

Chapter 390

ZONING

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[HISTORY: Adopted by the Village Board of the Village of Black Creek as Title 10, Ch. 1, §§ 10-1-1 through 10-1-13 and 10-1-15 through 10-1-159, of the 1987 Village Code; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Subsequent amendments noted where applicable.]

ARTICLE I
Introduction

§ 390-1. Authority.

This chapter is adopted under the authority granted by §§ 61.35, 62.23(7) and 87.30, Wis. Stats., and amendments thereto.

§ 390-2. Title.

This chapter shall be known as, referred to, and cited as the "Zoning Regulations or Zoning Ordinance, Village of Black Creek, Wisconsin."

§ 390-3. Purpose.

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

§ 390-4. Intent.

- A. The general intent and purposes in view of this chapter are to regulate and restrict the use of all structures, lands and waters; and to:
- (1) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people.
 - (2) Divide the Village into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration, and use of buildings, structures and land for residence, business and manufacturing and other specified uses.
 - (3) Protect the character and the stability of the residential, business, manufacturing and other districts within the Village and to promote the orderly and beneficial development thereof.
 - (4) Regulate lot coverage, the intensity of use of lot areas, and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage.
 - (5) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements.
 - (6) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways.
 - (7) Secure safety from fire, panic, flooding, pollution, contamination, and other dangers.
 - (8) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the Village.
 - (9) Preserve and protect the beauty of the Village.
 - (10) Prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts.
 - (11) Provide for the elimination of nonconforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district.
 - (12) Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters.
 - (13) Further the maintenance of safe and healthful water conditions.

- (14) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects.
- (15) Provide for and protect a variety of suitable commercial and industrial sites.
- (16) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways.
- (17) Implement the Village of Black Creek Comprehensive Plan, as amended from time to time.
- (18) Implement those county, watershed, and regional comprehensive plans or components of such plans adopted by the Village.
- (19) Provide for the administration and enforcement of this chapter.
- (20) Provide penalties for the violation of this chapter.

§ 390-5. Abrogation and greater restrictions.

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

§ 390-6. Interpretation.

- A. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be construed to be a limitation or repeal of any other power now possessed by the Village.
- B. Where the conditions imposed by any provision of this chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

§ 390-7. Severability and nonliability.

- A. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- B. If any application of this chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- C. The Village does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no

liability on the part of the Village Board, its agencies, or employees for any flood damages, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this chapter.

§ 390-8. Repealer.

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

ARTICLE II General Provisions

§ 390-9. Jurisdiction and general provisions.

- A. Jurisdiction. The jurisdiction of this chapter shall apply to all structures, lands, water, and air within the corporate limits of the Village.
- B. Compliance. No new structure, new use of land, water, or air or change in the use of land, water, or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit and without full compliance with the provisions of this chapter and all other applicable local, county, and state regulations.
- C. District regulations to be complied. Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged, or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land are located.
- D. Yard reduction or joint use.
 - (1) No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.
 - (2) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.
 - (3) Where a lot is to be occupied for a permitted use without buildings, the side yards and front yard required for such lot shall be provided and maintained unless otherwise stipulated in this chapter, except that side yards shall not be required on lots used for garden purposes without buildings or structures nor on lots used for public recreation areas.
 - (4) No land which is located in a residential district shall be used for driveway, walkway, or access purposes to any land which is located in a business or industrial district, or used for any purpose not permitted in a residential district.

- E. One principal structure per lot. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot, and in no case shall there be more than one principal structure on one lot.
- F. Lots abutting more restrictive district. Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

§ 390-10. Use regulations.

- A. Only the following uses and their essential services may be allowed in any district:
 - (1) Permitted uses. Permitted uses, being the principal uses specified for a district.
 - (2) Accessory uses. Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.
 - (3) Conditional uses. Classes of conditional uses:
 - (a) General conditional use provisions. 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 Plan Commission and Village Board in accordance with Article IV of this chapter, excepting those existent at time of adoption of this chapter.
 - [2] Those existing uses which are classified as conditional uses for the districts in which they are located at the time of adoption of this chapter require no action by the Plan Commission and Village Board for them to continue as valid conditional uses, and the same shall be deemed to be regular conditional uses.
 - [3] Proposed change from permitted use in a district to conditional use shall require review, public hearing, and approval by the Plan Commission and Village Board in accordance with Article IV of this chapter.
 - [4] Conditional uses, when replaced by permitted uses, shall terminate. In such cases, the reestablishment of any previous conditional uses or establishment of new conditional uses shall require review, public hearing and approval by the Plan Commission and Village Board in accordance with Article IV of this chapter.
 - [5] Provisions in this chapter relating, generally, to conditional uses shall, except when in conflict with specific provisions relating to either regular or limited conditional uses (which specific provisions would then control), be deemed to be applicable to both regular and limited conditional uses.

- (b) Specific regular conditional use provisions. Provisions applicable specifically to regular conditional uses:
 - [1] Regular conditional uses, either allowed by action of the Village Board or existent at time of adoption of this chapter, shall be nonlapsing, shall survive vacancies and change of ownership of the properties where located and be subject to substitution with other conditional uses of same or similar type without Board approval. Change to conditional use of other than same or similar type shall require procedures and approval in accordance with Article IV.
 - [2] See Subsection A(3)(a)[2] above as to conditional uses existent at time of adoption of this chapter being deemed to the regular conditional uses.
- (c) Specific limited conditional use provisions. Provisions applicable specifically to limited conditional uses:
 - [1] Limited conditional uses authorized by Village Board resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
 - [2] Limited conditional uses authorized by the Village Board shall not be subject to substitution with other conditional uses either regular or limited, whether similar type or not, without Board approval and the procedures required in Article IV of this chapter.
- (4) Uses not specified in chapter.
 - (a) Uses not specified in this chapter which are found by the Plan Commission to be sufficiently similar to specified permitted uses for a district shall be allowed by the Zoning Administrator.
 - (b) Uses not specified in this chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Village Board after consideration and recommendation by the Plan Commission, public hearing and approval in accordance with Article IV of this chapter.

§ 390-11. Site regulations.

- A. Site suitability. No home shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, or low bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community.
- B. Street frontage. All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of 25 feet.
- C. Principal structures. All principal structures shall be located on a lot. Only one principal structure shall be located, erected or moved onto a lot. The Village Board may permit

as a conditional use more than one principal structure per lot in any district where more than one such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Village Board, subject to the recommendation of the Plan Commission, may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.

- D. Dedicated street. No zoning permit shall be issued for a lot which abuts a public street dedicated to only portion of its proposed width and located on the side thereof from which the required dedication has not been secured.
- E. Lots abutting more restrictive districts. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than 60 feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
- F. Site suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Village Board and Plan Commission by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Plan Commission in applying the provisions of the section shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/she so desires. Thereafter, the Plan Commission may affirm, modify, or withdraw its determination of unsuitability when making its recommendation to the Village Board.
- G. Preservation of topography. In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1 1/2 horizontal to one vertical within a distance of 20 feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Plan Commission; or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- H. Decks. For purposes of this chapter, decks shall be considered a part of a building or structure.
- I. Prohibited uses. Any use not listed as either permitted conditional in a particular district, or any use not determined by the Plan Commission to be substantially similar to a use listed as permitted or conditional, shall be prohibited in that district.

§ 390-12. Height and area exceptions.

- A. The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:
- (1) Places of worship, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 60 feet nor five stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
 - (2) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts, or aerials; microwave radio relay structures; telephone, telegraph and power poles and lines and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or codes of the Village.
 - (3) Residences in the residential district may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by one foot for each foot which such building exceeds the height limit of the district in which it is located.
 - (4) Where a lot abuts on two or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.
 - (5) 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 setback requirements on both streets be complied with.
 - (6) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this chapter, such lot may be occupied by one family.
 - (7) Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 12 inches.
 - (8) Open or enclosed fire escapes and fire towers may project into a required yard not more than five feet and into a required court not more than 3 1/2 feet, provided it be so located as not to obstruct light and ventilation.

§ 390-13. House number display provisions.

- A. The Black Creek Village Board has determined that the health, safety and welfare of the residents of the Village of Black Creek would be better served by the establishment of a uniform, Village-wide house number display system. This system will enable

police agencies, ambulance services, fire services, public utilities, the postal service, Village officials and other necessary services to more rapidly identify and locate properties within the Village of Black Creek.

- B. Purpose. The purpose of this section is to establish a system within the Village of Black Creek whereby the addresses of all premises will be identified and to provide rules and guidelines to facilitate the enforcement thereof.
- C. Regulation and compliance. No street or road name shall be changed without the approval of the Black Creek Village Board and the Outagamie County 911 Public Safety Communications Center.
- D. Every premises shall display the house number assigned to that premises by the Village of Black Creek and recognized by the Outagamie County 911 Public Safety Communications Center. The individual digits shall be no less than three inches in height but are preferred to be at least four inches in height, shall be in block-style letters/numbers and shall be in a contrasting color to the background. The house number shall be displayed in one of the following fashions:
- (1) If the number is displayed on a house or other building, the number shall be placed on the front of the structure in such a position as to be plainly visible to all traffic coming to the premises from either direction.
 - (2) If a house or other building is more than 50 feet from the improved portion of the street or road or is not clearly visible from the street or road, the number shall be displayed on a sign adjacent to the street or road on which the property fronts. Such sign shall be attached to a fence or post at a height that assures that the number will not be obscured by winter snows or snowplowing.
 - (3) All house numbers must be visible and easily read from the sidewalk, roadway and curb area.
 - (4) All structures for which numbers are required shall display numbers promptly upon notification of the correct address from the Village of Black Creek. New structures shall display such numbers prior to occupancy if the structure is residential or immediately upon use of the building if the structure is commercial or industrial.

