated with the home occupation may occur outside on the premises prior to 8:00 a.m. or after 8:00 p.m.
- (c) **Permitted Use Exception.** A home occupation or professional home office under this Section may be maintained in any Residential District as a permitted use, as opposed to a conditional use, if the standards of Subsection (b) above are complied with, and no sign is erected or maintained regarding the home occupation, no more than one (1) person works on the premises, no customers regularly come to the house ["regularly" defined as averaging more than three (3) customers/clients per week coming to the home occupation premises], the business is service-oriented and not engaged in retail trade and other standards required by Subsection (b) are complied with.
- (d) **Permitted Home Occupations/Professions.** Permitted home occupations/professions include, but are not necessarily limited to, the following examples:
 - (1) Artists or sculptors.
 - (2) Authors or composers.
 - (3) Home crafts such as model making, rug weaving and cabinet making.
 - (4) Office facility of a minister, rabbi, or priest.
 - (5) Office facility of an attorney, architect, professional engineer, surveyor, landscape architect, insurance agent or real estate agent.
 - (6) Private tutoring limited to three (3) pupils at any one time.
 - (7) Musical instruction limited to two (2) pupils at a time.
 - (8) Dressmaking.
 - (9) Computer-oriented support services, such as consulting, clerical services, claims processing, internet-related businesses, etc.
- (e) **Home Occupations/Professions Not Permitted.** The following uses, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations/professions and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, home occupations not permitted include, but are not necessarily limited to, the following:
 - (1) Barber shops and beauty salons.
 - (2) Antique shops.
 - (3) Stables and kennels.
 - (4) Medical offices, including, but not necessarily limited to, physicians, surgeons, dentists, chiropractors, or optometrists for the general practice of the profession, except for consultation or emergency treatment.
 - (5) Automobile repair or body/paint work.
 - (6) Restaurants and bakeries (retail).

Sec. 13-1-69 Planned Unit Development (PUD) Conditional Use.

(a) Planned Unit Development Conditional Use — Intent.

- (1) The planned unit development conditional use is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The planned unit development under this Chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining insofar as possible, the land use density and other standards or use requirements as set forth in the underlying basic zoning district.
- (2) The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the Village upon specific petition under Subsection (b) below and after public hearing, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section of the Chapter have been met.

(b) Types of Planned Unit Developments. This Article contemplates that there may be a Residential, Commercial, Industrial Planned Unit Developments and Mixed Compatible Use Developments.

(c) General Requirements for Planned Unit Developments. A planned unit development shall be consistent in all respects to the expressed intent of this Article and to the spirit and intent of this Chapter; shall be in conformity with the adopted master plan (comprehensive land use and thoroughfare plan), neighborhood plan or any adopted component thereof; and shall not be contrary to the general welfare and economic prosperity of the community.

(d) Physical Requirements for Planned Unit Developments.

- (1) **Minimum Area Requirements.** Areas designated as planned unit developments shall contain a minimum development area required by the basic underlying use district.
- (2) **Density Requirements (Lot Area, Width and Yard Requirements).** The district area, width and yard requirements of the basic use district may be modified; however, in no case shall the average density in a residential district exceed the number of dwelling units that would have been permitted if the planned unit development regulations had not been utilized.
- (3) **Building Height and Area Requirements.**
 - a. Buildings in a planned unit development shall not exceed the height permitted in the basic use district.

- b. Buildings in a planned unit development shall have a minimum area that is equal to or greater than that required in the basic use district.
- (4) **Single Parcel, Lot or Tract.** The planned unit development shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the County Register of Deeds.
- (e) **Requirements as to Public Services and Facilities.**
 - (1) The development site shall be provided with adequate drainage facilities for surface and storm waters.
 - (2) The site will be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the development.
 - (3) No undue constraint or burden shall be imposed on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm drainage, and maintenance of public areas by the developments.
 - (4) The streets and driveways on the site of the development shall be adequate to serve the residents of the development and, in the case of public dedicated streets, will meet the minimum standards of all applicable ordinances or administrative regulations of the Village.
 - (5) Public water and sewer facilities shall be provided.
- (f) **Subsequent Land Division.** The division of any land or lands within a planned unit development for the purpose of change or conveyance of ownership may be accomplished pursuant to the land division/subdivision regulations of the Village when such division is contemplated.
- (g) **Procedural Requirements — Intent.** Subsections (a) through (f) above set forth the basic philosophy and intent in providing for Planned Unit Developments, the kinds thereof, the general requirements, physical requirements and requirements as to public services and facilities. The following Sections are intended to set forth the procedures and considerations involved leading to possible approval of such developments.
- (h) **Procedural Requirements for Planned Unit Developments.**
 - (1) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a planned unit development, the owner or his/her agent making such petition shall meet with the Planning Committee or its staff to discuss the scope and proposed nature of the contemplated development.
 - (2) **Petition for Approval.** Following the pre-petition conference, the owner or his/her agent may file a petition with the Clerk-Treasurer for approval of a planned unit development. Such petition shall be accompanied by a review fee as provided in Section 1-3-1, as well as incorporate the following information:
 - a. **Informational Statement.** A statement which sets forth the relationship of the proposed PUD to the Village's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:

1. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
2. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
3. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
4. Any proposed departures from the standards of development as set forth in the Village zoning regulations, land subdivision ordinance, other Village regulations or administrative rules, or other universal guidelines.
5. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.

b. ***A General Development Plan Including:***

1. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
2. The location of public and private roads, driveways, sidewalks and parking facilities.
3. The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
4. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
5. The type, size and location of all structures.
6. General landscape treatment.
7. The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
8. The existing and proposed location of all private utilities or other easements.
9. Characteristics of soils related to contemplated specific uses.
10. Existing topography on the site with contours at no greater than two (2) foot intervals.
11. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
12. If the development is to be staged, a staging plan.
13. A plan showing how the entire development can be further subdivided in the future.

- (3) ***Referral to Planning Committee.*** The petition for a planned unit development shall be referred to the Planning Committee for its review and recommendation, which

recommendation shall include any additional conditions or restrictions which the Planning Committee may deem necessary or appropriate.

- (4) **Public Hearing.** Following receipt of the Planning Committee's recommendation, the Village Board shall hold a public hearing on the petition, including any conditions or restrictions imposed by the Planning Committee, in the manner provided for in this Article D for Conditional Uses.

(i) **Basis for Approval of the Petition for Planned Unit Development.**

- (1) **Requirements.** The Planning Committee, in making recommendations for approval, and the Village Board, in making a determination approving a petition for planned unit development, shall find as follows:
 - a. That the general requirements made and provided in Subsection (c) will be met;
 - b. That the applicable physical requirements made and provided in Subsection (d) will be met;
 - c. That the requirements as to public services and facilities made and provided in Subsection (e) will be met.
- (2) **Proposed Construction Schedule.** The Planning Committee and Village Board, in making their respective recommendation and determination, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD, commencement of the physical development within one (1) year of approval being deemed reasonable.
- (3) **Residential PUD, Considerations.** The Planning Committee and Village Board, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:
 - a. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
 - b. The total net residential density within the planned unit development will be compatible with the Village master plan (comprehensive land use and thoroughfare plan), neighborhood plan, or components thereof, and shall be compatible with the density of the district wherein located.
 - c. Structure types will be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows:
 1. Planned residential developments in the R-1 and R-2 Districts shall not exceed four (4) dwelling units per structure.
 2. Planned residential developments in the R-3 District shall not exceed sixteen (16) dwelling units per structure.
 - d. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.

- e. Provision has been made for adequate, continuing fire and police protection.
 - f. The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - g. Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.
- (4) **Commercial PUD, Considerations.** The Planning Committee and Village Board, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:
- a. The economic practicality of the proposed development can be justified.
 - b. The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.
 - c. The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.
 - d. The locations of entrances and exists have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - e. The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (5) **Industrial PUD, Considerations.** The Planning Committee and Village Board, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:
- a. The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
 - b. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and storm water drainage and maintenance of public areas.
 - c. The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
 - d. The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

- (6) **Mixed Use PUD, Considerations.** The Planning Committee and Village Board, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:

 - a. The proposed mixture of uses procedures a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.
 - b. The various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use and character.
 - c. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.
- (j) **Determination of Disposition of the Petition.**

 - (1) **General.** The Village Board, upon receipt of recommendation from the Planning Committee and following public hearing thereon, and after due consideration, shall either deny the petition, approve the petition as submitted or approve the petition subject to any additional conditions and restrictions the Village Board may impose.
 - (2) **Approval.** The general and detailed approvals of a planned unit development shall be based on and include, as conditions thereto, the building, site and operational plans for the development as approved by the Village Board.
 - a. **General Approval.** The general development plan submitted with the PUD application need not necessarily be completely detailed at the time of petition provided it is in sufficient detail to satisfy the Village Board as to the general character, scope and appearance of the proposed development. Such plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings and building sites. The approval of such general development plan, by way of approval of the petition, shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.
 - b. **Detailed Approval.** Detail plans must be furnished to the Planning Committee and Village Board for their consideration and the detailed approval by the Village Board of any part or stage of the proposed development shall be required before construction of such part or stage of the development may be commenced. Before plans submitted for detailed approval within the corporate limits will be approved, the petitioner shall give satisfactory proof that he/she has contracted to install all improvements or file a performance bond insuring that such improvements will be installed within the time required by the Village Board.
 - (3) **Changes and Additions.** Any subsequent substantial change or addition to the plans or uses shall first be submitted for approval to the Planning Committee and if, in the opinion of the Planning Committee, such change or addition constitutes a substantial

alteration of the original plan, it shall make its recommendation to the Village Board and further recommend additional public hearing in which event the Village Board shall schedule a notice of public hearing as for the original petition. Following such public hearing, the Village Board shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

Sec. 13-1-70 Public and Semipublic Conditional Uses.

The following public/semipublic conditional uses may be permitted in all Public/Semipublic, Agricultural, and Residential Districts as specified:

- (a) **Governmental and cultural uses** such as fire, ambulance and/or police stations; community centers; libraries; emergency shelters; museums; parks, play grounds; and open space in all Residential and Business Districts.
- (b) **Utilities** in all districts provided all principal uses and structures are not less than fifty (50) feet from any residential property line, nor less than twenty (20) feet from any district property line.
- (c) **Airstrips and landing fields** in a P-1 Public and Semipublic District provided the site is relatively level, has an appropriate orientation, and is not less than twenty-five (25) acres in area.
- (d) **Public, parochial and private** elementary and secondary schools and related facilities; churches and associated facilities in R-2 and R-3 Residential Districts and P-1 Public/Semipublic Districts, provided the lot is sufficient in size with an area of not less than one (1) acre and all principal uses and structures are not less than fifty (50) feet from any lot line.
- (e) **Hospitals, technical schools, correctional institutions** and related facilities in P-1 Public/Semipublic and the A-1 General Agricultural District, provided that all principal uses and structures are not less than one hundred (100) feet from any lot line.
- (f) **Charitable institutions** including religious and related institutions providing charitable services may be permitted in P-1 Public/Semipublic or A-1 General Agricultural Districts provided all principal structures and uses are not less than fifty (50) feet from any lot line.

Sec. 13-1-71 Residential Conditional Uses.

The following conditional residential uses may be permitted in Residential Districts, and the B-1 Central Business District as specified, as follows:

- (a) **Multi-family buildings** providing more than twelve (12) dwelling units; churches; community service facilities; medical or dental clinics staffed by not more than three (3) doctors in any R-3 Residential District.

- (b) **Clubs, lodges, meeting places** and related non-commercial facilities in a R-3 Residential District provided they comply with the lot width, area, height, yard and other District requirements.
- (c) **Rest homes, nursing homes**, homes for the aged, clinics, children's nurseries in the R-1, R-2 and R-3 Residential Districts provided such operations serving more than eight (8) residents, patients or children shall have not less than forty (40) feet between any principal use or structure and adjoining property lines.
- (d) **Rental apartments or owner-occupied living quarters** above retail business establishments in the B-1 and B-2 Business Districts, provided such dwelling units have:
 - (1) Direct access from a public way;
 - (2) Sufficient and safe means of egress;
 - (3) Sufficient off-street parking in the same block or within two hundred forty (240) feet of the premises; and
 - (4) Otherwise complies with the applicable provisions of the district in which located
- (e) **Other Manufactured homes not of new construction** of single or multiple-unit design may be permitted in the R-2, R-3 or R-4 Residential Districts provided the basic structure:
 - (1) Complies with all requirements of Sec. 13-43(b)(2);
 - (2) Its roof, eaves and other design elements are compatible with neighboring development; and
 - (3) Is not more than twelve (12) years old.

Sec. 13-1-72 Retail Business Conditional Uses.

The following business, commercial and related conditional uses may be permitted in any Business District as specified:

- (a) **Retail establishments** selling used, second-hand, or reconditioned goods or merchandise in a B-1 or B-2 Business District provided such uses are similar to other uses permitted in the district and comply with all district requirements and all specified conditions.
- (b) **Wholesale outlets and distribution centers** in a B-1 or B-2 Business District provided the products involved are similar to those for sale in retail stores in the same district and no other adverse consequences can be anticipated.
- (c) **Residential uses** may only be permitted in a Business District only as a conditional use that complies with all applicable provisions of the R-3 Residential District or the provisions for rental apartments and owner-occupied living quarters as set forth in Sec. 13-1-71.

Sec. 13-1-73 Highway-Oriented Conditional Uses.

The following conditional uses may be permitted in the B-2 Business District as specified:

- (a) **Any large area use** requiring a lot larger than five (5) acres in size, or any use requiring outdoor storage yards, provided such use is similar to those otherwise permitted in the district, all conditions are set forth, and the use is in compliance with said conditions.

- (b) **Tourist homes** that are not conditional use bed and breakfast establishments and related establishments in the B-2 Business District.

Sec. 13-1-74 Recreational Conditional Uses.

The following recreational-type conditional uses may be permitted in a Public/Semipublic, B-1 or B-2 Business or A-1 Agricultural District as specified:

- (a) **Public facilities** such as archery ranges, camps, conservatories, driving ranges, firearms ranges, golf courses riding academies, and sports fields in the P-1 Public/Semipublic District provided the lot area is of sufficient size and all structures or intense activity areas are not less than fifty (50) feet from any district boundary.
- (b) **Commercial recreational facilities** such as arcades, bowling alleys, clubs, dance halls, gyms, firearms ranges, tennis courts, theaters and related facilities in the B-1 and B-2 Business Districts provided all necessary safety measures are required, the lot is of sufficient size, and yard requirements are set forth as conditions to be observed. A shooting club with a rifle or pistol range, skeet or trap shooting facilities or other uses generating loud noises or any other such operation constituting a hazard to the general public may be permitted in the A-1 Agricultural District provided such facilities or uses are located not less than three thousand (3000) feet from any district boundary and are designed to minimize such potential hazards.
- (c) **Outdoor recreational facilities** requiring relatively large areas such as ball diamonds, country clubs, driving ranges, fairgrounds, golf courses, race tracks, sports centers, and the like in the A-1 General Agricultural District, provided all structures and activity centers are not less than one hundred twenty (120) feet from any property line, all adjoining residential properties are effectively protected from noise and through traffic by a wall, hedge, and/or dense screen planting not less than six (6) feet in height, and flood lights, lighted signs and other lighting devices are shielded or otherwise sited as to not be an annoyance to adjoining properties.