§ 390-14. Landscaping standards.

- A. Purpose. The Village of Black Creek finds that is in the public interest for all developments to provide landscape improvements for the purposes of complementing the natural environment; improving the general appearance of the Village and enhancing its aesthetic appeal; preserving the economic base; improving quality of life; delineating and separating use areas; increasing the safety, efficiency, and aesthetics of use areas and open space; screening and enhancing privacy; mitigating the diverse impacts of climate; conserving energy; abating erosion and stabilizing slopes; deadening sound; preserving the quality of our air and water; and providing habitat for at-risk wildlife species.

- B. Landscape plan. All applicants for building permits for all zoning districts shall submit a landscape plan, prepared pursuant to Subsection C below, for review and approval as required herein prior to the request for a building permit. Where procedures and requirements imposed by this section are either more restrictive or less restrictive than comparable procedures and requirements imposed by any other provision of this chapter or any other law, ordinance, resolution, rule or regulation or any kind, the regulations which are more restrictive or impose higher standards or requirements shall govern.
- C. Procedure. The following procedure shall be followed for the submittal of landscape plans:
- (1) Preliminary consultation. Prior to the submittal of a landscape plan, it is recommended that the developer/owner meet with the Zoning Administrator and/or the Plan Commission to discuss zoning district, site plan, and landscaping plan requirements. Such meeting should occur prior to any extensive outlay of funds on the part of the developer since it is intended to identify potential problems and methods to alleviate them and to encourage a cooperative effort between the developer/owner and the Village.
 - (2) Plan submittal. Twelve copies of all landscape plans requiring approval shall be submitted to the Village Clerk-Treasurer 10 days prior to the third Tuesday of the month. Landscaping plans may be submitted separately or included in the site plan. All plans shall be drawn to an engineering scale no greater than one inch equals 100 feet, plus one complete set of such plans reduced in size to 11 inches by 17 inches and contain the following information:
 - (a) The location and dimensions of all proposed open space/green space areas.
 - (b) Identification of all proposed vegetation:
 - [1] Symbols, quantities, common names, and size of all plant materials.
 - [2] Showing all species to scale of mature crown diameter or spread.
 - (c) All existing vegetation to be retained on site.
 - (d) Nonnative, invasive species to be removed from the site.
 - (e) Typical sections of berms, fences, retaining walls, planter boxes, etc.
 - (3) Reviews. Review of landscape plans shall be conducted concurrently and follow the same procedure as § 390-92, Site plan approval, of this chapter.
 - (4) Appeals. Appeals of Site Review Committee decisions may be made to the Appeals Board.
- D. Specific requirements.
- (1) Ground cover. Open space areas shall, at a minimum, be seeded six months after completion of building. The following exceptions may be granted by Village staff during the review process:
 - (a) The use of mulch material for shrubs and foundation plantings.

- (b) The seeding of future expansion areas delineated on site plan.
 - (c) Areas maintained in a natural state that are undisturbed during construction.
 - (d) Other landscape elements such as decks, patios, stepping stones or landscape stones may be incorporated therein.
- (2) Minimum size of plantings. Tree size, spacing and frequency requirements shall be determined per land use, site plan configurations and as deemed appropriate by the Zoning Administrator during the site review procedure.
- (3) Species.
- (a) All trees used in site development shall be indigenous to the appropriate hardiness zone and physical characteristics of the site.
 - (b) All plant material shall conform to "American Standards for Nursery Stock," latest edition; sponsored by the American Association of Nurserymen, Inc. All vegetation shall be planted in accordance with accepted planting procedures.
 - (c) All proposed vegetation included in the landscape plan shall be reviewed by the Zoning Administrator to assure compliance with the requirements contained herein.
 - (d) Landscape species prohibited in all districts. The following species have been identified as invasive by the Wisconsin Department of Natural Resources (WDNR) due to their ability to invade wild areas, outcompete native species, degrade habitats, and potentially cause extensive ecological damage. These species are prohibited for use in all commercial, industrial, and residential site plans and landscaping plans in the Village of Black Creek.
 - [1] Autumn olive.
 - [2] Bigtooth aspen.
 - [3] Birdsfoot trefoil.
 - [4] Buckthorn, common and glossy.
 - [5] Crown vetch.
 - [6] Dame's rocket.
 - [7] Gray dogwood.
 - [8] Honeysuckle: Morrow, Tatarian, showy pink, and Amur.
 - [9] Japanese barberry.
 - [10] Maiden grass.
 - [11] Norway maple.
 - [12] Oriental bittersweet.

- [13] Purple loosestrife.
 - [14] Red osier dogwood.
 - [15] Reed canary grass.
 - [16] Smooth sumac.
 - [17] Staghorn sumac.
 - [18] Wayfaring tree.
 - [19] Yellow iris.
 - [20] Other species determined by the Village, Outagamie County, or WDNR to be invasive and harmful to the environment.
- (4) Implementation/replacement.
- (a) All approved is to be installed in accordance with compliance timetable.
 - (b) Any vegetation included on an approved landscape plan that dies shall be replaced by the owner/developer within one planting season. Vegetation replaced shall conform to the approved landscape plan and the requirements contained herein.
- (5) Maintenance. It shall be the joint responsibility of the owner and/or lessee of the principal use, uses, or building to maintain in a neat and adequate manner all landscaping materials, vegetation, screening, and fences contained in the approved landscape and site plans.
- (6) Compliance timetable. All landscape plans shall include a timetable for construction, installation or planting within a period not to exceed two years from the date of commencement of construction. Any person who is, or has been, required to landscape any part of a zoning lot and who has not complied with that requirement shall, within 60 days of receipt of written notice from the Zoning Administrator or Building Inspector that a violation of this chapter exists, comply with all requirements.
- E. District recommendations. It is recommended, and may be required, that future development within the Village conform to the following:
- (1) R-3 Multiple-Family Residence.
 - (a) One tree per 50 feet of road frontage.
 - (b) Forty percent of total lot area shall remain open/green space.
 - (2) C-1 General Commercial, C-2 Highway Commercial, and I-1 Industrial.
 - (a) One tree per 50 feet of road frontage.
 - (b) Twenty-five percent of total lot area shall remain open/green space.
 - (3) Buffers. That portion of any business, industrial, or multifamily district (other than duplex construction) that is abutting property zoned for single-family

residential development shall have a landscaped area of at least six feet wide extending the full length of the business, industrial, or multifamily district and meeting the following minimum requirements:

- (a) One tree per 35 lineal feet, or fraction thereof, of lot line bordering single-family districts.
- (b) A shrub, border, hedge, wall, fence, earthen berm, or other durable landscape barrier, or combination thereof, at least four feet high, but not exceeding eight feet high, which is 90% impervious to sight placed along the perimeter of such landscaped strip, except in the front yard setback.

§ 390-15. Accessibility.

- A. Americans with Disabilities Act. Title III of the Americans with Disabilities Act¹ prohibits discrimination on the basis of disability in the activities of places of public accommodations and requires newly constructed or altered places of public accommodation to comply with the ADA Standards.
- B. Place of public accommodation. For the purposes of this chapter, and consistent with Title III, a place of public accommodation is a facility whose operations:
 - (1) Affect commerce.
 - (2) Fall within at least one of the following 12 categories:
 - (a) Places of lodging (e.g., inns, hotels, motels, except for owner-occupied establishments renting fewer than six rooms);
 - (b) Establishments serving food or drink (e.g., restaurants and bars);
 - (c) Places of exhibition or entertainment (e.g., motion picture houses, theaters, concert halls, stadiums);
 - (d) Places of public gathering (e.g., auditoriums, convention centers, lecture halls);
 - (e) Sales or rental establishments (e.g., bakeries, grocery stores, hardware stores, shopping centers);
 - (f) Service establishments (e.g., laundromats, dry cleaners, banks, barbershops, beauty shops, travel services, shoe repair services, funeral parlors, gas stations, offices of accountants or lawyers, pharmacies, insurance offices, professional offices of health care providers, hospitals);
 - (g) Public transportation terminals, depots, or stations (not including facilities relating to air transportation);
 - (h) Places of public display or collection (e.g., museums, libraries, galleries);
 - (i) Places of recreation (e.g., parks, zoos, amusement parks);

1. Editor's Note: See 42 U.S.C. § 12181 et seq.

- (j) Places of education (e.g., nursery schools, elementary, secondary, undergraduate, or postgraduate private schools);
 - (k) Social service center establishments (e.g., day-care centers, senior citizen centers, homeless shelters, food banks, adoption agencies); and
 - (l) Places of exercise or recreation (e.g., gymnasiums, health spas, bowling alleys, golf courses).
- C. Alterations. If an alteration in a place of public accommodation or commercial facility is begun after January 26, 1992, that alteration must be readily accessible to and usable by individuals with disabilities in accordance with ADA Accessibility Guidelines to the maximum extent feasible. An alteration is any change that affects usability, including:
- (1) Remodeling.
 - (2) Renovation.
 - (3) Rearrangements in structural parts.
 - (4) Changes or rearrangement of walls and full-height partitions.