Sec. 13-1-75 Mobile Home Parks/Courts Conditional Uses.

Mobile home parks/courts and subdivisions are deemed a conditional use that may be permitted in a R-3 Residential District provided the following conditions are met:

- (a) **Dimensional Requirements.**
- (1) **Minimum Park/Court Area.** Two (2) acres.
 - (2) **Minimum Lot Area.** Five thousand (5,000) sq. ft.
 - (3) **Minimum Lot Width.** Fifty (50) feet.
 - (4) **Minimum Clear Distance Spacing Between Major Structures.** Thirty (30) feet.

- (5) **Setbacks.**
- a. Street Yard: Twenty (20) ft. minimum.
 - b. Rear Yard: Ten (10) ft. minimum.
 - c. Side Yard: Five (5) ft. minimum.
- (b) **Site Plan.** The layout of the park/court or subdivision shall be accurately drawn and presented as a subdivision plat in accordance with Ch. 236, Wis. Stats., and Title 14 of this Code of Ordinances. The number of lots to be provided shall not exceed six (6) per acre and the initial phase of such development shall provide at least eight (8) developed lots available for occupancy and use. Mobile homes may not be placed outside of an approved park/court. For purposes of this Section, a manufactured home placed in a mobile home park/court shall be deemed a mobile home and shall thereby be subject to all requirements applicable to a mobile home.
- (c) **Services.** Each lot shall:
- (1) Front on a public street or an internal roadway providing direct access to a public street;
 - (2) Be connected to public water supply and sewage disposal systems;
 - (3) Have appropriate garbage-refuse collection and disposal services; and
 - (4) Provide direct, paved access to common areas or facilities such as play areas, laundries, or parking lots.
- (d) **Recreation.** At least fifteen percent (15%) of the development area shall be:
- (1) Designated a playground or open space;
 - (2) Be provided with appropriate park, play and/or recreational equipment;
 - (3) Be kept properly maintained by the court/park owner; and
 - (4) accessible to the residents by all-weather walks or drives.
- (e) **Streets and Sidewalks.** All internal roadways shall have a minimum right-of-way width of forty (40) feet and off-street sidewalks a minimum right-of-way of five (5) feet. All street, walks and related facilities shall have an all-weather surface such as asphalt paving as prescribed in Title 14 of this Code of Ordinances. Streets/roads shall have a paved width of at least twenty (20) feet where all on-road parking is prohibited; twenty-six (26) feet where parking is permitted on one side; or thirty (30) feet with parking permitted on both sides. Sidewalks shall be paved according to Village standards and be at least four (4) feet wide. Streets and sidewalks shall be adequately lighted.
- (f) **Parking.** Each lot shall be furnished with at least one (1) off-street, paved parking space of not less than one hundred sixty (160) square feet in area, and one (1) additional paved parking space in the abutting roadway or in a conveniently located common-use parking lot. All parking spaces shall be directly accessible from court/park sidewalks, roads or public streets.
- (g) **Incidental Uses.** No business or commercial activity, including mobile home sales offices shall be permitted in a mobile home court/park other than:
- (1) Laundries;
 - (2) Washrooms;

- (3) Showers;
 - (4) Community rooms;
 - (5) Saunas;
 - (6) Swimming pools;
 - (7) Storage or garage buildings;
 - (8) Management office; and
 - (9) Related facilities providing a service to court/park residents.
- (h) **Standards.** All mobile homes conditionally permitted and placed in a court/park in accord with this Section shall:
- (1) Comply with the standards set forth in federal, state and local building codes, including federal HUD Code standards;
 - (2) Have been manufactured or fabricated not more than twelve (12) years prior to placement in the mobile home court/park or subdivision; and
 - (3) Have a floor area of not less than that required in the particular zoning district.
- (i) **Placement.** Each mobile home shall be placed on foundation walls, a concrete slab or piers, and secured to its foundation and/or ground using appropriate anchors, all in accordance with the manufacturer's recommendations and/or all such standards included in the Village of Livingston Building Code.
- (j) **Nonconforming Use Outside Parks; Replacement.**
- (1) Mobile homes legally located and occupied on premises outside a licensed mobile home park prior to the enactment of this Section may be continued in such location, provided that such use and occupancy is otherwise in conformity with the applicable laws and regulations of the state and Village. Such nonconforming use shall automatically terminated upon a discontinuance for any reason for twelve (12) consecutive months or if the total structural repairs and alterations to the mobile home exceed fifty percent (50%) of the net value.
 - (2) Nothing herein shall prevent the owner of a mobile home under Subsection (j)(1) hereof from replacing the mobile home with a model of better physical condition, as determined by Village officials, provided that the replacement unit meets all applicable standards of construction in the industry existing as of the date of replacement, not at the date of manufacture of the replacement unit.
- (k) **Temporary Placement.** It shall be unlawful for any person to park, store or locate any mobile home in the Village of Livingston at any site other than a licensed mobile home park complying with the requirements of this District, except that the Village Board may authorize temporary parking or storing of a mobile home outside of a mobile home park within the Village. At such time, the owner or occupant of such mobile home shall relocate the mobile home to the mobile home park within one hundred twenty (120) days. Persons temporarily locating a mobile home outside of a mobile home park pursuant to this Subsection shall, as a condition to such placement, enter into a contract with the Village agreeing to fully comply with the requirements of this Subsection.

Sec. 13-1-76 through Sec. 13-1-79 Reserved for Future Use.

Article E: Nonconforming Uses, Structures and Lots

Sec. 13-1-80 Existing Nonconforming Uses.

- (a) **Continuation.** Except as otherwise specially provided in this Chapter, 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, provided however:
- (1) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this Chapter.
 - (2) The total lifetime structural repairs or alterations shall not exceed fifty percent (50%) of the assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this Chapter.
 - (3) Substitution of new equipment may be permitted by the Village Board if such equipment will reduce the incompatibility of the nonconforming use with the neighboring use.
- (b) **Abolishment or Replacement of Existing Nonconforming Use.** 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. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than fifty percent (50%) of its current assessed value, it shall not be restored except so as to comply with the use provisions of this Chapter. From the date of adoption of this Chapter, a current file of all nonconforming uses shall be maintained by the Zoning Administrator, listing the following:
- (1) Owner's name and address.
 - (2) Use of the structure, land or water.
 - (3) Assessed value at the time of its becoming a nonconforming use.

Sec. 13-1-81 Existing Nonconforming Structures.

The lawful nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Chapter. It may be extended, enlarged, reconstructed, moved or structurally altered as long as the amount of nonconformity is maintained.

Sec. 13-1-82 Changes and Substitutions.

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

Sec. 13-1-83 Pre-Existing Substandard Lots.

- (a) **Lots of Record.** In any residential district, a one (1) family detached dwelling and its accessory structures may be erected on any legal lot or parcel, provided such lot or parcel was of record in the County Register of Deeds' office before the original effective date or amendment of this Chapter.
- (b) **Separate Ownership Requirement.** Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Chapter. If in separate ownership, all the district requirements shall be complied with insofar as practical but shall not be less than the following:
 - (1) **Lot.** Width – minimum fifty (50) feet; area – minimum six thousand (6,000) square feet.
 - (2) **Building.** Height – maximum thirty (30) feet.
 - (3) **Yards.** Street – minimum twenty-five (25) feet; the second street yard on corner lots shall be not less than ten (10) feet. Rear – minimum twenty-five (25) feet; Side – minimum ten (10) feet.
 - (4) **Building Area.** Minimum of nine hundred (900) square feet.

Sec. 13-1-84 Nonconforming Lots, Structures and Uses in the I-1 Industrial District.

In the I-1 Industrial District, single-family detached dwellings and their accessory structures may be erected on any legal lot or parcel of record at the time of the adoption of this Chapter. The burden of proof shall be on the applicant for a Building Permit or Certificate of Zoning Compliance to show that said lot was of record in the County Register of Deeds' office prior to the adoption of this Chapter. No further subdivision for residential purposes is permitted in the Industrial District. Any building or structure erected after the adoption of this Chapter under this Section shall conform to the requirements of Sections 13-1-80 and 13-1-84.

Sec. 13-1-85 through Sec. 13-1-89 Reserved for Future Use.

Article F: Traffic Visibility, Loading, Parking and Access

Sec. 13-1-90 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. 13-1-91 Loading Requirements.

On every lot on which a newly constructed business or industrial use hereafter established, loading space(s) with access to a public street/alley shall be provided for the loading and unloading of vehicles off the public right-of-way.

Sec. 13-1-92 Parking Requirements.

All new parking lots and all major alterations of existing lots shall be subject to the approval of the Zoning Administrator. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except in the B-1 Central Commercial District, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) **Access.** Adequate access to a public street or other approved access shall be provided for each parking space.
- (b) **Design Standards.** Each required off-street parking space shall have a stall width of at least nine (9) feet and a stall length of at least eighteen (18) feet. Such space shall have a vertical clearance of at least six and one-half (6-1/2) feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Aisles shall be not less than twenty-four (24) feet wide for ninety (90) degree parking, eighteen (18) feet wide for sixty (60) degree parking, fifteen (15) feet wide for forty-five (45) degree parking (angle shall be measured between centerline of parking space and centerline of aisle), and twelve (12) feet wide for parallel parking. For parallel parking, the minimum length of the parking space shall be increased to twenty-three (23) feet. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking

area of more than five (5) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.

(c) **Location.**

- (1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
- (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than ten (10) feet to a side lot line, right-of-way line or rear lot line, without prior Village Board approval under Section 13-1-174 [a five (5) foot minimum shall be maintenance under any circumstances].
- (3) Off-street parking in the single-family resident and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to the requirements in Sections 6-3-1 and 6-3-2. Parking stalls for single- and two- (2) family residences may be placed one behind the other.

(d) **Surfacing.** All open off-street parking areas servicing a principal structure, except a single parking space accessory to a single-family dwelling, shall be surfaced with a dustless all-weather material capable of carrying a wheel load of four thousand (4,000) pounds [normally, a two (2) inch blacktop on a four (4) inch base or five (5) inches of Portland cement will meet this requirement.] Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.

(e) **Landscaping Requirements.**

- (1) **Landscaping.** All public and private off-street parking areas which serve five (5) vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Code shall be provided with accessory landscape areas totalling not less than ten percent (10%) of the surfaced area. The minimum size of each landscape area shall not be less than one hundred (100) square feet.
- (2) **Location.** Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Village Board.
- (3) **Plans.** All plans for such proposed parking areas, at the discretion of the Village Board, 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.
- (4) **Special Residential Requirements.** Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density, or other effective means, built and maintained at a minimum height of five (5) feet. Where a solidly constructed

decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Said fence shall be located a minimum of one (1) foot from the said lot line.

- (5) **Street Setback Area.** No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
- (6) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in association with unenclosed parking facilities provided in residence districts.
- (7) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) foot candles measured at the lot line.
- (f) **Curbs or Barriers.** 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.
- (g) **The Following Guide Specifies the Minimum Number of Parking Spaces Required.**

The reference herein to "the work shift with the largest number of employees" means the maximum number of full-time or part-time employees present at the facility at any one (1) time. For example, the largest work shift may be a particular day of the week, or a lunch or dinner period in the case of a restaurant. The reference herein to "maximum capacity" means the maximum number of persons which may be accommodated by the use as determined by its design or by applicable building code regulations, whichever is greater. In the case of structures or uses not specified herein, the number of spaces specified for a use which is similar shall apply. In developments involving the establishment of two (2) or more uses on one (1) lot or parcel, the number of spaces required for each use shall determine the total number of spaces required.

 - (1) **Residential Uses.**
 - a. Single-family, two-family and multiple-family dwelling — two (2) spaces per dwelling unit.
 - b. Mobile homes — two (2) spaces per unit.
 - c. Housing for the elderly — 0.75 space per dwelling unit.
 - (2) **Retail Sales and Customer Service Uses, and Places of Entertainment,** except as specifically set forth below: One (1) space per one hundred fifty (150) square feet of gross floor area of customer sales and service, plus one (1) space per two hundred (200) square feet of storage and/or office gross floor area, or if the use has at least eighty thousand (80,000) square feet of gross floor area, one (1) space per two hundred (200) square feet of gross floor area. Other retail sales and customer service uses and places of entertainment:
 - a. Financial institutions: One (1) per two hundred (200) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number

of employees. Financial institutions with drive-through service facilities shall provide sufficient space for four (4) waiting vehicles at each drive-through service lane.

- b. Funeral homes: One (1) space per four (4) patron seats of maximum capacity of twenty-five (25) spaces per chapel unit, whichever is greater.
- c. Grocery stores or supermarkets: One (1) space per one hundred (100) square feet of gross floor area of customer sales and service plus one (1) space per two hundred (200) square feet of storage and/or office gross floor area.
- d. Motels and hotels: One and one-half (1.5) spaces per lodging room or suite, plus one (1) space per each employee for the work shift with the largest number of employees; two (2) spaces per lodging room if plans include a conference/meeting room.
- e. Lodges and clubs: One (1) space per three (3) persons based on the maximum capacity of the facility.
- f. Repair services: One (1) space per three hundred (300) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- g. Restaurant, standard: One (1) space per one hundred fifty (150) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- h. Theaters, auditoriums and other places of public assembly: One (1) space per three (3) patrons based on the maximum capacity of the facility.
- i. Personal services: One (1) space per two hundred (200) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- j. Convenience grocery stores: One (1) space per one hundred (100) square feet of gross floor area.
- k. Restaurants, drive-in: One (1) space per fifty (50) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- l. Taverns, dance halls, night clubs and lounges: One (1) space per one hundred (100) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- m. Motor vehicle sales establishments: Two (2) customer parking spaces per salesperson for the work shift with the largest number of salespersons, plus one (1) employee parking space per employee (including sales persons) for the work shift with the largest number of employees.
- n. Motor vehicle repair, maintenance and service stations: Three (3) spaces per indoor service bay plus one (1) space per employee for the work shift with the largest number of employees.

- o. Animal hospitals: Three (3) patron parking spaces per doctor, plus one (1) employee parking space for the work shift with the largest number of employees.
 - p. Plant nurseries and garden and lawn supply sales establishments: One (1) space per two hundred (200) square feet of gross floor area of inside sales or display, plus one (1) space per five hundred (500) square feet of gross outside sales or display area, plus one (1) space per employee for the work shift with the largest number of employees.
 - q. Shopping centers [gross leasable area of at least fifty thousand (50,000) square feet]: Five and one-half (5-1/2) spaces per one thousand (1,000) square feet of gross leasable area.
- (3) **Offices.**
- a. Medical, dental and similar professional health service offices: Five (5) patron parking spaces per doctor, plus one (1) parking space per employee for the work shift with the largest number of employees.
 - b. Government, professional and business offices: One (1) space per one hundred fifty (150) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
- (4) **Commercial/Recreational Uses.**
- a. Except as specifically set for below: One (1) space per four (4) patrons based on the maximum capacity of the facility, plus one (1) space per two (2) employees the work shift with the largest number of employees.
 - b. Other commercial/recreational uses:
 - 1. Bowling alleys: Five (5) spaces for each lane, plus one (1) space per employee for the work shift with the largest number of employees.
 - 2. Golf courses: Ninety (90) spaces per nine (9) holes, plus one (1) space per employee for the work shift with the largest number of employees.
 - 3. Golf driving ranges: One (1) space per tee, plus one (1) space per employee for the work shift with the largest number of employees.
 - 4. Indoor tennis, racquetball and handball courts: Three (3) spaces per court, plus one (1) space per employee for the work shift with the largest number of employees.
 - 5. Miniature golf courses: One and one-half (1-1/2) spaces per hole, plus one (1) space per employee for the work shift with the largest number of employees.
 - 6. Skating rinks, ice or roller: One (1) space per two hundred (200) square feet of gross floor area.
- (5) **Industrial and Related Uses.**
- a. Manufacturing, processing fabrication and storage operations: One (1) space per employee for the two (2) consecutive work shifts with the largest number of employees.

- b. Wholesale business: One (1) space per employee for the work shift with the largest number of employees, plus one (1) space per two thousand five hundred (2,500) square feet of gross floor area.
- c. Warehouse: One (1) space per employee for the work shift with the largest number of employees, plus one (1) space per five thousand (5,000) square feet of gross floor area.
- d. Mini-warehouse: One (1) space per ten (10) storage cubicles.
- e. Extractive and related operations: One (1) space per employee for the work shift with the largest number of employees.

(6) ***Institutional and Related Uses.***

- a. Churches: One (1) space per three (3) seats based on the maximum capacity of the facility.
 - b. Libraries: One (1) space per two hundred fifty (250) square feet of gross floor area or one (1) space per four (4) seats of maximum capacity, whichever is greater, plus one (1) space per employee for the work shift with the largest number of employees.
 - c. Museums: One (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
 - d. Rooming and boarding houses, fraternity and sorority houses, dormitories and rectories: One (1) space per bed.
 - e. Convents and monasteries: One (1) space per three (3) residents, plus one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per five (5) chapel seats if the public may attend.
 - f. Nursing homes: One (1) space per three (3) patient beds, plus one (1) space per employee for the work shift with the largest number of employees.
 - g. Hospitals: Two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee for the work shift with the largest number of employees.
 - h. Schools.
 - 1. Elementary schools and high schools: One (1) space for each teacher and staff member, plus one (1) space for each ten (10) students sixteen (16) years of age and older.
 - 2. Colleges, universities, and trade schools: One (1) space for each teacher and staff member during the highest class attendance period, plus one (1) space for each two (2) students during the highest attendance period.
 - 3. Children's nursery schools or day schools: One (1) space per employee for the work shift with the largest number of employees, plus one (1) space per six (6) students at the highest class attendance period.
- (h) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the

exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.

- (i) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed. All open off-street parking areas providing more than twenty-five (25) parking spaces, except for parking areas restricted to use by employees only, shall provide parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the following minimum standards:
 - (1) One (1) parking space shall be provided in parking areas containing twenty-six (26) to forty-nine (49) spaces.
 - (2) Two percent (2%) of the total number of spaces shall be provided in parking areas containing fifty (50) to one thousand (1,000) spaces.
 - (3) In addition to the number of spaces required in Subsection (i)(2) above, one percent (1%) of each one thousand (1,000) spaces over the first one thousand (1,000) spaces for parking areas providing more than one thousand (1,000) spaces.
 - (4) The minimum dimensions for all parking spaces provided for use by physically disabled persons shall be twelve (12) feet by eighteen (18) feet.
 - (5) Parking spaces provided for the use of physically disabled persons shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.
 - (6) All parking spaces provided for the use of physically disabled persons shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by physically disabled persons.
 - (7) In the event that the Wisconsin Statutes or Wisconsin Administrative Code are amended, the amendments will supercede the authority of this Chapter.
- (j) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (k) **Off-Lot Parking.**
 - (1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the Village Attorney.
 - (2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the

spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.

- (3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
- (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

Sec. 13-1-93 Highway Access.

- (a) **Private Access Restricted.** 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.
- (b) **Public or Private Access Prohibited.** 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 intersection of interchanging streets within 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.
 - (3) Streets intersecting an arterial street within fifty (50) feet of the intersection of the right-of-way lines.
- (c) **Public Access Barriers.** 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.
- (d) **Temporary Access.** Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

Sec. 13-1-94 Storage and Parking of Recreational Vehicles.

- (a) **Definitions — Recreational Vehicles.** For purposes of this Section, the following definitions shall apply:
 - (1) **Recreational Vehicle.** Recreational vehicle means any of the following:
 - a. **Travel trailer.** A vehicular, portable structure built on a chassis and on wheels; that is, between ten (10) and thirty-six (36) feet long, including the hitch, and

- eight and one-half (8.5) feet or less in width; designated to be used as a temporary dwelling for travel, recreation, vacation or other uses and towed by a car, station wagon or truck. It includes so-called fifth-wheel units.
- b. **Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation or other uses.
 - c. **Motor Home.** A portable, temporary dwelling to be used for travel, recreation, vacation, or other uses, constructed as an integral part of a self-propelled vehicle.
 - d. **Camping Trailer.** A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.
 - e. **Chassis Mounts, Motor Homes and Mini-Motor Homes.** Recreational structures constructed integrally with a truck or motor van chassis and incapable of being separated therefrom.
 - f. **Converted and Chopped Van.** Recreational structures which are created by altering or changing an existing auto van to make it a recreational vehicle.
- (2) **Boat or Snowmobile Trailer.** A vehicle on which a boat or snowmobile may be transported and is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this Article, is termed an unmounted boat or snowmobile.
 - (3) **Boat.** Every description of watercraft used or capable of being used as a means of transportation on water.
 - (4) **Yard, Front.** That part of a lot between the front lot line and the front(s) of the principal building on the lot, and extended to both side lot lines.
 - (5) **Yard, Rear.** That part of a lot between the rear lot line and the back(s) of the principal building on the lot, and extended to both side lot lines.
 - (6) **Yard, Side.** That part of a lot not surrounded by building and not in the front or rear yard.
- (b) **Permitted Parking or Storage of Recreational Vehicles.** In all residential and commercial districts provided for in this Zoning Code, it is permissible to park and store a recreational vehicle or boat and boat trailer on private property in the following manner:
- (1) Parking is permitted inside any enclosed structure, which structure otherwise conforms to the zoning requirements of the particular zoning district where located.
 - (2) Parking is permitted outside in the side yard, provided it is not nearer than five (5) feet to the lot line and that no more than two (2) travel, camper, boat, snowmobile, ATV or other recreational trailers are parked on the property.
 - (3) Parking is permitted outside on a hard-surfaced or well-drained gravel driveway, provided:
 - a. Space is not available in the rear yard or side yard, or there is no reasonable access to either the side yard or rear yard.
 - b. A corner lot is always deemed to have reasonable access to the rear yard.
 - c. A fence is not necessarily deemed to prevent reasonable access.

- d. Inside parking is not possible.
- e. The unit is parked perpendicular to the front curb.
- (4) The body of the recreational vehicle or boat must be at least fifteen (15) feet from the face of any curb.
- (5) No part of the unit may extend over the public sidewalk or public right-of-way.
- (6) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
 - a. Used for dwelling purposes, except for overnight sleeping for a maximum of ten (10) days in any one calendar year. Cooking is not permitted at any time.
 - b. Permanently connected to sewer lines, water lines or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (7) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- (8) The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked for storage.

State Law Reference: Sec. 30.50, Wis. Stats., and HSS 177 and 178, Wis. Adm. Code.

Cross-Reference: Section 10-5-8.

Sec. 13-1-95 Storage of Tractors and Road Machinery.

No person, firm or corporation shall park, keep or maintain on properties zoned as residential or multiple residential dwellings, the following types of vehicles: Semi-tractors and/or trailers, landscaping equipment, dump trucks, auto wreckers and road machinery. Said vehicles may not be kept or parked on said premises whether or not they are in enclosed buildings, except for the purposes of unloading or servicing the premises.

Sec. 13-1-96 through Sec. 13-1-99 Reserved for Future Use.

Article G: Signs, Canopies, Awnings and Billboards

Sec. 13-1-100 Purpose of Sign, Canopy and Awning Regulations.

The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards. The provisions herein contained shall be binding alike upon every owner of a building, every tenant and every person in charge or responsible for or who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the Village of Livingston; painting, posting and general maintenance are excepted.

Sec. 13-1-101 Signs, Canopies, Awnings and Billboards— Definitions.

- (a) The following definitions are used in this Article (Note: Not all types of signs defined herein are permitted under this Article):
- (1) **Abandoned Sign.** A sign which no longer correctly advertises a bona fide business, owner, landlord/tenant, product or activity conducted, or product available on the premises where the sign is displayed or elsewhere.
 - (2) **Animated Sign.** Any sign or part of a sign which changes physical position by movement or rotation, or gives the illusion of such change of physical position.
 - (3) **Area of Copy.** The entire area within a single continuous perimeter composed of squares or rectangles which encloses the extreme limits of an advertising message, announcement, or decoration.
 - (4) **Area of Sign.** The area is the perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface.
 - (5) **Awning.** A movable hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure. For purposes of this Article, an "awning sign" is any awning. Decorative awnings without lettering or imagery are not considered signs.
 - (6) **Banner.** A banner sign is generally constructed of a flexible non-rigid material (i.e. canvas, cloth, plastic, etc.) upon which goods, events or advertising has been placed, mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

- (7) **Billboard.** A flat surface, as of a panel, wall or fence on which signs are posted advertising goods, products, facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.
- (8) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.
- (9) **Building Front.** The horizontal, linear dimension of that side of a building which faces a street, a parking area, a mall, or other circulation area open to the general public; and having either a main window display of the enterprise or a public entrance to the building. (In industrial districts a building side with an entrance open to industrial employees also shall qualify as a building front.)
- (10) **Bulletin Board.** A sign used for the purpose of notification to the public of an event or occurrence of public interest, such as a church service, political rally, civic meeting or other similar event.
- (11) **Canopy.** Any structure of canvas, other fabric, plastic, metal or wood or other material, which is permanently attached to any exterior building wall in any manner, intended to shield any wall, window, door, sidewalk or roadway from sun, rain or any other element, and which is not retractable such as an awning.
- (12) **Canopy Sign.** Any sign attached to or constructed in, on or under a canopy for the purpose of this Article, canopy signs shall be controlled by the rules governing projecting signs.
- (13) **Changeable Message Sign.** A sign such as a manual, electronic or electric controlled time and temperature sign message center, or reader board, whether electronic or manual, where copy changes. Any sign may be, or include as part of it, a changeable message sign.
- (14) **Copy Area.** The geometric area in square feet that encloses the actual copy message of the sign.
- (15) **Directional Sign.** Any sign that directs the movement or placement of pedestrian or vehicular traffic on a lot and does not contain any advertising copy.
- (16) **Directly Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
- (17) **Directory Sign.** Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories. Directory signs shall be encouraged for use with advertising of multiple-occupied commercial and industrial buildings.
- (18) **Display Surface or Face.** The display surface is the area made available by the sign structure for the purpose of displaying the advertising message, or which is intended to draw attention to the advertising message.
- (19) **Distance of Sign Projection.** The distance from the exterior wall surface of the building to the outer extremity of a sign attached to a building.

- (20) **Electric Sign.** Any sign containing internal electrical wiring which is attached, or intended to be attached, to an electrical energy source.
- (21) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.
- (22) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- (23) **Flat Sign/Flush Mounted.** See definition for "Wall Signs."
- (24) **Freestanding (Ground and/or Pylon Sign).** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
- (25) **Grade.** The elevation or level of the sidewalk closest to the sign to which reference is made. If no sidewalk is present, then grade shall be defined as the elevation or level of the street at the same point, measured at the street's centerline.
- (26) **Gross Area.** The area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas will be totaled. If the modules are formed in the shape of letters or symbols, the rules for Area of Copy apply.
- (27) **Ground Sign.** A sign supported by poles, uprights or braces extending from the ground or an object on the ground but not attached to any part of any building. Also known as a "freestanding sign."
- (28) **Height of Sign.** The vertical distance measured from the mean centerline street grade to the highest point of the sign. If sign and sidewalk are not in essentially parallel planes, then measured vertically at the horizontal midpoint of the sign.
- (29) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.
- (30) **Illuminated Awning.** An internally illuminated awning fabricated from a translucent material, or one which is backlighted as to appear to illuminate the awning sign. An illuminated awning may be used for an awning sign when other requirements are met.
- (31) **Illuminated Canopy.** An internally illuminated canopy, or one which is backlighted as to appear to illuminate the canopy sign.
- (32) **Illuminated Sign.** A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.
- (33) **Indirectly Illuminated Sign.** A sign that is illuminated from a source outside of the actual sign.
- (34) **Joint Identification Sign.** A sign which serves a common or collective identification for two (2) or more businesses or industrial uses on the same lot. Such sign may contain a directory to said uses as an integral part thereof.

- (35) **Legal Non-Conforming Sign.** Any sign which was already in existence and displayed on the effective date of this Article, which met code requirements when originally installed, but not meeting the requirements and limitations of this Article.
- (36) **Marquee.** A permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.
- (37) **Marquee Sign.** Any sign attached to or constructed in a marquee.
- (38) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.
- (39) **Off-Premise Third Party Sign.** Any sign, device or display which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the sign is located.
- (40) **On-Premise Sign.** A sign identifying or advertising a business, person, activity, goods, products or services located on a premises where the sign is installed and maintained.
- (41) **Painted Wall Signs.** Signs painted directly onto a building wall.
- (42) **Political Sign.** Any sign displaying a candidate for an election, or a current referendum's or election's subject matter.
- (43) **Portable Sign/Message Boards.** Any sign not permanently attached to the ground or a building which is designed to be easily moved from one location to another.
- (44) **Projecting Sign.** A sign other than a wall sign which projects from a wall or roof and is supported by a wall or roof of a building. (See "Wall Sign".)
- (45) **Pylon Sign.** Any freestanding sign mounted on a pole or other pylon.
- (46) **Real Estate Sign.** Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.
- (47) **Roof Line.** The highest point on any building where an exterior wall encloses usable floor area including roof area provided for housing mechanical equipment.
- (48) **Roof Sign.** A sign erected upon or above the roof line or parapet of the building or structure.
- (49) **Sandwich Sign.** A hinged or unhinged A-frame portable sign which is generally temporary in nature and placed near the roadway.
- (50) **Sign.** Any object or device or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images.
- (51) **Sign Contractor.** Any person, partnership or corporation engaged in whole or in part, in the business of erection or maintenance of signs, excluding the business which the sign advertises.
- (52) **Sign Inspector.** That person charged with the responsibility to see that signage in the community is installed and maintained in compliance with this Article. In the Village of Livingston, the Sign Inspector will be the Zoning Administrator or Building Inspector.