ARTICLE III Zoning Districts

§ 390-16. Establishment of districts.

- A. Districts. The Village of Black Creek is divided into the following 10 zoning districts:
- (1) R-1 Single-Family Residence.
 - (2) R-2 Two-Family Residence.
 - (3) R-3 Multiple-Family Residence.
 - (4) C-1 General Commercial.
 - (5) C-2 Highway Commercial.
 - (6) I-1 Industrial.
 - (7) PUD Planned Unit Development.
 - (8) CON Conservancy.
 - (9) A-1 Agricultural District.
 - (10) VCM Village Core Mixed-use Overlay District.
- B. District boundaries. Boundaries of these districts are hereby established as shown on a map entitled "Zoning Map, Village of Black Creek, Wisconsin," which is adopted by reference and made part of this chapter.² Such boundaries shall be construed to follow

2. Editor's Note: The Zoning Map is on file in the Village offices.

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

- C. Vacation of streets. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- D. Annexations. Annexations to or consolidations with the Village subsequent to the effective date of this chapter shall be placed in the CON Conservancy District unless the annexation ordinance temporarily places the land in another district.

§ 390-17. Zoning Map.

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

§ 390-18. Rules for interpretation of district boundaries.

- A. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
 - (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
 - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - (3) Boundaries indicated as approximately following Village boundaries shall be construed as following municipal boundaries.
 - (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
 - (5) Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
 - (6) Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
 - (7) Where the district boundaries are not otherwise indicated, and where the district boundaries approximately follow section lines, quarter-section lines, or other logical subdivisions of sections, such section lines or other such lines shall be construed to be the district boundary line.

- (8) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the map are approximately bounded by lot lines, said lot line shall be construed to be the boundary of the district.
- (9) On unsubdivided property, the district boundary shown on the map shall be determined by use of the scale shown on such map.

§ 390-19. R-1 Single-Family Residential District.

- A. Purpose. The R-1 District is intended to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses.
- B. Permitted uses. See § 390-29 of this chapter.
- C. Conditional uses. See § 390-29 of this chapter.
- D. Specifications. Within the R-1 District, the following standards shall apply:
 - (1) Maximum building height: 35 feet.
 - (2) Minimum front yard setback: 25 feet.
 - (3) Minimum rear yard setback (including attached and unattached primary garage):
 - (a) Principal buildings: 30 feet.
 - (b) Accessory buildings and garages: five feet.
 - (4) Minimum side yard setback.
 - (a) Principal buildings: 10 feet each side, from foundation.
 - (b) Accessory buildings and garages: five feet each side.
 - (5) Minimum average lot width (new lots): 90 feet.
 - (6) Minimum lot area per family (new lots): 10,000 square feet.
 - (7) Minimum floor area per family: 1,100 square feet.
 - (8) Minimum front yard setback shall apply to both street sides of a corner lot.
 - (9) More restrictive standards may be imposed by state regulations in certain circumstances; for example, on lots fronting certain classes of state highways.

§ 390-20. R-2 Two-Family Residential District.

- A. Purpose. The R-2 District is intended to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses.

- B. Permitted uses. See § 390-29 of this chapter.
- C. Conditional uses. See § 390-29 of this chapter.
- D. Specifications. Within the R-2 District, the following standards shall apply:
- (1) Maximum building height: 35 feet.
 - (2) Minimum front yard setback: 25 feet.
 - (3) Minimum rear yard setback (including attached and unattached primary garage):
 - (a) Principal buildings: 25 feet.
 - (b) Accessory buildings and garages: five feet.
 - (4) Minimum side yard setback:
 - (a) Principal buildings: 10 feet each side, from foundation.
 - (b) Accessory buildings and garages: five feet each side.
 - (5) Minimum average lot width (new lots): 90 feet.
 - (6) Minimum lot area per family (new lots): 6,000 square feet.
 - (7) Minimum floor area per family:
 - (a) Three-bedroom apartments: 1,100 square feet.
 - (b) Two-bedroom apartments: 800 square feet.
 - (c) One-bedroom apartments: 600 square feet.
 - (8) Minimum front yard setback shall apply to both street sides of a corner lot.
 - (9) More restrictive standards may be imposed by state regulations in certain circumstances; for example, on lots fronting certain classes of state highways.

§ 390-21. R-3 Multiple-Family Residential District.

- A. Purpose. The R-3 District is intended to provide a living area that is pleasant but not so spacious as the R-1 and R-2 Districts, in order to accommodate multiple-family residences.
- B. Permitted uses. See § 390-29 of this chapter.
- C. Conditional uses. See § 390-29 of this chapter.
- D. Specifications. Within the R-3 District, the following standards shall apply:
- (1) Maximum building height: 45 feet.
 - (2) Minimum front yard setback: 30 feet.
 - (3) Minimum rear yard setback (including attached and unattached primary garage):

- (a) Principal buildings: 25 feet.
 - (b) Accessory buildings and garages: three feet.
- (4) Minimum side yard setback.
 - (a) Principal buildings: 10 feet each side, from foundation.
 - (b) Accessory buildings and garages: three feet each side.
 - (5) Minimum average lot width: 90 feet.
 - (6) Minimum lot area per family:
 - (a) One family: 8,500 square feet.
 - (b) Two family: 6,000 square feet.
 - (7) Minimum floor area per family:
 - (a) Three-bedroom apartments: 1,000 square feet.
 - (b) Two-bedroom apartments: 800 square feet.
 - (c) One-bedroom apartments: 600 square feet.
 - (8) Minimum front yard setback shall apply to both street sides of a corner lot.
 - (9) More restrictive standards may be imposed by state regulations in certain circumstances; for example, on lots fronting certain classes of state highways.

§ 390-22. C-1 General Commercial District.

- A. Purpose. The C-1 District is intended to provide an area for the business 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. See § 390-29 of this chapter.
- C. Conditional uses. See § 390-29 of this chapter.
- D. Specifications. Within the C-1 District, the following standards shall apply:
 - (1) Maximum building height: 45 feet.
 - (2) Maximum building area: 15,000 square feet.
 - (3) Maximum front yard setback: 15 feet.
 - (4) Minimum rear yard setback: 25 feet.
 - (5) Minimum side yard setback:
 - (a) Principal buildings: nine feet each side.
 - (b) Accessory building: three feet each side.

- (6) Minimum lot width: 70 feet.
- (7) In the blocks in the C-1 Commercial District which are already developed, setbacks, minimum lot widths, commercial parking and truck unloading areas for new or renovated buildings can correspond with the existing setbacks, minimum lot widths, commercial parking and truck unloading areas, provided the Plan Commission determines such action will be in keeping with the purpose of this chapter.

§ 390-23. C-2 Highway Commercial District.

- A. Purpose. The C-2 District is intended to provide an area for those business and commercial activities which especially have to do with motor vehicles or highway transportation, or which provide goods or services primarily to travelers on a highway, or for which location adjacent to a major thoroughfare or highway is a compelling practical consideration, or for which it is especially appropriate for some other reason to be located adjacent to a major thoroughfare or highway.
- B. Permitted uses. See § 390-29 of this chapter.
- C. Conditional uses. See § 390-29 of this chapter.
- D. Specifications. Within the C-2 District, the following standards shall apply:
 - (1) Maximum building height: 35 feet.
 - (2) Maximum front yard setback: 15 feet; 50 feet if parking is permitted in the front yard.
 - (3) Minimum rear yard setback: 20 feet.
 - (4) Minimum side yard setback:
 - (a) Principal buildings: 10 feet each side.
 - (b) Accessory building: three feet each side.
 - (5) Minimum lot width, measured at rear of front yard: 100 feet.

§ 390-24. I-1 Industrial District.

- A. Purpose. This district is intended to provide an area for manufacturing and industrial 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. See § 390-29 of this chapter.
- C. Conditional uses. See § 390-29 of this chapter.

D. Specifications.

- (1) Maximum building height: 45 feet.
- (2) Front yard setback: 40 feet.
- (3) Rear yard setback: 20 feet.
- (4) Minimum side yard setback:
 - (a) Principal buildings: 20 feet each side.
 - (b) Accessory building: five feet each side.
- (5) Minimum lot width: 100 feet.

§ 390-25. PUD Planned Unit Development Overlay District.