- (53) **Sign Permit.** A building permit issued for the erection, construction, enlargement, alteration, moving, improvement, removal, conversion or demolition of any sign, issued pursuant to this Article and the Building Code of the Village of Livingston.
- (54) **Sign Structure.** Any supports, uprights, braces and framework of the sign which does not include any portion of the sign message.
- (55) **Subdivision Identification Sign.** A sign identifying a subdivision wherein only the name of the subdivision is specified.
- (56) **Swinging Sign.** A sign installed on an arm or mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole to limit or prevent free swinging.
- (57) **Temporary Sign.** Any sign which is erected or displayed for a limited period of time not to exceed thirty (30) consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed thirty-two (32) square feet in area. Examples of temporary signs include banners and decorative-type displays. For purposes of this Article, a portable sign is not a temporary sign.
- (58) **Time and Temperature Sign.** An electrically controlled sign displaying time and temperature for public service information and may be incorporated into a business identification sign.
- (59) **Third Party Sign.** Any sign which advertises or directs attention to a business, commodity, service or activity conducted, sold or offered elsewhere than on the lot on which said sign is located.
- (60) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than sixteen (16) inches from such wall.
- (61) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way. For purposes of this Article a window sign shall not include any sign permanently attached in the window or directly painted on the glass.

Sec. 13-1-102 Required Permits for Signs, Canopies, Awnings and Billboards.

(a) Permit Required.

- (1) Except those specified in Section 13-1-103, no sign, billboard, awning or canopy, as defined in this Article, shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Article.
- (2) Signs also shall meet all other structural requirements of other applicable codes and ordinances of the Village of Livingston.
- (3) Signs shall not be erected or altered until a permit has been issued by the Zoning Administrator. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.

- (4) The required sign permit fee shall accompany each sign application and shall be required for all new signs and any modifications of any existing sign face or sign structure.
- (5) Any sign permit granted hereunder may not be assigned or transferred to any other sign or modified sign face or sign structure.
- (b) **Application for a Permit.** Any person, firm, corporation or organization desiring to place, erect, alter or relocate a sign, as herein defined, except an exempt sign, shall make application to the Zoning Administrator and shall provide in writing the following information:
 - (1) The name, address and telephone number of the applicant.
 - (2) The name and address of the owner or owners of the premises upon which the sign is to be attached or erected, including written proof of consent from the property owner upon which the sign(s) are to be erected and maintained.
 - (3) The street number and street name or tax parcel number of the land upon which the sign is to be attached or erected.
 - (4) A legible scaled drawing with description and dimensions of the sign(s) to be erected or maintained under that permit and the sign's proposed location on the building or site.
 - (5) The basic materials to be used in the construction of the sign.
 - (6) The name, address and telephone number of the owner of the sign if he or she is neither the applicant nor the owner of the premises on which the sign is to be attached or erected.
 - (7) A description of all electrical equipment if the sign is to be lighted or illuminated.
 - (8) Proof of payment of the appropriate sign permit fee, when required.
 - (9) Any other item of information that may be reasonably required by the Zoning Administrator or other Village officials for the purpose of application evaluation.
- (c) **Basis for Granting.** In reviewing a sign permit application, the Zoning Administrator may consider the following factors in deciding whether or not to grant the issuance of a sign permit [see also Subsection (e) below]:
 - (1) Whether the sign is designed, installed, and maintained to promote the surrounding environment desired by the general public, pursuant to the objectives of proper design and zoning criteria.
 - (2) Whether the sign is designed, constructed, installed, or maintained in such a manner that it does not endanger public safety or traffic safety.
 - (3) Whether the sign is legible, readable, and visible in the circumstances in which it is to be used.
 - (4) Whether the sign, including size, height, illumination and location, is respectful of reasonable rights of other advertisers whose messages are displayed in the area.
 - (5) Whether the sign is in compliance with the provisions of this Article.
 - (6) Whether the sign is in compliance with the provisions of this Code of Ordinances relating to traffic safety, traffic visibility setbacks, historic preservation and zoning.

- (d) **Sign Design Review Guidelines.** In addition to the criteria established in Subsection (d) above, the following Sign Review Guidelines shall be used by the Zoning Administrator in acting on sign permit applications and by the Zoning Board of Appeals in acting on appeals or variance requests:
- (1) Any signage affixed to a building should be dimensioned and located in such a manner that it fits the building's architectural features and proportions.
 - (2) All signs should be designed to fit the zoning and status character of the surrounding area. Special consideration should be made where proposed signage is located on or adjacent to locally identified historic structures or publicly owned recreation and conservancy areas. Signage in special planning areas, such as the downtown, or historic preservation areas, will be required to conform to the planned dominant architectural theme of the area. Signage in or abutting residential properties should be designed and located so as not to create a residential nuisance.
 - (3) As a general guidelines and where feasible, ground mounted, free standing signs larger than six (6) square feet shall be located at least one hundred (100) feet apart.
 - (4) Signs illuminated by floodlight or spotlights must be positioned in such a manner that none of the light spills over onto an adjoining property or glares or shines into the eyes of motorists or pedestrians, and may not exceed three (3) footcandles at the lot line.
 - (5) As a general guideline, the number of colors and materials should be kept to a minimum.
 - (6) Landscape features will be encouraged as part of all ground mounted signs. Landscape plantings or other landscape materials will not be counted as part of the allowable signage area.
- (e) **Permit Issuance/Denial.**
- (1) All sign permit applications shall be reviewed by the Zoning Administrator who shall deny or grant such applications within ten (10) business days of receipt of the complete application and payment of fee. If the sign meets the requirements of this Article and all other ordinances of the Village, the Zoning Administrator shall issue a permit therefor.
 - (2) If the sign permit is denied by the Zoning Administrator, within five (5) days a written notice of the denial shall be provided to the applicant, together with a brief written statement of the reasons for the denial.
 - (3) No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.
- (f) **Inspection.** The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Zoning Administrator who may inspect the premises to inspect whether the sign complies with the regulations of this Article.
- (g) **Appeal of Denial of Sign Permit.**
- (1) Any decision of the Zoning Administrator under this Article may be appealed to the Board of Appeals. A request for an appeals hearing shall be made in writing to the Zoning Administrator within thirty (30) days of the date of permit denial.

- (2) A majority vote of the Board of Appeals is required to modify the earlier determination of the Zoning Administrator.
- (h) **Permit Revocation; Appeal.**
 - (1) A sign permit may be revoked by the Zoning Administrator in the event that the applicant has failed to comply with the provisions of these regulations or any conditions that may have accompanied the permit at the time of granting.
 - (2) The holder of a revoked sign permit may appeal such revocation action to the Board of Appeals. A request for an appeals hearing shall be made in writing to the Zoning Administrator within thirty (30) days of the date of the original permit revocation.
 - (3) Upon any permit revocation or failure to prevail before the Board of Appeals, the sign(s) subject to such revoked permits shall be removed by the licensee within thirty (30) days of such revocation.
 - (4) Revocation shall not give cause to a right of total or partial reimbursement of license fees paid.
- (i) **Standards for Board of Appeals in Reviewing Appeals.** The Board of Appeals may authorize upon appeal, in specific cases, issuance of a sign permit when such decision will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Article will result in unnecessary hardship and so that the spirit of this Article shall be observed and substantial justice done. No Board of Appeals's appellate decision shall have the effect of allowing in any district uses prohibited in that district or permit standards significantly lower than those required by state law or this Article.
- (j) **Stay of Proceedings During Appeals.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Administrator and on due cause shown.
- (k) **Signs in Historic Districts.** In addition to these sign regulations, all signs within any historic district shall be subject to the provisions of the Village's Historic Preservation Code.
- (l) **Permit Validity.** Any sign permit issued by the Zoning Administrator shall be null and void and automatically revoked in the event that construction, installation, or manufacture of the sign has not been commenced within one hundred eighty (180) days from the date of the issuance of such permit. If work authorized by such permit is suspended or abandoned for a period of ninety (90) days any time after the work is commenced, the original permit shall become null and void. A new permit shall first be obtained to complete the work, and a new permit fee shall be required.

Cross-Reference: Section 13-1-113, Variances.

Sec. 13-1-103 Signs Not Requiring a Permit.

The following signs may be erected and maintained in all zoning districts, except where noted, without a permit and without being deducted from gross sign surface area permitted.

- (a) **Bulletin Boards.** One bulletin board per street frontage, and not over thirty-two (32) square feet in area, for public, charitable or religious institutions located on site.
- (b) **Government Signs.** Government signs for control of traffic and other regulatory purposes, danger signs, railroad crossing signs, and signs of public utilities indicating danger, and aids to service or safety which are erected by or on the order of a public officer in the performance of his/her public duty. Included within this definition are off-premise institutional signs.
- (c) **Interior Signs.** Signs located within the interior of any building or structure which are not visible from the public right-of-way.
- (d) **Memorial Signs.** Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface, or inlaid so as to be part of the building.
- (e) **Occupant Signs.** Signs limited in content to name of occupant, address of premises, and signs of danger. Occupant signs shall be a maximum of one (1) per street front and no more than three (3) square feet in sign area.
- (f) **Governmental Notices.** Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic or for other regulatory purposes or to identify streets or to warn of danger.
- (g) **Temporary Construction Safety Signs.** Temporary or permanent signs erected by public utility companies or construction companies to warn of dangerous or hazardous conditions.
- (h) **Traffic and Service Signs on Private Premises.** Traffic and parking signs and devices privately-owned and on private premises, and containing messages such as "exit only", "restricted for _____", and the like, the sole purpose of which is to direct and control traffic on the premises and which does not exceed ten (10) feet in height nor contain more than twelve (12) square feet per face. Signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to functional operation of the building or premises shall be permitted without permit under this exception.
- (i) **Signs Required by Law.** Signs required by law, statute or ordinance, constructed and maintained according to the law, statute or ordinance under which the sign was erected.
- (j) **Real Estate Signs.** One sign per street frontage may be placed on the offered property and shall not be more than seven (7) square feet in size for residential property and not more than thirty-two (32) square feet in area for non-residential property. The sign may only advertise the sale, rental or lease of the premises upon which it is located and contain the name and/or logo of the real estate company, or individuals and their respective addresses and telephone numbers, posting the sign. Such signs shall be removed within thirty (30) days after sale, rental or lease of the property.
- (k) **Signs in Display Windows.** Signs in the display window of a business which relate to services or products offered therein. This display sign exception is only permitted for

properties in the following zoning districts: B-1 General Commercial District and B-2 Highway Commercial District. The window sign must direct attention to a business or profession conducted on the premises or to a product, service or entertainment sold or offered on said premises. Window signs shall be placed only on the inside of commercial buildings and shall not exceed thirty-five percent (35%) of the glass area of the pane upon which the sign is displayed.

- (l) **On-Premise Symbols or Insignia.** Religious symbols, commemorative plaques of recognized historic agencies, or identification emblems of religious orders or historical agencies.
- (m) **On-Premise Temporary and Portable Signs in Residential Districts.** Temporary or portable signs under twenty (20) square feet for the purpose of an on-site open house, model home demonstration, special event such as a birthday or anniversary, and for five (5) days thereafter, but may not exceed a total period of thirty (30) days per twelve (12) month period.
- (n) **Civic Event Temporary Signs.** Temporary off-premises signs not exceeding four (4) square feet in residential or public lands districts, or thirty-two (32) square feet in the B-1, B-2 and I-1 Districts, pertaining to drives or events of civic, philanthropic, educational, religious, or non-profit organizations, provided such signs are posted not more than thirty (30) days before said event and removed within seven (7) days after the event.
- (o) **Rummage/Garage Sale Signs.** Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale. Rummage or garage sale signs may only be located on the day of the garage sale within street right-of-way lines between the private property line and the pavement edge with the permission of the adjoining private property owner or renter in a location which does not create a visibility or traffic hazard (as determined by the Zoning Administrator or a law enforcement officer).
- (p) **Open/Close Signs.** Illuminated and non-illuminated signs not exceeding ten (10) square feet in area announcing that a business is open or closed.

Sec. 13-1-104 Residential Signs Requiring a Permit.

In addition to those permitted signs not requiring a permit pursuant to Section 13-1-103, the following nonflashing, nonilluminated signs (except as otherwise provided) are permitted under the conditions specified in all residential, mobile home, and agricultural districts, and planned unit developments (residential) established by the Village's Zoning Code.

- (a) **Temporary Signs Accessory to Subdivision Developments or Other Permitted Improvements in Residential Districts.** Subject to the following:
 - (1) **Content.** The signs shall be only for the purpose of identification of homes for sale or rent in the subdivision under construction, of lots for sale, or for the identification of other nonresidential uses under construction.

- (2) **Area, Number and Setback.** Such signs shall not exceed two (2) in number for each subdivision nor fifty (50) square feet each in area. They shall observe the front yard requirement of the principal use and shall be located at least fifty (50) feet from all other boundaries of the site.
- (3) **Height.** No sign shall project higher than eight (8) feet above curb level.
- (4) **Time Limitations.** The sign or signs shall be removed by the applicant or property owner within two (2) years of the date of the issuance of a sign permit or when the parcels being advertised are sold, whichever occurs first.
- (b) **Permanent Subdivision Identification Signs.** Subject to the following:
 - (1) **Content.** The signs shall bear only the name of the subdivision or development.
 - (2) **Area and Number.** There shall be not more than two (2) signs located at each entrance to a subdivision. No sign shall exceed thirty-two (32) square feet in area. Such identification signs shall only be erected after review and approval by the Zoning Administrator.
 - (3) **Height.** No sign shall project higher than twelve (12) feet above curb level.
 - (4) **Location.** The location of any such sign shall be at the discretion of the Zoning Administrator based upon the character of the area, the type and purpose of the sign.
- (c) **Nonflashing, Illuminated Church Bulletins.** Subject to the following:
 - (1) **Area and Number.** There shall be not more than one (1) sign per lot, except that on a corner lot, two (2) signs (one facing each street) shall be permitted. No sign shall exceed thirty-two (32) square feet in area nor be closer than five (5) feet from any lot line.
 - (2) **Projection.** No sign shall project beyond the property line into the public right-of-way.
 - (3) **Height.** No sign shall project higher than one (1) story or fifteen (15) feet above the curb level, whichever is lower.
- (d) **Bed and Breakfast Signs.** Subject to the following:
 - (1) **Content.** The sign shall bear only the name, address and other pertinent information regarding the bed and breakfast establishment.
 - (2) **Area and Number.** There shall not be more than one (1) sign per lot street frontage. No sign shall exceed sixteen (16) square feet in area. Such sign shall have a ten (10) feet setback from a public right-of-way or lot line.
 - (3) **Projection.** No sign shall project beyond the property line into the public right-of-way.
 - (4) **Height.** No sign shall project higher than six (6) feet above the street level.
- (e) **Home Occupation/Professional Home Office.** Subject to the following:
 - (1) **Content.** The sign shall bear only the name, address, hours and other pertinent information regarding the on-site home occupation or professional home office maintained in compliance with the Village's Zoning Code.
 - (2) **Area and Number.** There shall not be more than one (1) sign per lot. No sign shall exceed six (6) square feet in area. Such sign shall have a ten (10) foot setback from a public right-of-way or lot line.

- (3) **Projection.** No sign shall project beyond the property line into the public right-of-way.
- (4) **Height.** No sign shall project higher than six (6) feet above the street level.

Sec. 13-1-105 Commercial and Industrial Signs Requiring a Permit.

- (a) **Permitted Signs.** The following signs shall require a permit to be issued by the Village of Livingston. Signs may be permitted in specific zoning categories, subject to the following restrictions.
- (b) **Height and Setback Requirements.** In commercial or industrial zoning districts where setbacks are required for building construction, no part of any sign shall extend over the property line. In zoning districts where no front yard setbacks are required, a sign must be attached to the building and shall project no more than four (4) feet over the abutting public sidewalk or established street grade.
- (c) **Number of Signs Permitted.**
 - (1) **Total Number.** No more than two (2) signs of any type shall be located at any business, except that premises occupied by a shopping center may, as an alternative, have one (1) detached directory sign plus one (1) wall sign for each place of business located in said shopping center, provided that the aggregate total area of all signs located on any premises so occupied shall not exceed the total area permitted for one (1) detached sign and one (1) flat sign as set forth in this Article.
 - (2) **Corner Lots.** Businesses with streets fronting both sides shall be allowed two (2) types of signs for each street frontage; no street frontage buildings shall be allowed two (2) of the same type of sign for that particular business.
- (d) **Types of Signs, Maximum Size, Number and Location.**
 - (1) **Directory Signs.** Directory signs advertising a business or activity conducted, an area of interest, or a service available at a specific location are permitted in the B-1, B-2 and I-1 Districts when a part of a Village-sponsored directory sign program. Such signs shall be not more than twenty-four (24) square feet in gross area. There shall not be more than two (2) such signs relating to any one (1) such use in the approaching direction along any one (1) highway. Such signs may be placed at the right-of-way line of the highway. A larger number of signs may be permitted by the Planning Committee if the Planning Committee shall find it necessary for directing the traveling public. The Planning Committee shall designate a uniform sign design for such directory signs.
 - (2) **Wall Signs.** Wall signs are permitted in the B-1, B-2 and I-1 Districts. Wall signs placed against the exterior walls of buildings shall not extend more than sixteen (16) inches outside of a building's wall surface, nor extend above or beyond the wall itself. Total sign area (including multiple business/tenant signs on a single property) shall

- not exceed one (1) square foot for each lineal foot of the building parallel with the main street frontage. Rear or side entrance signs are subject to the same size restrictions as that found at the principal (front/main) entrance to the building. Signs on other building facades (i.e. non-entrance side facades) are limited to one-half (1/2) square foot per lineal foot of such facade. All signs attached or affixed to a building shall not exceed twenty (20) feet in height above the mean centerline street grade.
- (3) **Projecting Signs.** Projecting signs fastened to, suspended from, or supported by a building or structure, shall not exceed in gross area for any one (1) premise: forty (40) square feet on each of two (2) faces in the B-2 Highway Commercial District and forty (40) square feet on each of two (2) sides in an Industrial District. With the exception of existing marquee signs of historic interest, permits shall not be issued for new projecting signs in the B-1 Central Commercial District. Such signs shall not extend into any public right-of-way; 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 a pedestrian walk nor less than fifteen (15) feet above an alley or driveway.
- (4) **Ground Signs.** Ground signs and their supporting structure shall comply with all setback requirements of the District in which they are located, except that ground signs in a B-2 Highway Commercial District may be located up to a public right-of-way. Ground signs shall not exceed in gross area for any one (1) premise: forty (40) square feet on each side in a B-1 Central Commercial District; one hundred twenty (120) square feet on each side in a B-2 Highway Commercial District; or one hundred sixty (160) square feet on each side in an I-1 Industrial District. Such signs shall not exceed at their highest point twenty (20) feet in height above mean centerline street grade. One (1) ground sign is permitted on a street frontage provided there is no pylon sign on that side. Any ground sign in a B-2 Highway Commercial District or I-1 Industrial District shall have a minimum landscaped area of sixteen (16) square feet around the base of the ground sign.
- (5) **Pylon Signs.** Pylon signs shall not exceed thirty (30) feet in height in a B-2 Business District or I-1 Industrial District. Pylon signs shall not be placed in the B-1 Central Commercial District. Height is measured above the mean centerline of street grade. The sign shall be completely within the property upon which it is located. One (1) pylon sign per street frontage is permitted. Size is limited to one hundred (100) square feet for one (1) side, or two hundred (200) feet for all sides. When there exists a property zoned in a B-2 Highway Commercial District with continuous road/highway frontage in excess of three hundred (300) feet, the size is limited to two hundred (200) square feet per side or four hundred (400) square feet for all sides. Any pylon sign shall have a minimum landscaped area of sixteen (16) square feet around the base of the pole.
- (6) **Off-Premise Third Party Signs.** Off-premise third party signs are prohibited except that a business in a B-2 Highway Commercial District may have an off-premise pylon

or ground sign shared with a physically adjacent business on the adjacent business' property. Such a shared sign shall comply with the dimensional requirements of Subsections (d)(4) and (5) above, except that the secondary sign's dimensions shall not exceed fifty percent (50%) of the primary sign's maximum allowable dimensions. Such signs shall share the same pylon or ground sign mountings.

- (7) **Shopping Center/Industrial Park Directory Signs.** In a shopping center or industrial park, one (1) free-standing identification/directory sign for each street upon which the development fronts may be permitted showing the name of said center or park and represented business or industries. Directory signs for shopping centers or industrial parks are permitted as an alternative to ground signs or projecting signs for individual stores in the shopping center or business in the industrial park. The top of a directory sign shall not exceed thirty-two (32) feet in height above the mean centerline street grade and the bottom of the sign shall not be less than ten (10) feet above the sidewalk and not more than sixteen (16) feet above a driveway or alley. Double supporting pylons shall not be greater than ten (10) feet apart. That portion of the directory sign which advertises the shopping center or industrial park name shall not exceed one hundred (100) square feet for one (1) side and a total of two hundred (200) square feet for all sides. That portion of the directory sign which advertises the individual store/business name shall not exceed sixteen (16) square feet for one (1) side and a total of thirty-two (32) square feet for all sides. Directory signs shall meet all yard requirements for the zoning district in which they are located.

Sec. 13-1-106 Special Sign Requirements.

(a) **Electronic Message Unit Signs.**

- (1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.
- (2) Segmented messages must be displayed for not less than one-half (1/2) second and more than ten (10) seconds.
- (3) Traveling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.

- (b) **Portable Signs/Message Boards.** Such signs shall be limited in use to seven (7) days at a time following approval by the Zoning Administrator, provided, however, that the Zoning Administrator shall not give approval for placement of a portable sign/message board if it presents a vision obstruction; such signs shall not be displayed more frequently than four (4) times per calendar year at any one (1) location, not more than seven (7) days each time. The maximum size of a portable sign/message board shall be ten (10) square feet on each face, back to back. Portable signs/message boards shall not be located in any public right-of-ways and shall be securely fastened to prevent any hazardous condition.

- (c) **Search Lights.** The Zoning Administrator may permit the temporary use of a searchlight for advertising purposes in any district provided that the searchlight will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five (5) days in any six (6) month period.
- (d) **Sandwich Signs.** In instances where the property owner or business tenant in a B-1 Central Commercial District or B-2 Highway Commercial District wishes to erect a sandwich board, there is a limit of one (1) sandwich board per business tenant and such sign shall not exceed four (4) feet in height and eight (8) square feet per side display area. Sandwich signs may be placed only after issuance of a sign permit and shall be placed in a manner so as not to present a hazard.
- (e) **On-Site Banner Signs.** On-site banner signs, whether permanent or temporary, shall not be erected for over sixty (60) days.
- (f) **Over-the-Street Banners.** Over-the-street banners are not permitted, except for civic activities.
- (g) **Neon Signs.** Exterior neon or gas illumination signs require a sign permit.

Sec. 13-1-107 Awnings and Canopies.

- (a) **Permitted Awnings.** No awnings shall be erected or maintained, except such awnings as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
 - (1) **Support.** Awnings shall be securely attached to and supported by the building and shall be without posts or columns beyond the setback line.
 - (2) **Height.** All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the public sidewalk or public thoroughfare.
 - (3) **Awning Extension from Curb Line.** No entrance awning shall extend beyond a point eight (8) feet into the right-of-way.
 - (4) **Advertising.** No advertising shall be placed on any awning, except that the name and logo of the establishment within the building to which the awning is attached may be painted or otherwise permanently placed in a space not exceeding eight (8) inches in height on the front and side edges.
- (b) **Permitted Canopies.** No canopies shall be erected or maintained, except such canopies as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
 - (1) **Support.** The structural support of all canopies shall be properly designed and be approved by the Zoning Administrator as in compliance with the Building Code of

the Village. All frames and supports shall be designed to withstand a wind pressure as provided in this Article. All canopies and awnings shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and/or awning and the sidewalk or ground below.

- (2) **Height Above Sidewalk.** All canopies shall be constructed and erected so that the lowest portion thereof shall not be less than eight (8) feet above the level of the sidewalk or public thoroughfare.
- (3) **Canopy Extension from Curb Line.** No entrance canopy shall extend beyond a point eight (8) feet from the face of a wall or building.
- (4) **Advertising.** No advertising shall be placed on any canopy, except that the name and logo of the establishment may be painted or placed in a space not exceeding twenty-four (24) inches in average height on the front and side edges. Such name may be so painted or placed irrespective of any prohibition otherwise applicable hereunder, providing, however, that if such canopy shall contain more or other than the name of the establishment in letters more than eight (8) inches high on the front and side edges, it shall be considered as a sign and be subject to all the provisions hereof.

Sec. 13-1-108 Prohibited Features.

Landscape features such as plant materials, berms, boulders, fencing and similar design elements unincorporated or in conjunction with freestanding signs are encouraged and shall not be counted as allowable sign area. The base of signs shall be landscaped so as to conceal footings, mountings, brackets, and related structural elements.

Sec. 13-1-109 Prohibited or Restricted Signs.

- (a) **Traffic Interference.** Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign, awning or canopy shall be placed so as to obstruct or interfere with traffic visibility.
- (b) **Moving or Flashing Signs.** No sign shall be erected which has any flashing, rotating or brilliant intermittent parts or lights, bare reflecting-type bulbs, or utilizes a spot or beacon light to illuminate a sign, except those giving public service information such as time, date, temperature, weather or similar information. Public information display signs require approval by the Planning Committee. No signs, billboards or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.

- (c) **Signs on Public Rights-of-Way.** Signs shall not be permitted on public rights-of-way, except for municipal traffic control, parking and directional signs and as otherwise specified in this Article.
- (d) **Billboards.** No new billboards shall be permitted in the Village of Livingston after the original effective date of this Article. Billboards located upon property annexed to the Village and existing as of the effective date of this Article are permitted to remain unless the owner structurally alters such billboard in any manner. If damaged, or if structural alteration is made/required, such billboard shall be permanently removed. However, any billboards existing as of the effective date of this Article must be removed permanently within three (3) years following annexation, and with such removal being agreed to in writing by the owner/lessor/lessee thereof in writing prior to such annexation.
- (e) **Painted Wall and Other Prohibited Signs.** Painted wall signs are signs which are painted directly onto the surface of the building; painted wall signs are prohibited in the Village of Livingston. No person shall paste or otherwise fasten any paper or other material, paint, stencil or write any number, sign, name or any disfiguring mark within any street right-of-way, on any sidewalk, curb, gutter, street, post, fire hydrant, pole or tree, any other sign, building, fence or other structure, nor shall any of said objects be defaced in any manner. No signage shall be used except those types specifically permitted by this Article.
- (f) **Immoral Sign Subjects.** Signs which bear or contain statements, words, pictures, or symbols of obscene, pornographic or immoral subjects are prohibited.
- (g) **Roof Signs.** Roof signs are prohibited in the Village of Livingston.
- (h) **Swinging Signs.** Swinging signs are prohibited.
- (i) **Third-Party Signs.** Third-party signs and billboards are prohibited, except as provided in Section 13-1-105(d)(6).
- (j) **Advertising Vehicle Sign Configuration.** No persons shall park any vehicle or trailer on a public right-of-way or on private properties so as to be seen from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purposes of providing advertisement of products or directing people to a business activity located on the same or nearby property or any other premise. Business vehicles containing typical business signage and which are actively used on a daily basis for business purposes, are exempt from this prohibition.
- (k) **Floodlighted and Illuminated Signs.** Signs may be floodlighted or illuminated, subject to the following restrictions:
 - (1) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled ways of a public right-of-way and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operations of a motor vehicle, are prohibited.
 - (2) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any residential property, and which are of such intensity or brilliance as to cause a public nuisance, are prohibited.

- (3) No sign shall be so floodlighted or illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.
- (4) Spotlights and beacons are restricted under Subsection (b) above.

Sec. 13-1-110 Nonconforming Signs.

(a) Nonconforming Signs.

- (1) **Nonconforming Sign Criteria.** Signs existing as of the effective date of this Article which do not conform to the provisions of this Article are nonconforming signs and shall be subject to the provisions of this Section. Nonconforming signs may be maintained. No nonconforming on-premise sign shall be altered or moved to a new location without being brought into compliance with the requirements of this Article. [Refer to Subsection (b) below.] Compliance is the responsibility of the property owner.
- (2) **New Signs Not Permitted.** Business signs on the premises of a nonconforming use or building may be continued per this Section, but new signs for such uses shall not be allowed, nor shall expand in number, area, height, or illumination. New signs, not to exceed the maximum allowable aggregate sign area, may be erected only upon the complete removal of all other signs existing at the time of adoption of this Article.
- (3) **Removal of Nonconforming Signs After Amortization Period.** The Village Board finds that the Village's development and increased competition among various businesses located in the Village has significantly increased the number of signs. The result has been an excessive number of signs, which tend to increase public confusion, interfere with other signs, distract operators of motor vehicles, and cause visual blight. The Village Board has determined that it is in the public interest to eliminate legal nonconforming signs. The Village Board also recognizes that owners of signs may have property interests of value in such nonconforming signs that may be amortized over time and thus is adopting a reasonable phase-out period. All legal nonconforming signs which could not be erected under the standards of this Article shall be removed, at the cost of the property owner, within ten (10) years of the effective date of this Article.
- (4) **Removal Upon Business Termination.** Nonconforming signs shall be removed when the principal structure located on the premises undergoes a change of use, or shall be removed per Section 13-1-114. Closing businesses must remove their signs within thirty (30) days of closing.
- (5) **Change in Sign User.** Whenever there is a change in the sign user (excluding off-premise signs) or owner of the property on which the sign is located, the new sign user or new property owner shall forthwith notify the Zoning Administrator of the change. No new sign permit is required unless there is modification of the sign face or sign structure.

(b) **Alteration of Signs.**

- (1) **Alteration Defined.** For the purpose of this Article, alteration of a sign is considered to be any change to the exterior appearance of any part of the sign, its frame, its supporting structure, or its lighting including: changing the message (except for marquee or off-premise advertising signs), symbols, color, material, height or location.
- (2) **Maintenance Exception.** Altering a sign does not include maintaining the existing appearance of the sign; replacing the sign face or the supporting structure with identical materials, colors, and messages; changing the message of a marquee sign; or changing the face of an off-premise advertising sign.

(c) **Loss of Legal Nonconforming Status.**

- (1) In addition to the standards in Subsections (a) and (b) above, a sign may also lose its nonconforming status if one (1) or more of the following occurs:
 - a. If said sign is damaged by fire, flood, explosion, earthquake, vandalism, war, riot or Act of God; or structurally altered in any way, except for normal maintenance and repair; the sign may be reconstructed and used as before if it is reconstructed within three (3) months after such calamity, unless the damage to the sign is fifty percent (50%) or more of its replacement value, in which case, the constructed sign shall comply with the provisions of this Article.
 - b. The sign is relocated;
 - c. The sign fails to conform to the Village requirements regarding maintenance and repair, abandonment or dangerous or defective signs;
- (2) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Article with a new permit secured therefor or shall be removed.