- A. Purpose. The PUD Planned Unit Development Overlay District is established to provide a regulatory framework designed to promote improved environmental design in the Village by allowing for greater freedom, imagination and flexibility in the development of land, while ensuring substantial compliance to the basic intent of this chapter and the general plan for community development. It allows diversification and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and cohesive unified projects.
- B. Permitted uses. The following uses are permitted in the Planned Unit Development District; provided; however, that no use shall be permitted except in conformity with a specific and precise development plan pursuant to the procedural and regulatory provisions as hereinafter set forth.
 - (1) Any use permitted by right or as a conditional grant in any of the other districts of this chapter may be permitted, subject to the criteria as established herein, but such requirements as are made a part of an approved, recorded, precise development plan shall be, along with the recorded plan itself, construed to be enforced as part of this chapter.
 - (2) Lot area, lot width, height, floor area ratio, yard and usable open space requirements. In the Planned Unit Development District, there shall be no predetermined specific lot area, lot width, height, yard and usable open space requirements, but such requirements as are made a part of an approved, recorded, precise development plan shall be, along with the recorded plan itself, construed to be and enforced as a part of this chapter.
 - (3) Off-street parking. In the Planned Unit Development District, off-street parking facilities shall be provided in accordance with applicable regulations herein set forth and such requirements as are made a part of an approved, recorded, precise development plan.
- C. Criteria for approval. As a basis for determining the acceptability of a Planned Unit Development District application, the following criteria shall be applied to the precise development plan for such district with specific consideration as to whether or not it is

consistent with the spirit and intent of this chapter, has been prepared with competent professional advice and guidance, and produces significant benefits in terms of environmental design:

- (1) Character and intensity of land use. In a Planned Unit Development District, the uses proposed and their intensity and arrangement on the site shall be a visual and operational character which:
 - (a) Are compatible to the physical nature of the site.
 - (b) Would produce an attractive environment of sustained aesthetic and ecologic desirability, economic stability and functional practicality.
 - (c) Would not adversely affect the anticipated provision for school or other municipal services.
 - (d) Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.
- (2) Economic feasibility and impact. The proponents of a Planned Unit Development District application shall provide evidence satisfactory to the Village Board of its economic feasibility of available adequate financing and that it would not adversely affect the economic prosperity of the Village or the values of surrounding properties.
- (3) Engineering design standards. The width of street rights-of-way, width and location of street or other paving, outdoor lighting, location of sewer and water lines, provision for stormwater drainage or other similar environmental engineering considerations shall be based upon determination as to the appropriate standards necessary to implement the specific function in the specific situation; provided, however, that in no case shall standards be less than those necessary to ensure the public safety and welfare as determined by the Village.
- (4) Preservation and maintenance of open space. In a Planned Unit Development District, adequate provision shall be made for the permanent preservation and maintenance of common open space either by private reservation or dedication to the public.
 - (a) In the case of private reservation, the open area to be reserved shall be protected against building development by conveying to the Village, as part of the conditions for project approval, an open space easement over such open areas.
 - (b) The care and maintenance of such open space reservation shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be included in any contractual agreement with the Village and shall be included in the title to each property.
 - (c) Ownership and tax liability of private open space reservation shall be established in a manner acceptable to the Village and made a part of the conditions of plan approval.

- (5) Implementation schedule. The proponents of a Planned Unit Development District shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Village Board, including suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in adverse effect upon the community as a result of termination at that point.
- D. Procedure. The procedure for rezoning to a Planned Unit Development District shall be as required for any other zoning district change under this chapter except that in addition thereto, the rezoning may only be considered in conjunction with a development plan and shall be subject to the following additional requirements:
- (1) General development plan; shall include the following information:
 - (a) A statement describing the general character of the intended development.
 - (b) An accurate map of the project area including its relationship to surrounding properties and existing topography and key features.
 - (c) A plan of the proposed project showing at least the following information in sufficient detail to make possible the evaluation of the criteria for approval as set forth in Subsection C above:
 - [1] The pattern of proposed land use, including shape, size and arrangement of proposed land areas, density and environmental character.
 - [2] The pattern of public and private streets.
 - [3] The location, size and character of recreational and open space areas reserved or dedicated for public uses such as school, park, greenway, etc.
 - [4] A utility feasibility study.
 - (d) Appropriate statistical data on the size of the development ratio of various land uses, percentages of multifamily units by number of bedrooms, economic analysis of the development, expected staging and any other plans or data pertinent to evaluation by the Village under the criteria of Subsection C above.
 - (e) General outline of intended organizational structure related to property owner's association, deed restrictions and private provision of common services.
 - (2) Referral and hearing.
 - (a) Within a reasonable time after completion of the filing of the petition for approval of a general development plan, the Plan Commission shall forward the application to the Village Board, with a recommendation that the plan be approved as submitted, approved with modifications, or disapproved. Upon receipt of the Plan Commission's recommendations, the Board shall determine whether or not to initiate a proposed zoning change to permit the

proposed planned community development district and to schedule the required public hearing. If the Board fails to initiate such a change within 30 days, the petitioner may file a petition directly with the Village Clerk-Treasurer.

- (b) Approval of the rezoning and related general development plan shall establish the basic right of use for the area in conformity with the plan as approved, which shall be recorded as an integral component of the district regulations, but such plan shall be conditioned upon approval of a specific implementation plan and shall not make permissible any of the uses as proposed until a specific implementation plan is submitted and approved for all or a portion of the general development plan.
- (3) Specific implementation plan. A specific and detailed plan implementation of all or a part of a proposed Planned Unit Development District must be submitted within a reasonable period of time, as determined by the Village Board. If a specific implementation plan has not been submitted within said time, which the Village Board determines to be a reasonable phase of the total plan, a petition to rezone the property back to the previous zoning from the Planned Unit Development District shall be filed by the appropriate Village official with the Village Clerk-Treasurer for processing. The specific implementation plan shall be submitted to the Village Board and shall include the following detailed construction and engineering plans and related detailed documents and schedules:
 - (a) An accurate map of the area covered by the plan, including the relationship to the total general development plan.
 - (b) The pattern of public and private roads, driveways, walkways and parking facilities.
 - (c) Detailed lot layout and subdivision plan where required.
 - (d) The arrangement of building groups, other than single-family residences, and their architectural character.
 - (e) Sanitary sewer and water mains.
 - (f) Grading plan and storm drainage system.
 - (g) The location and treatment of open space areas and recreational or other special amenities.
 - (h) General location and description of any areas to be dedicated to the public.
 - (i) General landscape treatment.
 - (j) Proof of financing capability.
 - (k) Analysis of economic impact upon the community.
 - (l) A development schedule indicating:
 - [1] The approximate date when construction of the project can be expected to begin;

- [2] The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;
 - [3] The anticipated rate of development;
 - [4] The approximate date when the development of each of the stages will be completed.
- (m) Agreements, bylaws, provision or covenants which govern the organizational structure, use, maintenance, and continued protection of the Planned Unit Development and any of its common services, common open areas or other facilities.
 - (n) Any other plans, documents or schedules requested by the Village.
- (4) Approval of the specific implementation plan.
- (a) Following a review of the specific implementation plan and a recommendation from the Plan Commission, the Village Board may approve the plan and authorize development to proceed accordingly or disapprove the plan and request negotiations with the developer.
 - (b) In the event of approval of the specific implementation plan, the building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the Village offered or required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans, shall be recorded by the developer within a reasonable period of time, as determined by the Village Board, in the County Register of Deeds office. This shall be accomplished prior to the issuance of any building permit.
 - (c) Any subsequent change or addition to the plans or use shall first be submitted for approval to the Village Attorney and Village Board, and if, in the opinion of the Village Board, such change or addition constitutes a substantial alteration of the original plan, the procedure provided in this Subsection D shall be required.

§ 390-26. CON Conservancy District.

- A. Purpose. This district is intended to preserve the natural state of scenic areas in the Village and to prevent the uncontrolled, uneconomical spread of residential or other development, and to help discourage intensive development of marginal lands so as to prevent hazards to public and private property.
- B. Permitted uses. See § 390-29 of this chapter.
- C. Conditional uses. See § 390-29 of this chapter.
- D. Specifications. There are no setback, lot size, or other dimensional standards applicable in the CON District.

§ 390-27. A-1 Agricultural District.

- A. Purpose. This district is established to help conserve good farming areas and prevent uncontrolled, uneconomical spread of residential development since it results in excessive costs to the community for provisions of essential public improvements and services (sewer and water lines, etc.).
- B. Permitted uses. See § 390-29 of this chapter.
- C. Specifications.
- (1) Maximum building height: 35 feet, excluding agricultural uses.
 - (2) Front yard setback: 40 feet.
 - (3) Rear yard setback: 25 feet.
 - (4) Minimum side yard setback:
 - (a) Principal buildings: nine feet each side.
 - (b) Accessory building: three feet each side.
 - (5) Minimum lot width, measured at rear of front yard: 150 feet.

§ 390-28. VCM Village Core Mixed-use Overlay District.

- A. Purpose. The VCM Overlay District is intended to promote a concentration of mixed uses including retail, service, office, and residential uses. The location, mix and configuration of land uses are designed to encourage convenient alternatives to the automobile, safe and attractive streetscape, and a more walkable and livable community. It allows for more efficient and flexible use of land by combining both commercial and residential uses within a site or building. The purposes of the VCM Overlay District are to:
- (1) Provide areas for mixed-use development that are carefully planned to promote efficient use of the land and roadway system.
 - (2) Ensure sensitivity to the surrounding neighborhood.
 - (3) Provide appropriate transitions between uses.
 - (4) Encourage reductions in impervious surface by minimizing surface parking.
 - (5) Retain open space by encouraging buildings with higher-density uses.
 - (6) Ensure high-quality architectural design and materials.
 - (7) Provide good pedestrian, bicycle, and transit access.
 - (8) Promote innovative site design.
 - (9) Implement the recommendations laid forth in the Village of Black Creek Comprehensive Plan.