(d) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Article shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance and repair of signs. However, legal nonconforming signs shall not be reinstalled, reconstructed or have their useful life extended.

Sec. 13-1-111 Dangerous and Abandoned Signs.

- (a) **Removal of Dangerous Signs.** All signs shall be removed by the owner or tenant of the premises upon which the sign is located if in the judgment of the Zoning Administrator, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or tenant fails to remove it, the Zoning Administrator may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the decision of the Building Inspector to the Board of Appeals.
- (b) **Abandoned Signs.** Except as otherwise herein provided, all sign messages shall be removed by the owner or lessee of the premises upon which an off-premise sign is located

when the business it advertised is no longer conducted where advertised. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner sixty (60) days' written notice to remove said sign and thereafter upon the owner's or lessee's failure to comply may remove such sign, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Zoning Administrator may take any other appropriate legal action necessary to attain compliance.

- (c) **Violations.** All signs constructed or maintained in violation of any of the provisions of this Sign Code after the date of adoption are hereby declared public nuisances within the meaning of the Village of Livingston Code of Ordinances. In addition to the penalty provisions for violations of this Article, the Zoning Administrator or Village Board may bring an action to abate the nuisance in the manner set forth in the Wisconsin Statutes or Village ordinance.

Sec. 13-1-112 Construction and Maintenance Regulations for Signs.

- (a) **Installation.** All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector or Zoning Administrator.
- (b) **General Requirements.**
- (1) **Construction Standards.** All signs, except flat signs and those signs weighing less than ten (10) pounds, shall be designed, fastened and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed, attached, fastened or anchored to adequately support the dead load and any anticipated live loads (i.e., ice, snow) of the sign.
 - (2) **Projection.** Signs including supports shall not interfere with surrounding properties or traffic.
 - (3) **Prohibited Mounting.** No signs shall be painted on, attached to or affixed to any trees, rocks, or other similar organic or inorganic natural matter, including utility poles or apparatus.
 - (4) **Maintenance.** All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean. All signs shall be kept in good structural condition, well painted, and clean at all times and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.
 - (5) **Annexed Areas.** All signs in newly annexed areas shall comply with this Article within three (3) years of annexation.

Sec. 13-1-113 Variances or Exceptions.

Variances or exceptions to these sign regulations may be granted by the Board of Appeals following a recommendation from the Zoning Administrator, pursuant to the procedures of the Village Zoning Code.

Sec. 13-1-114 Violations of Sign Code.

- (a) **Construction Without Permit.** Any person, firm or corporation who begins, erects, improperly alters, or completes the erection or construction of any sign, awning or canopy controlled by this Article prior to the granting of a sign permit shall pay a penalty double the amount of the permit otherwise required.
- (b) **Compliance Notice.**
 - (1) If the Zoning Administrator finds any sign, awning or canopy regulated herein unsafe or insecure or is a menace to the public, or has been improperly erected, altered or maintained, it shall give written notice to the sign owner and to the property owner.
 - (2) If such sign, awning or canopy owner fails to remove or alter the sign, awning or canopy so as to comply with the standards herein set forth within five (5) days after such notice, the Zoning Administrator may cause such sign, awning or canopy to be removed or altered at the expense of the owner of the sign, awning or canopy or the owner of the property upon which it is located so as to comply with the provisions of this Article, per Sec. 66.0627, Wis. Stats.
- (c) **Violations; Penalties.** Any person who shall violate any of the provisions of this Article shall be subject to a penalty which shall be as follows:
 - (1) Any person found guilty of violating any part of this Article who has previously been notified of being in violation, upon conviction thereof, be subject to a forfeiture as prescribed by Section 13-1-175.
 - (2) Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Article shall preclude the Village from also maintaining any appropriate action to prevent or remove a violation of any provision of this Article.

Sec. 13-1-115 through Sec. 13-1-119 Reserved for Future Use.

Article H: Performance Standards

Sec. 13-1-120 Article Intent.

It is the intent of this Article to use performance standards for the regulation of uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects. 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. No structure, land or water shall hereafter be used except in compliance with the district regulations and with the following environmental performance standards.

Sec. 13-1-121 Noise.

- (a) **I-1 District Noise.** No activity in an I-1 Industrial 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:

| Octave Band Frequency (Cycles Per Second) | Sound Level (Decibels) |
|--|---------------------------|
| 0 to 75 | 79 |
| 75 to 150 | 74 |
| 150 to 300 | 66 |
| 300 to 600 | 59 |
| 600 to 1200 | 53 |
| 1200 to 2400 | 47 |
| 2400 to 4800 | 41 |
| above 4800 | 39 |

- (b) **Other Districts.** No other activity in any other district shall produce a sound level outside its premises that exceeds the following:

| Octave Band Frequency (Cycles Per Second) | Sound Level (Decibels) |
|--|-----------------------------------|
| 0 to 75 | 72 |
| 75 to 150 | 67 |
| 150 to 300 | 59 |
| 300 to 600 | 52 |
| 600 to 1200 | 46 |
| 1200 to 2400 | 40 |
| 2400 to 4800 | 34 |
| above 4800 | 32 |

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.

- (c) **Exempt Noises.** The following noises are exempt from the regulations:
- (1) Noises not directly under the control of the property owner.
 - (2) Noises from temporary construction or maintenance activities during daylight hours.
 - (3) Noises from emergency, safety or warning devices.

Sec. 13-1-122 Vibration.

- (a) No activity in any district shall emit vibrations which are discernable without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

| Frequency (Cycles Per Second) | Displacement in 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 |

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

Sec. 13-1-123 Glare and Heat.

No unsanctioned activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the industrial district 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. 13-1-124 Odor.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Ch. NR 154.18, Wis. Adm. Code.

Sec. 13-1-125 Fire and Explosive Hazards.

All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive material shall be provided with adequate safety devices against the hazard of fire and explosion, and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system.

Sec. 13-1-126 Air Pollution.

- (a) No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wisconsin Administrative Code.
- (b) No activity or operation shall be established or maintained which by reason of its nature causes emission of 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 property. In no case shall any activity 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 Ringlemann Chart described in the United States Bureau of Mines' Information Circular 7718 in any Industrial District.

Sec. 13-1-127 Hazardous Pollutants.

- (a) **Pollutants.** No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 154.19, Wisconsin Administrative Code.
- (b) **Liquid or Solid Wastes.** No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply; can cause the emission of dangerous or offensive elements; can overload the existing municipal utilities; or can injure or damage persons or property.
- (c) **Water Quality Protection.**
 - (1) 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.
 - (2) 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 Ch. NR 102, Wis. Adm. Code.

Sec. 13-1-128 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. 13-1-129 Refuse.

All waste material, debris, refuse or garbage not disposed of through the public sanitary sewerage system shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

Article I: Signal Receiving Antennas; Wind Energy Systems;
Wireless Telecommunications Systems

Sec. 13-1-130 Signal Receiving Antennas.

(Reserved for Future Use)

Sec. 13-1-131 Conditional Use Permits Required—Wind Energy Systems.

- (a) **Approval Required.** No owner shall, within the Village of Livingston, 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 shall base its 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) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

Sec. 13-1-132 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 of Livingston. The application shall include the following information:

- (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) 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.
 - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
 - (5) 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.
 - (6) Any other information which the Zoning Administrator, Village Board or Building Inspector may deem to be necessary to the proper review of the application.
 - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Village Board.
- (b) **Hearing.** Upon referral of the application, the Village Board shall schedule a public hearing thereof following the procedures for conditional use permits in Article D.
- (c) **Determination.** Following public hearing and necessary study and investigation, the Village Board shall, as soon as practical, 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, or, if disapproved, shall indicate the reasons for disapproval. The Village Board may impose any conditions or exemptions necessary to minimize any burden 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 terminated by 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 Village 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. 13-1-133 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) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) 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.
- (c) **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.
- (d) **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.
- (e) **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.
- (f) **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.
- (g) **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.
- (h) **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. 13-1-134 Wireless Telecommunications Systems.

- (a) **Definitions.** For the purpose of this Chapter and any permit issued in accordance herewith, the following terms, phrases, words and their derivations shall have the meaning given herein unless otherwise specifically provided for in this Chapter or unless the context clearly indicates otherwise or unless such meaning would be inconsistent with the manifest intent of the Village of Livingston:
- (1) **Antenna.** Any structure or device for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.
 - (2) **Village Engineer.** The Village Engineer of the Village of Livingston.
 - (3) **Entity.** Any individual, corporation, partnership, association or other legal entity which seeks to provide a Wireless Telecommunications System.
 - (4) **FCC.** The Federal Communication Commission or its legally appointed successor.
 - (5) **Permittee.** Any entity or its legal successor in interest who is issued a Wireless Telecommunications Permit and/or a Structure Location Permit in accordance with the provisions of this Chapter for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repair, rebuilding, or replacing of a Wireless Telecommunications System in the Village.
 - (6) **Street.** Any area established for vehicular or public access use of the entire width between the property lines of every way publicly maintained when any part thereof is open for public purposes. "Street" includes, but is not limited to, a highway, avenue, road, alley, right-of-way, lane, boulevard, concourse, bridge, tunnel, parkways and waterways.
 - (7) **Structure Location Permit.** A permit issued by the Zoning Administrator which authorizes the location of an Antenna or Tower at a particular geographic location.
 - (8) **Total Gross Revenue.** All cash, credits or other property of any kind or nature reported as revenue items to the Permittee's audited financial statements arising from or attributable to the sale, lease, rental or exchange of Wireless Telecommunications Services or the equipment by the Permittee within the Village or in any way derived from the operation of its Wireless Telecommunications System, including, but not limited to, any interconnection between its system and the Village and any system whatsoever. This shall be the basis for computing the fee imposed pursuant to Subsection (b)(2). Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits or sales, service, occupation or other excise tax to the

extent that such taxes are charged separately from normal services charges and are remitted by the Permittee directly to the taxing authority.

- (9) **Tower.** Any ground, building or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna.
 - (10) **Wireless Telecommunications Permit.** The privilege granted by the Village by which it authorizes an entity to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, build or replace a Wireless Telecommunications System. Any permit issued in accordance herewith shall be a non-exclusive permit.
 - (11) **Wireless Telecommunications Service.** A licensed commercial wireless telecommunications service including cellular, Personal Communication Services ("PCS"), Specialized Mobile Radio ("SMR"), Enhanced Specialized Mobilized Radio ("ESMR") paging, and similar services that are marketed to the general public.
- (b) **License Requirements; Fees.**
- (1) No entity may construct, operate or continue to operate a Wireless Telecommunications System within the Village without having been issued a Wireless Telecommunications Permit by the Zoning Administrator.
 - (2) It shall be a term and condition of any Wireless Telecommunications Permit issued in accordance herewith and part of the consideration supporting the issuance of such Wireless Telecommunications Permit that the Permittee shall pay to the Village the sum of five percent (5%) of all Total Gross Revenue derived from the operation of Wireless Telecommunications System. Such payments shall be made annually within one hundred twenty (120) days after the close of the calendar year. All fee payments shall be subject to audit by the Village and assessment or refund if the payment is found to be in error. In the event that an audit by the Village results in an assessment of an additional payment to the Village, such additional payment shall be subject to interest at the rate of one and one-half percent (1-1/2%) per month retroactive to the date such payment originally should have been made. Such payment shall be due and payable immediately and shall include the costs of conducting said audit.
 - (3) **Structure Location Permit Fees.**
 - a. All applicants for a Structure Location Permit shall pay to the Village a permit request fee as prescribed in Section 1-3-1 per site.
 - b. Any entity operating a Wireless Telecommunications System shall pay to the Village an annual Structure Location Permit Fee as prescribed in Section 1-3-1 per site.
 - (4) The request fee shall be paid to the Zoning Administrator at the time of making application for a Structure Location Permit. The annual Structure Location Permit Fee provided for in Subsection (c) above shall be paid to the Zoning Administrator annually on or before October 1 of each calendar year for the portion of the Wireless Telecommunications System within the Village right-of-way on January 1 of that year,

and a prorated license fee, based upon the calendar quarter in which the application is filed, shall be paid at the time of the application for a Structure Location Permit. Such quarterly fees are due on January 1, April 1, July 1 and September 1.

- (5) Fees not paid within ten (10) days after the due date shall incur interest at the rate of one and one-half percent (1-1/2%) per month from the date due until paid.
- (6) The acceptance of any fee payment required hereunder by Village shall not be construed as an acknowledgment that the payment paid is the correct amount due, nor shall such acceptance of payment be construed as release of any claim which the Village may have for additional sums due and payable.

(c) **Conditions of Permit.**

- (1) Any Wireless Telecommunications Permit or Structure Location Permit issued by the Village shall be a non-exclusive permit for the use of those areas within the Village specified in the Wireless Telecommunications Permit or Structure Location Permit.
- (2) Any Wireless Telecommunications Permit or Structure Location Permit issued by the Village shall continue in full force and effect so long as the Permittee is in compliance with this Chapter, all applicable federal, state and local ordinances and regulations and the space occupied is not deemed to be needed by the Village for any other public purpose.
- (3) In the event any Wireless Telecommunications Permit or Structure Location Permit is revoked by the Village, the Wireless Telecommunications System shall, at the sole option of the Village, be removed within thirty (30) days at the sole expense of the Permittee.

(d) **Permit Locations and Conditions.** Antennas and towers authorized by a Structure Location Permit shall comply with the following requirements:

- (1) A proposal for a new antenna or tower shall not be approved unless the Village finds that the telecommunication equipment planned for a proposed antenna cannot be accommodated on an existing or approved tower within a one (1) mile radius of the proposed location due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing unit or approved tower cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
 - b. The equipment would cause interference materially impacting the usability of other existing or approved equipment at the Tower as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - c. Existing or approved towers within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified and licensed professional engineer.

- d. Other unforeseen reasons make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower.
 - (2) Any proposed tower shall be designed in all respect to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height and for at least one (1) additional user if the tower is sixty (60) to one hundred (100) feet in height. Towers must be designed to allow for future rearrangements of antennas upon the tower and to accept antennas mounted at varying heights. All towers shall be erected and constructed in such a manner as to comply with all applicable Village ordinances. All towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Towers shall not be illuminated by artificial means and shall not display strobe lights except if such lighting is specifically required by the Federal Aviation Administration or other state or federal authority. Any Permittee seeking to operate a Wireless Telecommunications Systems shall provide the Village with a letter of intent signed by the tower owner committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet objectively reasonable terms and conditions for share use.
- (e) **Use of Streets and Pole Attachments.**
- (1) Before commencing construction of a Wireless Telecommunications System in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the Village, the permittee shall first obtain the written approval of, and all other necessary permits from, all appropriate Village agencies, including, but not limited to, the Zoning Administrator and the Department of Public Works. Applicants for such approval shall be made in the form prescribed by the Village Engineer.
 - (2) Upon obtaining such written approval, the Permittee shall give the Village Engineer and any other appropriate agency written notice within a reasonable time for proposed construction, but in no event shall such notice be given less than ten (10) days before commencement of such construction, except for emergency repairs of existing lines and cables.
 - (3) Any entity that submits a request for a Wireless Telecommunications Permit in accordance herewith shall include therein proposed agreements for the use of existing towers and antennas, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed Wireless Telecommunications System.
 - (4) It shall be unlawful for the Permittee or any other person or entity to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without first obtaining approval to do so after proceeding in the manner described in Subsection (e)(1) and (2). Violation of this

Subsection shall subject the Permittee to all penalties and remedies prescribed herein and to all other remedies, legal or equitable, which are available to the Village.