- B. General provisions. The VCM Overlay District applies to all parcels located within the VCM Overlay District as identified on the Village of Black Creek Zoning Map. The VCM Overlay District shall have the effect of allowing development to be designed, reviewed, approved, constructed, and used according to the provisions of this section, rather than as required by the underlying zoning district.
- C. Procedures. Any use listed as a permitted use or conditional use in the R-1, R-2, R-3, or C-1 Districts may be potentially allowable in the VCM Overlay District. Any use other than one listed as a permitted use or conditional use within the underlying zoning district shall require a conditional use permit.
- D. Review. The review criteria and provisions for development within the VCM Overlay District shall be consistent with the review requirements for the PUD Planned Unit Development Overlay District.
- E. Standards.
- (1) General. For new or in-fill development, the site shall include a minimum of 15% common open space or outdoor recreational space. The site shall be designed to preserve existing significant natural features. The Plan Commission may impose conditions relating to the preservation of these features.
 - (2) Setbacks.
 - (a) Setbacks shall be established by the Plan Commission on a case-by-case basis; however, setbacks shall maintain and enhance the character of the neighborhood in which the site is located.
 - (b) Perimeter setbacks from the edge of the site shall be similar to the required setbacks of adjacent properties.
 - (c) Adequate vision triangles shall be provided from all street and driveway intersections.
 - (3) Parking.
 - (a) Parking in the front or street yard is generally prohibited unless, in the opinion of the Plan Commission, no other alternative is practicable.
 - (b) Underground or structured parking is encouraged.
 - (c) Surface parking shall be set back a minimum of five feet from a right-of-way for landscaping and screening.
 - (d) Pedestrian and bicycle facilities are encouraged, and may be required, by the Plan Commission,
 - (4) Building material and arrangement. A minimum of 50% of the combined area of all building facades shall have an exterior finish of brick, stucco, and/or natural or artificial stone. Buildings shall be arranged in orderly manner with fronts facing streets and rears of buildings towards the interior of the site.
 - (5) Building height and size.

- (a) Developments containing buildings greater than one story in height are required to achieve mixed-use development. The height of the building should be no greater than 40 feet in an R-1 or R-2 District.
- (b) The ground floor footprint of any commercial space within a building shall not exceed 10,000 square feet, unless the Plan Commission finds the larger footprint is compatible with the proposed development and surrounding area.
- (6) Screening, landscaping, and buffering. Screening shall be required for all trash/recycling areas, mechanical equipment, and loading areas. Screening or buffering may be required to provide protection to adjacent residential uses as determined by the Plan Commission. Landscaping shall be consistent with Village of Black Creek landscaping requirements.
- (7) Transit. Mixed-use projects next to any proposed or potential transit routes may be required to provide transit stops with shelters as determined by the Plan Commission.
- (8) Bicycle and pedestrian access. Projects shall provide sidewalks and/or bikeways along all public and private streets as determined appropriate and shall provide on-site bicycle ways and pedestrianways to provide logical connections from each building to the street sidewalks to adjacent pathways, and/or bikeways.
- (9) Signs. A master sign plan shall be provided that integrates the design of the project with the sign theme as follows:
 - (a) Pole signs are not permitted.
 - (b) Monument signs shall utilize similar exterior materials as the buildings for the project.
 - (c) Pedestrian-scale signs visible from public streets and sidewalks will be encouraged.
 - (d) Signs will not interfere with automobile circulation and visibility, nor with bike or pedestrian safety.
 - (e) Signs shall comply in all other respects with Article VII of this chapter.
- (10) Lighting. Exterior lighting shall be provided to address safety concerns on the site and shall comply with the Village's Exterior Lighting Manual³ standards.
- (11) Streets, utilities, and drainage. All public streets and utilities shall be designed to meet Village standards. Drainage shall be provided to comply with relevant Villages codes and policies. Private streets shall only be allowed for unique situations where public streets will not fit the site.

§ 390-29. Permitted (P) and conditional (C) uses for all districts.

3. Editor's Note: The Exterior Lighting Manual is on file in the Village offices.

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Accessory building: one such building smaller than 100 square feet in size	P	P	P					
Accessory building: one such building 100 square feet in size or larger	P	P	P					
Accessory dwelling unit, consistent with the requirements of Article IX of this chapter	C	C						C
Accounting, auditing, and bookkeeping firms or services				P				
Advertising agencies, news agencies, employment agencies				P				
Agricultural and animal husbandry							C	
Airports, including terminal facilities and necessary concessions								P
Antique stores and secondhand stores				P				
Automobile passenger trailers, mobile homes, campers, and RV sales					P			
Automobile repair shops, not including establishments for painting automobiles					P			
Backyard chickens	C	C						
Banks and other financial institutions				P				
Barbershops, beauty shops and hairdressers				P				
Bed-and-breakfast, consistent with Chapter ATCP 73, Wis. Stats	C	C						
Bees (keeping of), consistent with the requirements of § 390-81 of this chapter	C	C					P	P
Bicycle shops, including facilities for the repair of nonmotorized bicycles only				P				

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Billiard and pool establishments				P				
Book and stationery stores				P				
Bowling alleys				C				
Cabinet shop						P		
Camera and photographic supply stores				P				
Camping grounds open to the public							C	
Candy, nut or confectionery stores				P				
Cemeteries of less than one acre in size located adjacent to place of worship and Village cemetery	P	P	P					
Charitable institutions, community living arrangements, rest homes, convalescent homes, nursing homes, homes for the care of children, homes for the care of the aged, homes for the care of the indigent, and similar institutions			P					
Clothing and shoe stores				P	P			
Colleges and vocational schools		C						
Commercial bakeries						P		
Commercial parking lots, parking garages, parking structures				P				
Community center buildings and grounds	C	P	P				C	
Cranberry bogs							C	
Dairy products stores, including ice cream stores				P				
Dams, flowages, ponds, and water storage and water pumping facilities							C	

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Dealers in new and used passenger automobiles and trucks					P			
Dealers in used passenger automobiles or trucks where fewer than 25 vehicles are stored/displayed outside				C				
Department stores, variety stores, general merchandise stores				P				
Drugstores and pharmacies				P				
Duplicating, blueprinting, photocopying, addressing, mailing, mailing list, and stenographic services				P				
Electric vehicle infrastructure: charging level 1	P	P	P	P	P	P	C	P
Electric vehicle infrastructure: charging level 2	P	P	P	P	P	P	C	P
Electric vehicle infrastructure: charging level 3				C	C	P	C	P
Electrical supply stores				P				
Engineering and architectural firms or consultants				P				
Farming								P
Feed and seed sales						P		
Florist shops				P				
Forestry and the management of forests							P	
Furniture, home furnishings, and floor covering stores				P				
Funeral homes		C						
Garage, private (one for each residential parcel)	P		P					
Garage, private (maximum two cars per dwelling unit)		P						

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Garages or parking spaces incidental to the principal use, provided that garages incident to multiple-family residences must be at least 40 feet away from the curb and 30 feet away from the side lot lines; and provided that there must be at least 200 square feet of area for each vehicle parking space			P					
Garment-pressing establishments, hand laundries, and hat cleaning and blocking shops				C				
Gasoline service stations; provided further that all gasoline pumps, storage tanks, and accessory equipment must be located at least 30 feet from any existing or officially proposed street line					P			
General grocery stores, supermarkets, fruit and vegetable stores, meat and fish stores, and miscellaneous food stores				P				
General sales, service, repairs, testing, and demonstration shops, not including passenger automobiles, trucks, or other motor vehicles. Such uses shall be provided in a manner which affords no nuisance of obstruction, or of the discharge of unpleasant or harmful vapors or liquids, or of unsightly conditions to the public				C				
Geothermal heating system	C	C	C	P	P	P	P	P
Gift, novelty and souvenir shops				P				
Golf courses open to the public							C	

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Grade schools	P	P	P					P
Grocery stores					C			
Hardware stores				P				
Harvesting of wild crops, such as wild rice, marsh hay, ferns, moss, berries, tree fruits and tree seeds							P	
Hiking trails and bridle paths							P	
Home occupations	P	P	P					
Hospitals and clinics		C						P
Hotels, motor hotels, motels, tourist courts, tourist rooms, etc.				P	P			
Hunting, fishing and trapping							P	
Industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions						C		
Jewelry stores, including clock and watch stores				P				
Keeping of bees	C	C						
Laundries and dry-cleaning establishments commonly called "laundromats" and "laundrettes"				C				
Law offices				P				
Libraries, museums and art galleries		C						
Light machinery production: appliances, business machines, etc.						P		
Liquor stores				P				
Machine shops						P		