- (5) The Permittee shall restore any street or sidewalk it has disturbed in accordance with the provisions of the Village's standard specifications for streets and sidewalks, and shall at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured, by or on account of its activities, to as good as the condition such property was immediately prior to the disturbance, damage or injury, or pay the fair market value of such property to its owner(s), or shall make such other repairs or restoration as outlined in the approved permit.
 - (6) The Permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such street or other public place, any of its property when required to do so by the Village because of street or other public excavation, construction, repair, regrading or grading, traffic conditions, installation of sewers, drains, water pipes, Village-owned power or signal lines, tracts, vacation or relocation of streets or any other type of construction or improvement of a public agency, or any type of improvement necessary for the public health, safety or welfare, or upon termination or expiration of the permit.
 - (7) The Permittee shall maintain all wires, conduits, cables or other real and personal property and facilities in good condition, order and repair. The Permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the Village Engineer governing the construction and installation of Wireless Telecommunications Systems.
 - (8) The Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the Village and shall furnish, as soon as they are available, two (2) complete copies of such maps and records, including as-built drawings, to the Village Engineer.
 - (9) The Permittee shall comply with all rules and regulations issued by the Village Engineer governing the construction and installation of Wireless Telecommunications Systems.
- (f) **Violation and Penalties.** Any entity who shall carry on or conduct any business or occupation or profession for which a Wireless Telecommunications Permit or a Structure Location Permit is required by this Section without first obtaining such a permit shall be considered to be in violation of this Section and, upon conviction, shall be punished as provided in Section 13-1-175. Each day any violation continues shall be deemed a separate, chargeable offense. No tower or antenna may be sited on residential property within the Village. Placement of towers or antennas on such residentially-zoned property shall be a violation of this Section and shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) per day for each day that the tower or antenna is in place. Any other violation of this Section shall be punished as provided in Section 13-1-175.

(g) **Restrictions on Assignment, Transfer, Sale and Subleasing.**

- (1) The rights and privileges hereby granted are considered personal, and if the Permittee sells, assigns, transfers, leases or pledges such rights or privileges, or both, in whole or in part, either directly or by operation of the law, then the Village shall have the right to terminate any and all permits issued hereunder for no other cause. The Village shall terminate such permits in writing, by certified mail, return receipt requested, to the Permittee, and such termination shall be effective sixty (60) days from said date of mailing. The rights and privileges hereby granted shall not be mortgaged or encumbered without the prior consent and approval of the Village given by written resolution.
- (2) In addition to the provisions of termination provided for in Subsection (g)(1), the Village shall have the right to terminate any and all permits issued hereunder upon any actual or pending change in, or transfer of, acquisition by any other party, or control of Permittee. The word "control" as used in this context is not limited to major stockholders, but includes actual working control in whatever manner exercised. The Permittee shall annually submit to the Village a list of all shareholders and a list of all officers and directors. By acceptance of the Wireless Telecommunications Permit, the Permittee specifically agrees that any violation of this Section shall, at the Village's option, cause any and all permits granted the Permittee under this Section to be revoked.

(h) **Reports.**

- (1) Entities requesting a Wireless Telecommunications Permit may be required by the Village to submit evidence of financial capability to construct and operate a Wireless Telecommunications Permit. Such evidence may include, but is not limited to, previous years' audited financial statements for the entity, individual financial statements of principals or investors or such other financial information as the Village may desire.
- (2) The Permittee shall provide the Village with a written statement from an independent certified public accountant within one hundred twenty (120) days after the close of the calendar year that such certified public accountant has reviewed the books and records of the Permittee as they related to any permits issued under this Section, and based upon such review, the certified public accountant believes the payment received by the Village property reflects the fee due to the Village with respect to this Section. The Village shall have the right to reasonable inspection of the Permittee's books and records during normal business hours.

Sec. 13-1-135 through Sec. 13-1-139

Reserved for Future Use.

Article J: Accessory Uses and Structures; Fences

Sec. 13-1-140 Accessory Uses or Structures.

- (a) **Building Permit Required for Accessory Buildings.** No owner shall, within the Village of Livingston, build, construct, use or place any type of an accessory building, including prefabricated accessory buildings, until a permit shall have first been obtained from the Building Inspector. Application for an accessory building permit shall be made in writing to the Building Inspector. With such application, there shall be submitted the required fee and a complete set of plans and specifications, including a plot plan or drawing accurately showing the location of the proposed accessory building with respect to adjoining alleys, lot lines and buildings. If such application meets all requirements of this Section, the application shall be approved.
- (b) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (c) **Number of Permitted Garages and Accessory Buildings on Residential Lots.**
 - (1) **Accessory Building Number Limits.** In any residential district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building and one (1) non-portable children's play structure may be placed on a lot, except as otherwise limited by Subsections (c)(2), (d) and (e) below.
 - (2) **Limitation on Number of Garages and Accessory Buildings.** One (1) detached accessory structure per dwelling unit shall be permitted, provided the combined area of an attached garage and detached accessory structure does not exceed the maximum size limits set forth in Subsection (d) and the following number limits:
 - a. Residentially zoned parcels with a single garage attached to the dwelling are permitted to have an additional one (1) or two (2) car detached garage on the parcel. If a detached garage is erected, no other detached accessory buildings may be constructed or maintained on the parcel.
 - b. Residentially zoned parcels with more than a one (1) stall garage attached to the dwelling are permitted to have an additional one (1) stall detached garage on the parcel. If a detached garage is erected, no other detached accessory buildings may be constructed or maintained on the parcel.
 - c. Garages attached to dwellings shall be three (3) stalls or less. Dwellings with an attached three (3) stall garage are not permitted to have an additional detached garage on the parcel.
- (d) **Size Limits for Attached Residential Garages.** For residences with attached garages, one (1) attached garage per dwelling unit shall be permitted, and the dimensions of said attached garage shall be as follows:

- (1) The maximum square feet of attached garage floor area shall be limited to the smaller of either one thousand (1,000) square feet or the first floor dwelling unit area in the case of a single family residence.
- (2) The maximum square feet of attached garage floor area shall be limited to the smaller of either six hundred (600) square feet or the first floor dwelling unit area in the case of a duplex, two-family dwelling, or multi-family dwelling.
- (e) **Size Limits for Detached Residential Garages.** For residences with detached garages, one (1) detached garage per lot shall be permitted, and the dimensions of said detached garage shall be as follows:
 - (1) The maximum square feet of detached garage floor area shall be limited to the smaller of either one thousand two hundred (1,200) square feet, the first floor dwelling unit area of the principal structure, or twenty percent (20%) of the rear yard or fifty percent (50%) of the side yard.
 - (2) The structure number limitations of Subsection (c)(2) shall be followed where applicable.
- (f) **Height and Setback Requirements for Attached Accessory Buildings/Garages.**
 - (1) Accessory buildings/garages which are attached to the principal building shall comply with the setback requirements for the principal building.
 - (2) When accessory buildings are attached to the principal building by a breezeway, passageway or similar means, they become part of the principal building and shall comply in all respects with the yard requirements and local building code requirements for the principal building.
- (g) **Height and Setback Requirements for Detached Residential Accessory Buildings/Garages.**
 - (1) Garages and other detached accessory buildings shall be less than fifteen (15) feet in height. Detached garages' and accessory buildings' roof pitch shall not exceed the steepest pitch of the principal structure.
 - (2) Provided that the accessory building number limits of Subsection (c)(2) are complied with, no detached accessory building(s) shall occupy more than twenty percent (20%) of the required rear yard, fifty percent (50%), or exceed one thousand two hundred (1,200) square feet in size, whichever is more restrictive.
 - (3) No detached accessory building shall be located within five (5) feet of any other accessory building.
 - (4) Detached accessory buildings shall have an five (5) foot setback from side lot lines and a five (5) foot setback from rear lot lines. However, where a rear lot abuts an alley, accessory buildings not attached to the principal building shall be located so as to be not closer than six (6) feet to the rear lot line, except that when the accessory building is a garage that has its entrance facing the alley, the rear yard setback shall be twenty (20) feet for the garage.
 - (5) The dimensions of any swimming pool, detached garage, tennis court and other detached accessory buildings/structures shall be included in the determination of available lot area coverage for accessory structures.

- (6) An accessory building shall not be nearer than six (6) feet to the principal structure unless the applicable building code regulations in regard to one (1) hour fire-resistive construction are complied with.
- (7) In no event can a detached accessory structure be forward of the front line of the principal structure.
- (h) **Accessory Buildings on Corner Lots.** Corner lots shall be considered to have two (2) front yards along each street for required setback purposes. Detached accessory buildings shall not project beyond the house or occupy more than forty percent (40%) of the rear yard.
- (i) **Use Restrictions — Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as permitted by Section 13-1-68 and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes. Under no circumstances may a tent or recreational vehicle be used as a dwelling or an accessory structure.
- (j) **Placement Restrictions — Nonresidential Districts.** An accessory use or structure in a commercial or industrial district may be established in the rear yard or side yard and shall not be nearer than ten (10) feet to any side or rear lot line or be greater than ten (10) feet in height. Detached accessory buildings and structures in commercial and industrial districts shall not occupy more than fifty percent (50%) of the rear and side lot areas.
- (k) **Landscaping Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.
- (l) **Temporary Accessory Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- (m) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:
 - (1) That such private garage shall be located not less than five (5) feet from the front lot line;
 - (2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
 - (3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.
- (n) **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 and shall not register more than one-half foot candles at the property line.
- (o) **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.

- (p) **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. (See Section 13-1-144.)
- (q) **Children's Play Structures.** For purposes of this Section, non-portable children's play structures, including play houses, tree houses or elevated play structures and climbing gyms, shall be considered accessory structures for purposes of complying with the setback requirements of this Section, whether such play structures are placed on a foundation or not. Portable swing sets, slides and sandboxes are not considered children's play structures for purposes of this Section. A building permit is not required for the construction of a play structure. Play structures shall not be used for storage or be constructed out of materials that would constitute a nuisance.
- (r) **Terrace Area Restrictions.** In addition to the definitions and restrictions contained in Title 6, Chapter 2 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.
- (s) **Offensive Uses Prohibited.** No accessory use shall be dangerous, obnoxious or offensive to persons residing in the vicinity, nor shall it impair the use, enjoyment or value of any property.
- (t) **Prohibited Dwelling Use.** No accessory dwelling unit in any Residential District shall be used or let for living purposes, whether for compensation or not.
- (u) **Gardening.** Home gardening is a permitted accessory use on any dwelling lot or the principal use on any vacant lot or parcel.
- (v) **Dog Houses/Runs.** Dog houses and/or runs shall comply with the setback requirements for accessory structures in that district.
- (w) **Agricultural Structures.** Agricultural structures in properly zoned districts such as barns, silos and windmills shall not exceed in height twice their distance from the nearest lot line.

Sec. 13-1-141 Outside Storage of Firewood.

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of 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 within fifteen (15) days and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- (e) Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one (1) time.

Sec. 13-1-142 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. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.
- (b) **Fences Categorized.** Fences shall be categorized into the following classifications:
 - (1) **Boundary Fence.** A fence placed on or within three (3) feet of the property lines of adjacent properties.
 - (2) **Protective Fence.** A fence constructed to enclose a hazard to the public health, safety and welfare.
 - (3) **Architectural or Aesthetic Fence.** A fence constructed to enhance the appearance of the structure or the landscape.
- (c) **Height and Placement of Fences Regulated.**
 - (1) Residential fences six (6) feet or less in height are permitted on rear and side lot lines. Residential fences less than or equal to four (4) feet in height are permitted in the street yard setback area but shall not be closer than two (2) feet to any public right-of-way. All fences must be constructed and maintained in a good state of repair and appearance.
 - (2)
 - a. In order to provide adequate vision clearance on corner lots, no fence shall be erected or maintained within the triangular space formed by two (2) intersecting street, alley, or driveway (public or private) property lines and a line joining points on such property lines (or projections thereof) located less than:
 - 1. A minimum of twenty (20) feet from the intersection of the two street property lines;
 - 2. A minimum of fifteen (15) feet from the intersection of the two alley property lines; or
 - 3. A minimum of ten (10) feet from the intersection of the two driveway property lines.
 - b. Street or alley property lines are measured from the right-of-way or easement lines establishing such street or alley. Driveway lines are measured from the

easement establishing such driveway, or, in the case of no easement, from the edge of the driveway surface.

- (3) In any residential district or on any lot or premises, the principal use of which is for residential purposes, no lengthwise fence or other lengthwise barrier or obstruction shall be erected, placed, installed or reinstalled in any area where there is a distance between main residential buildings of ten (10) feet or less.
 - (4) No fence or wall shall be erected, placed or maintained along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.
- (d) **Setback for Residential Fences.** Fences in or adjacent to a residential property (or property primarily residential in use) are permitted on lot lines.
- (e) **Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed eight (8) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (f) **Prohibited Fences.**
- (1) No fence shall be constructed which is of a dangerous condition, 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 eight (8) feet above the ground or height and project toward the fenced property and away from any public area.
 - (2) Although fences which conduct electricity or are designed to electrically shock are generally prohibited, such fences using smooth wire are allowed for the limited purpose of deer control.
 - (3) No woven, twisted, welded or interlaced wire fence, such as fences using chicken wire, shall be located in a non-industrial district, unless such fencing is ornamental in character. Fences utilizing a chain link design are permissible in all districts.
 - (4) No wood-slat or plastic snow fence shall be permitted as a regular use in a Residential District, except as a temporary use under Subsection (h).
- (g) **Fences to be Repaired.**
- (1) 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.
 - (2) Any existing fences which do not conform to the requirements of this Section and which are damaged, or in need of repair to the extent that exceeds fifty percent (50%) of the then value of the fence, said entire fence shall either be completely dismantled or reconstructed in compliance with the provision of this Section.
 - (3) All new and existing fences shall be maintained in such a manner so as not to allow rust, dents or deterioration to take place. If a fence needs repair and maintenance, said fence shall be painted or stained in only neutral colors. Failure to maintain a fence in good condition and repair will result in the Village issuing an order to the property owner to take whatever steps are necessary to correct the condition. Said notice shall set forth a reasonable time for compliance and shall set forth a notice that

failure to comply will result in a violation and with a penalty set forth in Section 1-1-6.

(h) **Temporary Fences.**

- (1) 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.
- (2) This Section is not intended to regulate seasonal or temporary fences such as garden or snow fences except that such fences shall be removed when the condition or season for the said fence was erected no longer exists. There shall be no fee for any such seasonal or temporary fence.