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Manufacturing establishments, usually described as "factories," "mills," "plants," in which raw materials are transformed into finished products, and establishments engaged in assembling component parts of manufactured products						C		
Microwave radio relay structures and community television antenna		C						
Motion-picture theaters, not including drive-in theaters				P				
Motor carrier facilities					C			
Multiple-family residential buildings			P					
Municipal buildings				P	P	P		P
News dealers and newsstands				P				
Offices, meeting places, 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 nonprofit membership organizations				P				
Motion-picture theaters, not including drive-in theaters				P				
Motor carrier facilities					C			
Multiple-family residential buildings			P					
Municipal buildings				P	P	P		P
News dealers and newsstands				P				

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Offices, meeting places, 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 nonprofit membership organizations				P				
Offices of governmental agencies and post offices				P				
Offices of insurance companies, agents, brokers and service representatives				P				
Offices of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, and chiropractors; but not veterinarian's offices				P				
Offices of real estate agents, brokers, managers and title companies				P				
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						C		
Paint, glass and wallpaper stores				P				
Parking lots, parking garages, or parking structures				P	P			
Photographic studios and commercial photography establishments				P				
Piers, docks and boathouses							C	

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Places of worship and their affiliated uses	P	P	P					P
Power plants deriving their power from the flow of water and transmission lines and other facilities accessory thereto							C	
Preservation of areas of scenic, historic or scientific value							P	
Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations				P				
Public parks, playgrounds, picnic areas, and passive recreational uses	C	P	P				P	P
Public buildings, except sewage plants, garbage incinerators, warehouses, garages, shops, and storage yards	P	P	C					
Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages				P				
Publishing and printing of newspapers, periodicals or books				C				
Railroads, including rights-of-way, railroad yards, and structures normally incident to the operation of railroads, including station houses, platforms, and signal towers, but not including warehouses owned by companies other than railroad companies or road terminal companies						C		
Relocation of any watercourse							C	

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Rental or leasing of passenger automobiles, limousines or trucks without drivers, truck trailers or utility trailers, house trailers, mobile homes, RVs, or campers					P			
Restaurants, lunchrooms and other eating places, including drive-in type establishments					P			
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				P				
Retail laundry and dry-cleaning outlets, but not including laundering and dry-cleaning plants, and not including coin-operated laundries and dry-cleaning establishments, commonly called "laundromats" and "launderettes"				P				
Restaurants, lunchrooms and other eating places, except drive-in type establishments				P				
Rooming houses and boardinghouses				P				
Rooming houses and boardinghouses for up to four guests			P					
Sale, rental, service, repair, testing, demonstration, or other use of motorboats, other watercraft, marine supplies, motors for watercraft, or their components					P			

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Seasonal roadside stands for the sale of vegetables, fruit, or other farm products, but not other types of products or merchandise					C			P
Shoe repair shops and shoeshine parlors				P				
Sign manufacture						P		
Single-family dwellings	P	P	P					
Solar energy system	C	C	C	P	P	P	P	P
Sporting goods stores				P				
Stores for the sale of tires, batteries or other automotive accessories					P			
Tailor shops, dressmakers shops, and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments				P				
Taverns, bars, and other drinking places				P				
Telephone and telegraph offices				P				
Telephone buildings, exchanges, lines and transformer stations, but excepting service garages and storage yards		C						
Tobacco and smokers' supplies stores				P				
Tourist-oriented retail shops, including souvenir and curio shops					P			

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use					P			
Two-family dwellings		P	P					
Uses customarily incidental to the principal use, provided that no such use generates traffic or noise that would create public or private nuisance	P	P	P	P	P	P	P	
Utilities, such as, but not restricted to, telephone, telegraph, power, or other transmission lines							C	
Washing, cleaning or polishing of automobiles, including self-service car washes					P			
Watch, clock and jewelry repair services				P				
Warehouses					C			
Water-storage facilities and their accessory structures	P	P	C					
Wholesale merchandise establishments				P	C			
Wildlife preserves							P	
Wildlife management, including waterfowl, fish, and other similar lowland animals, and nonresidential buildings used solely in conjunction with such activities							P	
Wind energy system	C	C	C	P	P	P	P	P

Land Uses	Zoning Districts							
	R-1	R-2	R-3	C-1	C-2	I-1	CON	A-1
Other uses deemed by the Plan Commission to be substantially the same as a permitted or conditional use otherwise permitted within that district	C	C	C	C	C	C	C	

**ARTICLE IV
Conditional Uses**

§ 390-30. Statement of purpose: conditional uses.

The development and execution of this article is based upon the division of the Village into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use at 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.

§ 390-31. Authority of Plan Commission and Board; requirements.

- A. The Village Board may by resolution authorize the Zoning Administrator to issue a conditional use permit for either regular or limited conditional use after review, public hearing, and advisory recommendation from the Plan Commission, provided that such conditional use and involved structures are found to be in accordance with the purpose and intent of this chapter and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of limited conditional use, the Board in its findings shall further specify the delimiting reasons or factors which resulted in issuing limited rather than regular conditional use. Such Board resolution, and the resulting conditional use permit, when for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, and the location and legal description of the affected premises. Prior to the granting of a conditional use, the Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- B. Any development within 500 feet of the existing or proposed rights-of-way of freeways, expressways and within 1/2 mile of the existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the trafficway. The Plan Commission shall request such review

and await the highway agency's recommendation for a period not to exceed 20 days before taking final action.

- C. Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Village Board upon its finding that these are necessary to fulfill the purpose and intent of this chapter.
- D. Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses.

§ 390-32. Initiation of conditional use.

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

§ 390-33. Application for conditional use.

An application for a conditional use shall be filed on a form prescribed by the Village. The application shall be accompanied by a plan showing the location, size and shape of the lots 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 § 390-36 hereinafter. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

§ 390-34. Hearing on application.

All requests for conditional uses shall be to the Plan Commission, or the Plan Commission can on its own motion apply conditional uses when applications for rezoning come before it. Nothing in this chapter shall prohibit the Village Board on its own motion from referring the request for conditional use to the Plan Commission. Upon receipt of the application and statement referred to in § 390-33 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by such Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

§ 390-35. Notice of hearing on application.

- A. Hearing. Notice of the time, place and purpose of such hearing shall be given by publication as a Class 2 notice under the Wisconsin Statutes in the official Village paper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and Plan Commission, and the owners of record, as listed in the office of the Village Assessor, who are owners of property in whole or in part situated within 100 feet of the boundaries of the properties affected, said notice to be sent at least 10 days prior to the date of such public hearing.
- B. Report of Plan Commission. The Plan Commission shall report its advisory recommendations to the Village Board within 30 days after a matter has been referred to it. If such action has not been reported by the Plan Commission within 30 days, the Village Board can act without such recommendation.

§ 390-36. Conditional use standards.

- A. No application for a conditional use shall be recommended for approval by the Plan Commission or granted by the Village Board unless such Commission and Board shall find all of the following conditions are present:
- (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 floodplain regulations governing the site.
 - (8) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission and Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

- (9) That in addition in passing upon a conditional use permit, the Plan Commission and Village Board shall also evaluate the effect of the proposed use upon:
- (a) The maintenance of safe and healthful conditions.
 - (b) The prevention and control of water pollution, including sedimentation.
 - (c) Existing topographic and drainage features and vegetative cover on the site.
 - (d) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (e) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (f) The location of the site with respect to existing or future access roads.
 - (g) The need of the proposed use for a shoreland location.
 - (h) Its compatibility with uses on adjacent land.
 - (i) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

§ 390-37. Denial of application for conditional use permit.

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

§ 390-38. Conditions and guarantees.

- A. The following conditions shall apply to all conditional uses:
- (1) Conditions. Prior to the granting of any conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in § 390-36 above. In all cases in which conditional uses are granted, the Board 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:
 - (a) Landscaping;
 - (b) Type of construction;
 - (c) Construction commencement and completion dates;
 - (d) Sureties;

- (e) Lighting;
 - (f) Fencing;
 - (g) Operational control;
 - (h) Hours of operation;
 - (i) Traffic circulation;
 - (j) Deed restrictions;
 - (k) Access restrictions;
 - (l) Setbacks and yards;
 - (m) Type of shore cover;
 - (n) Specified sewage disposal and water supply systems;
 - (o) Planting screens;
 - (p) Piers and docks;
 - (q) Increased parking;
 - (r) Or any other requirements necessary to fulfill purpose and intent of this chapter.
- B. Site review. In making its recommendation, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- C. Alteration of conditional use. No alteration of a conditional use shall be permitted unless approved by the Village Board, after recommendation from the Plan Commission.
- D. Architectural treatment. Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Village Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
- E. Sloped sites; unsuitable soils. Where slopes exceed 6% and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

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

§ 390-39. Validity of conditional use permit.

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

§ 390-40. Complaints regarding conditional uses.

The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this chapter. Upon written complaint by any citizen or official and after seeking an advisory recommendation from the Plan Commission, the Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in Section 10-1-39 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 10-1-38 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 § 390-36 or conditions previously imposed by the 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 the applicable standards of § 390-36 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 the current owner of the conditional use in writing stating the reasons therefor.

ARTICLE V

Nonconforming Uses, Structures, and Lots

§ 390-41. Nonconforming uses, developments, and structures.