(i) **Visibility; Open Spacing Requirement for Commercial/Industrial Fences.**

- (1) In any non-residential area, fences shall be of such type and construction that shall allow people outside the fence to see through it without hindrance. However, if a residence exists in a non-residential zone, a fence may be constructed pursuant to the requirements of Subsection (i)(2) below. In an industrial area where barbed wire is used, the lowest strand shall be a minimum of seven (7) feet above the grade.
- (2) All fences hereafter erected or constructed shall provide openings for a passage of air equivalent to twenty-five percent (25%) of the surface area of the fence and shall have the structural components thereof facing the side of the property for and on which the same are erected. In residential areas where privacy is desired, privacy fences with less than such twenty-five percent (25%) open spacing may be erected, provided such fence may not extend farther than twenty-five percent (25%) from the main rear line of such residence. A fence situated in a residential area shall be constructed only of wood or chain link type fencing. Fences shall not be constructed of luminous materials or smooth or corrugated metal materials. All fences, including privacy fences, if said fence is to be stained or painted by the property owner or on his/her behalf, shall be stained or painted in only neutral colors.

(j) **Special Purpose Fences.** Fences for confining dogs, etc., shall not exceed seven (7) feet in height, and shall be no larger than necessary for such purpose and shall conform to the building setbacks of this Chapter. Swimming pool and hot tub fences shall comply with the requirements of Section 13-1-143.

(k) **Height Determination.** The height of any fence erected under this Section shall be determined by the measurement from the uppermost point of the fence to the existing ground level of the property.

(l) **Nonconforming Fences.** Any fence existing on the effective date of this Chapter and not in conformance with this Section may be maintained, but alterations, modifications or improvements of more than fifty percent (50%) of said fence shall require the owner to bring the fence into compliance with this Section.

- (m) **Fence Permit Required.** No person shall erect a fence in the Village without first obtaining a fence permit from the Village and paying the required permit fee. The applicant shall provide the Zoning Administrator with accurate design information for the proposed fence. Permits may only be issued for proposed fences complying with this Section.
- (n) **Location Determination.** The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his/her property.

Sec. 13-1-143 Swimming Pools and Hot Tubs.

- (a) **Definition.** A private or residential swimming pool is an outdoor structure for which swimming/bathing is the primary use containing a body of water in a receptacle or other container having a depth for water at any point greater than eighteen (18) inches located above or below the surface of ground elevation, having an area greater than one hundred fifty (150) square feet, used or intended to be used solely by the owner, operator or lessee thereof and his/her 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 twenty-four (24) 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; Construction Requirements.**
 - (1) A building permit for installation of an in-ground or above-ground swimming pool is required if the fair market value of the pool exceeds One Thousand Dollars (\$1,000.00). All new in-ground pools shall be fenced with a fence of adequate design and a minimum of six (6) feet in height to restrict access to the pool except through a self-latching gate. Above-ground pools shall be installed in such a manner that any access ladders and/or stairs can be secured to prevent access to the pool when not in use.
 - (2) In addition to such other requirements as may be reasonably imposed by the Zoning Administrator, the Zoning Administrator shall not issue a permit for construction or installation of a swimming pool or hot tub unless the following construction requirements are observed and the fee as prescribed in Section 1-3-1 is paid:
 - a. All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements for pool or hot tub installation shall be in accord with all state regulations and with any and all Ordinances of the Village now in effect or hereafter enacted.
 - b. All plumbing work shall be in accordance with all applicable Ordinances of the Village and all state codes. Every private or residential swimming pool or hot

tub shall be provided with a suitable draining method and, in no case, shall waters from any pool or hot tub be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.

- c. 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 or hot tub shall be in conformance with the state laws and Village Ordinances regulating electrical installations.

(d) **Setbacks and Other Requirements.**

- (1) Private swimming pools or hot tubs shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool or hot tub 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 or hot tub 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 or hot tub be less than six (6) feet from any lot line.
- (3) Swimming pools and hot tubs shall not be constructed in the front yard or in a required corner side yard.
- (4) Swimming pools either open or enclosed shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy in a required rear yard.

Sec. 13-1-144 Retaining Walls.

- (a) **Purpose.** The purpose of this Section is to protect public and private property from the effects of poorly designed and constructed retaining walls.
- (b) **Permit Required.** A permit shall be required for all retaining walls constructed that exceed twenty-four (24) inches in height, including terraced retaining wall projects where the total height of all walls exceeds twenty-four (24) inches, and are closer than fifteen (15) feet to a property line.
- (c) **Application.** Application shall be made to the Zoning Administrator on forms provided and shall include a site plan and a set of construction plans. Plans sealed by a professional engineer registered in the State and/or other information necessary to adequately review the proposed retaining wall may also be required by the Zoning Administrator.
- (d) **Performance Standards.** A retaining wall shall be designed to resist the lateral pressure of the retained material in accordance with accepted engineering practice. Walls retaining drained earth may be designed for pressure equivalent to that exerted by an equivalent fluid

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weighing not less than thirty (30) pounds per cubic foot and having a depth equal to that of the retained earth. Any surcharge shall be in addition to the equivalent fluid pressure.

- (e) **Setbacks.** Setbacks for retaining walls shall be the same as for accessory buildings as established under Section 13-1-140(g).

Sec. 13-1-145 through Sec. 13-1-149 Reserved for Future Use.

Article K: Modifications

Sec. 13-1-150 Height Modifications.

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.** Architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this Chapter.
- (b) **Special Structure Height Limitations.** Special structures such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smokestacks are exempt from the height limitations of this Chapter.
- (c) **Essential Services Height Limitations.** Essential services, utilities, water towers, and electric power and communication transmission lines are subject to conditional use permit.
- (d) **Communications Structures Height Restrictions.** Communications structures such as radio and television transmission and relay towers, aerial and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.
- (e) **Agricultural Structures Height Restrictions.** Agricultural structures such as barns, silos and water windmills shall not exceed in height twice their distance from the nearest lot line.
- (f) **Public Facilities Height Restrictions.** Public or semi-public facilities such as schools, churches, hospitals, monuments, sanitariums, 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. 13-1-151 Yards Modifications.

The yard requirements stipulated elsewhere in this Chapter may be modified as follows:

- (a) **Uncovered Stair Restrictions.** Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than six (6) feet to any lot line, and must be eight (8) feet or more above ground.
- (b) **Architectural Projection Restrictions.** Architectural projections such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard (setback requirements), but such projection shall not exceed two (2) feet.
- (c) **Cul-de-Sac and Curve Restrictions.** Residential lot frontage on cul-de-sacs and curves may be less than sixty (60) feet provided the width at the building setback line is at least sixty (60) feet and the street frontage is no less than forty-five (45) feet.
- (d) **Essential Services Exemptions.** Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.

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- (e) **Average Street Yard Restrictions.** The required street yards may be decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side, but in no case less than fifteen (15) feet in any residential district and five (5) feet in any business district, except the B-1 General Commercial District.
- (f) **Detached Garage.** Detached garages are permitted in the rear yard and side yard only.
- (g) **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. 13-1-152 through Sec. 13-1-169 Reserved for Future Use.

Article L: Administration

Sec. 13-1-170 General Administrative System.

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

Sec. 13-1-171 Zoning Administrator.

- (a) **General Duties.** The Zoning Administrator is hereby designated as the primary administrative officer for the provisions of this Chapter, and shall be referred to as the Zoning Administrator. The Zoning Administrator shall be appointed by resolution of the Village Board. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue all permits required by this Chapter. The Zoning Administrator shall further:
- (1) Issue all zoning certificates, and make and maintain records; which records shall be maintained in the Village hall.
 - (2) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this Chapter.
 - (3) Maintain permanent and current records of this Chapter, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications therefore.
 - (4) Provide and maintain a public information function relative to all matters arising out of this Chapter.
 - (5) Receive, file and forward to the Village Clerk-Treasurer all applications for amendments to this Chapter.
 - (6) Receive, file and forward to the Planning Committee all applications for conditional uses.
 - (7) Receive, file and forward to the Board of Appeals all applications for appeals, variances, or other matters on which the Board of Appeals is required to act under this Chapter, and shall attend all Board of Appeals meetings to provide technical assistance when requested by the Village Board.
 - (8) Initiate, direct and review from time to time a study of the provisions of this Chapter, and make recommendations to the Planning Committee not less than once a year.
- (b) **Optional Assignment of Duties.** Due to the size of the Village of Livingston, it may not be feasible to find a suitable person willing to take on the responsibility of being Zoning Administrator on a part-time basis. It is therefore provided that the function of the Zoning Administrator can be delegated to a committee of the Board, to another Village official, or a single member of the Board or the Village President. An officer other than a Board

member or another employee of the Village may also be designated to handle the duties of Zoning Administrator or part-time basis in addition to the other duties performed by such person.

Sec. 13-1-172 Role of Specific Village Officials in Zoning Administration.

- (a) **Planning Committee.** The Planning Committee, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Village to the Village Board, other public officials and other interested organizations and citizens. In general, the Planning Committee shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Chapter, one of its functions is to make recommendations to the Village Board pursuant to guidelines set forth in this Chapter as to various matters and always being mindful of the intent and purposes of this Chapter. Recommendations shall be in writing. A recording thereof in the Committee's minutes shall constitute the required written recommendation. The Committee may, in arriving at its recommendation, on occasion and of its own volition, conduct its own public hearing.
- (b) **Village Board.** The Village Board, the governing body of the Village, subject to recommendations by the Planning Committee, has ultimate authority to make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map; and to amend the text of this Chapter. The Board may delegate to the Planning Committee the responsibility to hold some or all public hearings as required under this subchapter and other provisions therefore elsewhere in 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 detail provisions.

Sec. 13-1-173 Zoning Permit.

- (a) **Zoning Certificate Required.** No building permit for a new structure, new use of land, water or air, or change in the use of land, water or air shall hereafter be issued and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered unless the application for such permit has been examined by the office of the Zoning Administrator and has affixed to it a certificate of the office of the Zoning Administrator indicating that the proposed use of land, buildings or structures and any future proposed buildings or structures comply with all of the provisions of this Chapter.

- (b) **Application.** Applications for a zoning permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:
- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
 - (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - (3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.
 - (4) Additional information as may be required by the Zoning Administrator, Village Board or Planning Committee (if involved).
- (c) **Action.**
- (1) A zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days of application and the applicant shall post such permit in a conspicuous place at the site.
 - (2) The permit shall expire within six (6) months unless substantial work has commenced or within eighteen (18) months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration, the application shall reapply for a zoning permit before commencing work on the structure.
 - (3) Any permit issued in conflict with the provisions of this Chapter shall be null and void.

Sec. 13-1-174 Site Plan Approval.

- (a) **Site Plan Approval.** All applications for building permits for any construction, reconstruction, expansion or conversion in an R-3, B-1, B-2, I-1, or AEO District, shall require site plan approval by the Planning Committee in accordance with the requirements of this Section.
- (b) **Application.** The applicant for a zoning or building permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Planning Committee or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.

- (c) **Administration.** The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Planning Committee within ten (10) days. The Planning Committee shall review the application and may refer the application and plans to any expert consultants selected by the Planning Committee and/or Village Engineer to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Planning Committee shall authorize the Zoning Administrator to issue or refuse a zoning permit.
- (d) **Requirements.** In acting on any site plan, the Planning Committee may impose conditions upon the issuance of site plan approval as it deems necessary to address the following issues:
 - (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - (3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 - (4) The landscaping and appearance of the completed site. The Planning Committee may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.
- (e) **Effect on Municipal Services.** Before granting any site approval, the Planning Committee may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Village Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Planning Committee shall forward its recommendations to the Village Board and shall not issue final approval until the Village Board has entered into an agreement with the applicant regarding the development of such facilities.

Sec. 13-1-175 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, Planning Committee, the Zoning Administrator or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.

- (b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within 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.

Sec. 13-1-176 through Sec. 13-1-179 Reserved for Future Use.

Article M: Changes and Amendments to the Zoning Code

Sec. 13-1-180 Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village 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 of the Planning Committee.

Sec. 13-1-181 Initiation of Changes or Amendments.

- (a) **Initiation.** A change or amendment may be initiated by the Village Board, the Planning Committee or by a petition of one (1) or more of the owners or lessees of property within the area proposed to be changed.
- (b) **Petitions.** Petitions for any change to the District boundaries or amendments to the regulations shall be filed with the Village Clerk-Treasurer and shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
 - (1) A plot plan drawn to a scale of one (1) inch equals one hundred (100) feet [one (1) inch = 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 two hundred (200) feet of the area proposed to be rezoned.
 - (2) The owners' names and addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.
 - (3) Additional information required by the Planning Committee, Zoning Administrator or Village Board.
- (c) **Recommendations.** The Planning Committee shall hold a public hearing as provided for in Sec. 62.23(7)(d), Wis. Stats., and review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made in writing to the Village Board.
- (d) **Village Board's Action.** Following such hearing, the Planning Committee shall make a recommendation on the proposed ordinance effecting the proposed change or amendment. The Village Board shall then review the recommendation and make its determination.

Sec. 13-1-182 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. 13-1-183 through Sec. 13-1-189 Reserved for Future Use.

Sec. 13-1-190 Appeals to the Zoning Board of Appeals.

- (a) **Scope of Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the administrative officer. Such appeal shall be taken within reasonable thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Village Board. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.
- (b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (c) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:
 - (1) **Errors.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.
 - (2) **Variances.** To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (3) **Interpretations.** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Village Board has made an advisory 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 Village Board has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (5) **Unclassified Uses.** To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Village Board has made a review and recommendation.

- (6) **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 Village Board has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning 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.
- (7) **Permits.** The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

Sec. 13-1-191 Hearing on Appeals.

The Board of Appeals shall fix a reasonable time for the hearing, cause a Class I notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing of the fee owners of records of all land within one hundred (100) feet of any part of the subject building or premises involved in the appeal.

Sec. 13-1-192 Decisions of Board of Appeals.

- (a) **Timeframe.** The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.
- (b) **Conditions.** Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- (c) **Validity.** Variances, substitutions or use permits granted by the Board shall expire within twelve (12) months unless substantial work has commenced pursuant to such grant.

Sec. 13-1-193 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/her undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.

- (2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of 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, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
 - (3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.
- (b) **Application for Variance.** The application for a variance shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:
- (1) Name and address of applicant and all abutting and opposite property owners of record.
 - (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
 - (3) Address and description of the property.
 - (4) A site plan showing an accurate depiction of the property.
 - (5) Additional information required by the Village Engineer, Village Board, Zoning Board of Appeals or Zoning Administrator.
 - (6) Fee receipt in the amount as determined by the Village Board.
- (c) **Public Hearing of Application.** The Board of Appeals shall conduct at least one (1) public hearing on the proposed variance. Notice of such hearing shall be given not more than thirty (30) days and not less than ten (10) days before the hearing in one (1) or more of the newspapers in general circulation in the Village, and shall give due notice to the parties in interest, the Zoning Administrator and the Village Board. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board of Appeals shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.
- (d) **Action of the Board.** For the Board of Appeals to grant a variance, it must find that:
- (1) Denial of a variance may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.

- (2) The conditions upon which a petition for a variance is based are unique to the property for which a variance is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.
 - (4) The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - (5) The proposed variance will not undermine the spirit and general and specific purposes of the Zoning Code.
- (e) **Conditions.** The Board of Appeals on appeal 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. 13-1-194 Review by Court of Record.

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