- A. Applicability and intent. Any use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of this chapter which would not be permitted or permissible by the provisions of this chapter as adopted or amended shall be deemed nonconforming. It is the intent of this chapter to permit such nonconformities to continue until they are removed, subject to certain restrictions.
- B. Nonconforming structures. Where, at the effective date of adoption or amendment of this chapter, a building or structure exists which could not be erected in the district in which it is located by reason of restriction on area or coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:
- (1) Maintenance, repair, renovation and remodeling.
 - (a) "Maintenance, repair, renovation or remodeling" is defined as:
 - [1] The repair or replacement of doors, windows, interior walls, fixtures, heating and air-conditioning components, wiring, plumbing, siding, roofing, or other nonstructural components.
 - [2] Adding, removing, changing or rearranging of supporting members of an existing structure such as walls, columns, beams, girders or partitions.
 - (b) Maintenance, repair, renovation and remodeling made to nonconforming buildings and structures are permitted, provided that the nonconforming structure or building does not increase the nonconformity.
 - (2) Additions.
 - (a) An "addition" shall be defined as anything that increases the size or volume of a building or structure.
 - [1] For purposes of this section, "size" is defined as the site coverage, physical dimension, volume, height, length, width, or gross floor area.
 - (b) Additions made to nonconforming structures are permissible subject to the following:
 - [1] Additions meeting all zoning district setbacks are allowed.
 - [2] Such additions shall not encroach any further into established nonconforming yard setbacks.
 - [3] Additions shall meet all other provisions of this chapter, including, but not limited to, height, maximum lot coverage, off-street parking and loading facilities, and landscaping standards.
 - (3) Relocation.

- (a) "Relocation" shall be defined as any repositioning of a structure on its site or moving any structure to another site.
 - (b) No structure shall be moved in whole or in part to any other location on the same or any other site unless the structure complies with all current code standards.
 - (c) If a structure is relocated to a new site, it shall also comply with all other provisions of this chapter, including, but not limited to, maximum lot coverage, off-street parking and loading facilities, and landscaping standards.
- (4) Restoration of nonconforming buildings.
- (a) Nonconforming buildings damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation may be restored to the size and location and use that it had immediately before the damage or destruction occurred, subject to:
 - [1] Restoration may be made without limits on the costs of the repair, reconstruction or improvements.
 - [2] A nonconforming building may be constructed larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements, subject to compliance with Subsection B(2) above.

§ 390-42. Preexisting substandard parcels.

- A. Lots or parcels used or proposed to be placed in a use allowable under this chapter that are deficient in minimum lot area or minimum lot width may be allowable for such use if the parcel was of record with the Register of Deeds on the effective date of this chapter (April 1998) in its current size or shape and if the following conditions are met:
- (1) If one or more adjoining parcels are owned by the same party and if joinder of parcels or movement of parcel boundaries is determined to be feasible, the substandard parcel may be required to be made standard by combination with the adjoining parcel or movement of parcel boundaries.
 - (2) If the deficiency is lack of required frontage on a public street, an existing substandard parcel may nevertheless be approved if it has either 20 feet of frontage on a public street or (for residential parcels) effective and workable easement access to a public street.
 - (3) An existing substandard parcel that is zoned residential may be allowable as a site for a residential dwelling structure not to exceed two units if it has 6,000 square feet of lot area and at least 60 feet of lot width at the building line and effective and workable easement access to a public street. If such a parcel is 6,000 square feet or more in area but less than standard dimensions, the area of such lot may not be reduced.

- B. These allowances apply only to preexisting substandard parcels and do not establish policy or precedent favoring the creation of new substandard lot configurations.

§ 390-43. Preexisting nonconforming uses and developments.

- A. Applicability and intent. Any use of land or structures or any lot or structure which lawfully existed at the effective date of adoption or amendment of this chapter which would not be permitted or permissible by the provisions of this chapter, as adopted or amended, shall be deemed nonconforming. It is the intent of this chapter to permit such nonconformities to continue, subject to certain restrictions.
- B. Nonconforming uses of land (or land with minor structures only). Where at the effective date of adoption or amendment of this chapter a lawful use of land exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure or structures with a fair market value of less than \$10,000, such use may be continued subject to the following restrictions:
- (1) Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this chapter.
 - (2) Such use shall not be moved in whole or part to any other portion of the lot other than the portion occupied by such use at the effective date of adoption or amendment of this chapter.
 - (3) When such use is discontinued or abandoned for a period of more than 12 consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
 - (4) No additional structure in connection with such use shall be erected.
- C. Nonconforming uses of structures. Where at the effective date of adoption or amendment of this chapter the use of a structure exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure with a fair market value exceeding \$10,000, such use may be continued, subject to the following restrictions:
- (1) No existing structure devoted to a use not permitted or permissible shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted or permissible in the district in which it is located.
 - (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of adoption or amendment of this chapter. Any nonconforming use which occupied a portion of a building not originally designed or intended for such use shall not be extended to any part of the building. No nonconforming use shall be extended to occupy any land outside the building, nor any other building not used for such nonconforming use.

- (3) There may be a change in tenancy, ownership, or management of a nonconforming use, provided there is no change in the nature or character of such nonconforming use.
 - (4) When such use of a structure is discontinued or abandoned for a period of more than 12 consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
 - (5) If a structure occupied by a nonconforming use is removed or destroyed or damaged to an extent of more than 50% of its fair market value at the time of destruction, the nonconforming use shall not be resumed.
- D. Nonconforming structures. Where, at the effective date of adoption or amendment of this chapter, a lawful building or structure exists which could not be erected in the district in which it is located by reason of restriction on area or coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence, subject to the following restrictions:
- (1) A nonconforming structure with a conforming use lawfully existing at the time of the adoption or amendment of this chapter may be continued although the structure's size or location does not conform to the development regulations of this chapter.
 - (2) Nonconforming structures with a conforming use may be repaired, maintained, renovated, rebuilt, or remodeled, subject to building code and other applicable requirements. No prohibition or limits based on cost may be imposed on the repair, maintenance, renovation, or remodeling of such structures.
 - (3) Additions and enlargements to existing nonconforming structures with a conforming use are permitted and shall conform to the established yard/setback, height, parking, loading, and access provisions of this chapter. Existing buildings and their additions shall not be permitted to encroach further upon established yard/setback and height requirements than the existing encroachment. The provisions of this subsection with respect to additions or enlargements are applicable only if the lot is served by public sanitary sewer or, if relevant, conforms to existing sanitary code requirements for private on-site sewage treatment systems (POWTS).
 - (4) Existing nonconforming structures may be moved and shall conform to the established yard/setback, height, parking, loading, and access provisions of this chapter.
 - (5) A nonconforming structure with a conforming use that is damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity may be restored or replaced to the size, location, and use that it had immediately before the damage or destruction occurred, subject to building code and other applicable requirements. No limits may be imposed on the costs of the repair, reconstruction, or improvement of said structure. The size of the structure may be larger than the size immediately before the damage or destruction occurred if necessary for the structure to comply with applicable state or federal requirements. Any reconstruction shall conform to the development regulations of

this chapter, to the extent practicable, and existing sanitary code requirements, and shall commence within 24 months of the date of damage or destruction, unless an extension is granted by the government agency having authority.

- E. Nonconforming characteristics of use. If characteristics of use such as lighting, parking, noise or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this chapter, as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.
- F. Nonconforming lots of record.
 - (1) In any district, any permitted or permissible structure may be erected on a single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, or both for the district in which it is located, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership, and provided all other requirements for the district are met.
 - (2) If two or more lots, or combinations of lots and portions of lots, with continuous frontage in single ownership are of record at the effective date of adoption or amendment of this chapter, the lands involved shall be considered to be in individual parcel for the purposes of this chapter, and no portion of such parcel shall be used, divided, or sold which does not meet the lot area and lot width requirements for the district in which it is located.
- G. Nonconforming signs. No nonconforming sign shall be altered in any manner which would increase the degree of nonconformity. If such sign is destroyed or damaged to an extent of more than 50% of its replacement cost at the time of destruction, such sign shall be replaced as a conforming sign. If a nonconforming sign is destroyed or damaged to an extent of less than 50% of its replacement cost at the time of destruction, it may be reconstructed, provided any reconstruction does not increase the degree of nonconformity which previously existed unless approved by the Village Board.
- H. Casual, temporary, or illegal use. The casual, temporary, or illegal use of land or structures, or land structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.
- I. Repairs and maintenance. Nothing in this chapter shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.
- J. Existing special exceptions. Any use or structure existing on the effective date of adoption or amendment of this chapter which is classified as a special exception in the district in which it is located shall be deemed to have been granted approval, subject to maintaining the character and extent of such use or structure existing on that date. Any extension, enlargement or change in such use or structure shall require approval according to the terms of this chapter.

ARTICLE VI

Traffic Visibility, Loading, Parking, and Access

§ 390-44. Traffic visibility.

- A. On a corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of 2 1/2 feet and 10 feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines 25 feet from the point of intersection.
- B. In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 50 feet.

§ 390-45. Loading requirements.

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

Use	Floor Area (square feet)	Loading Space
Retail, wholesale, service, manufacturing, and industrial establishments	2,000 to 9,999	1
	10,000 to 19,999	1
	20,000 to 39,999	2
	40,000 to 59,999	3
	Each additional 50,000	1
Hotels, offices, hospitals, places of public assembly	5,000 to 9,999	1
	10,000 to 49,999	2
	50,000 to 99,999	2
	Each additional 25,000	1
Funeral homes	2,500 to 3,999	1
	4,000 to 5,999	1
	Each additional 10,000	1

- B. Multiple or mixed uses. Where a building is devoted to more than one use or for different uses, and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum,

then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

- C. Location. Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.
- D. Design standards. Each off-street loading space shall have a width of at least 12 feet, a length of at least 40 feet, and a vertical clearance of at least 15 feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to 10 feet in width, 25 feet in length, and eight feet in vertical clearance. All loading berths shall be completely screened from residential properties by building walls, or a uniformly painted solid fence, wall, or door, or any combination thereof, not less than eight feet in height.
- E. Surfacing. All open off-street loading berths shall be improved with a compacted macadam base, not less than seven inches thick, surfaced with not less than two inches of asphalt or treated with some comparable all-weather, dustless material.
- F. Repair and service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential district.
- G. Utilization. Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- H. Central loading. Central loading facilities may be substituted for loading berths on the individual zoning lots, provided the following conditions are fulfilled:
 - (1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.
 - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
 - (3) No zoning lot served shall be more than 300 feet removed from the central loading area.
 - (4) The tunnel or ramp connecting the central loading area with the zoning lot served shall be not less than seven feet in width and have a clearance of not less than seven feet.

§ 390-46. Parking requirements.

- A. All new parking lots and all alterations of existing lots shall be subject to the approval of the Plan Commission and the Village Board. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located within the fire zone as designated on the Official Map, there shall be provided at the time any use

or building is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the following:

- (1) Access. Adequate access to a public street shall be provided for each parking space.
- (2) Design standards.
 - (a) Each required off-street parking space shall have a stall width of at least nine feet and a stall length of at least 18 feet. Such space shall have a vertical clearance of at least 6 1/2 feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows:
 - [1] Aisles shall be not less than 24 feet wide for 90° parking.
 - [2] Eighteen feet wide for 60° parking.
 - [3] Fifteen feet wide for 45° parking (angle shall be measured between center line of parking space and center line of aisle).
 - [4] Twelve feet wide for parallel parking.
 - [5] For parallel parking, the minimum length of the parking space shall be increased to 23 feet.
 - [6] No parking area of more than two spaces shall be designed as to require any vehicle to back into a public street.
 - [7] Any parking area of more than five spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses.
 - [8] Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.
- (3) Location.
 - (a) Location to be on the same lot as the principal use or not over 400 feet from the principal use.
 - (b) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and multifamily residential districts, but shall not be closer than five feet to a side lot line, right-of-way line, or rear lot line.
 - (c) Off-street parking in the single-family residence and multifamily residential districts is permitted in the front yard in the driveway even though closer than five feet to a side lot line, providing the driveway conforms to the requirements in § 390-47.
- (4) Surfacing. All open off-street parking areas, 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 4,000 pounds (normally, a two-inch blacktop on a four-inch base or five inches of portland cement will meet

this requirement). Any parking area for more than five vehicles shall have the aisles and spaces clearly marked.

- (5) Landscape requirements.
 - (a) Landscaping. All public and private off-street parking areas which serve five vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this chapter shall be provided with accessory landscape areas totaling not less than 10% of the surfaced area. The minimum size of each landscape area shall not be less than 100 square feet.
 - (b) Location. Location of landscape areas, plant materials, and protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Zoning Administrator.
 - (c) Plans. All plans for such proposed parking areas, at the discretion of the Zoning Administrator, 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.
 - (d) Special residential requirements. Those parking areas for five or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of five feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five feet from said lot line. Said fence shall be located a minimum of one foot from the said lot line.
 - (e) Street setback area. No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
 - (f) Repair and service. No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in residential districts.
 - (g) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three footcandles measured at the lot line.
- (6) Curbs. Curbs or barriers shall be installed a minimum of four feet from a property line so as to prevent the parked vehicles from extending over any lot lines.
- (7) Number of stalls. Number of parking stalls required are shown in the following table, except that:

- (a) Uses, as itemized in C-1 and C-2 Zoning Districts, shall provide one parking space for each 200 square feet of gross floor area in excess of 2,000 square feet, except as indicated below.

Use	Minimum Parking Required
Dwellings: single-family, two-family, and mobile homes	2 stalls for each dwelling unit
Dwellings: multifamily	2 stalls for each dwelling unit
Housing for the elderly (non-nursing home)	0.75 space for each dwelling with 1/2 of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Village Board may order them installed
Hotels, motels	1 stall for each guest room, plus 1 stall for each 3 employees
Sororities, dormitories, rooming houses and boardinghouses	1 stall for each bed
Retirements homes, orphanages, convents and monasteries	1 stall for each 4 beds, plus 1 stall for each 2 employees
Hospitals, sanitariums, institutions, rest and nursing homes	1 stall for each 3 beds, plus 1 stall for each 2 employees
Medical and dental clinics	3 stalls for each doctor
Places of worship, theatres, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 stall for each 6 seats
Colleges and secondary schools	1 stall for each 2 employees, plus 1 stall for each 5 students of 16 years of age or more
Restaurants, bars, clubs and lodges, places of entertainment	1 stall for each 3 seats and 1 space for each 2 employees
Mobile home parks	1 stall for each trailer lot, plus 1 stall for every 3 lots for guest parking
Manufacturing and processing plants (including meat and food processing), laboratories, and warehouses	1 stall for every 2 employees; "number of employees" shall be construed to mean the maximum number on the premises at one time

Use	Minimum Parking Required
Financial institutions, business government and professional offices, retail and service establishments	1 stall for each 250 square feet of floor area and 1 stall for each 2 employees
Motor vehicle sales (new and used)	1 space for each 500 square feet of floor area used, plus 1 space for each 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages; see above)
Repair shops, retail and service stores	1 space for each 150 square feet of net floor space
Automobile repair garages and service stations	1 space for each employee, plus 1 space for each 250 square feet of floor area used for repair work
Bowling alleys	0.5 spaces for each alley

- (8) 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.
- (9) Combined uses. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use. Two or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually provided such uses are not operated during the same hours. A written agreement satisfactory to the Village Attorney shall accompany any joint use arrangement.
- (10) Disabled parking requirements. In addition to any other requirements relating to parking spaces contained in these ordinances, the provisions contained in §§ 101.13, 346.503, and 346.56, Wis. Stats., and any Wis. Adm. Code sections adopted pursuant thereto, are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- (11) Changes in buildings or use. Whenever a building or use is changed, structurally altered, or enlarged to create a need for an increase of 25% or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of 50% or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.
- (12) Off-lot parking.
 - (a) 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.

- (b) Off-lot parking spaces for residential uses shall be within 250 feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within 300 feet of the entrance of the establishment.
- (c) 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.
- (d) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of 10 feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

§ 390-47. Driveways.

- A. All driveways installed, altered, changed, replaced, or extended after the effective date of this chapter shall meet the following requirements and must be approved as to location by the Zoning Administrator:
 - (1) Islands between driveway openings shall be provided with a minimum of six feet between all driveways.
 - (2) The maximum number of driveway openings for vehicular ingress and egress permitted for lots with a width less than 100 feet shall be one and for lots with a width greater than 100 feet shall be two.
 - (3) Vehicular entrances and exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, place of worship, hospital, park, playground, library, public emergency shelter, or other place of public assembly.
 - (4) Openings for vehicular ingress and egress shall not exceed 30 feet at the property line and 35 feet at the roadway for all uses, except the maximum curb opening for all residential districts shall be 25 feet at the roadway.
 - (5) Driveways shall be at least 10 feet wide for one- and two-family dwellings, at least 18 feet for farmsteads, and a maximum of 35 feet at the roadway for all other uses, except the maximum curb opening for all residential districts shall be 25 feet.

§ 390-48. Highway access.

- A. Highway access. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public

or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps). No driveway openings shall be permitted within 100 feet of the intersection of an arterial street right-of-way line.

- B. Access barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above-specified streets or highways.
- C. Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed 12 months.

§ 390-49. Storage and parking of recreational vehicles.

- A. Definitions. For purposes of this section, the following definitions shall apply:

BOAT — Every description of watercraft used or capable of being used means of transportation on water.

MOBILE HOME — A structure, transportable in one or more sections, which is eight body feet or more in width and is 32 body feet or more in length, 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. "Length" of a mobile home means the distance from the exterior of the front wall (nearest to the exterior of the draw bar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, draw bars, couplings, hitches, wall and roof extensions, or other attachments. "Width" of a mobile home means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space, and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.

RECREATIONAL VEHICLE — Any of the following:

- (1) **TRAVEL TRAILER** — A vehicular, portable structure built on a chassis and on wheels that is between 10 and 36 feet long, including the hitch, and eight feet or less in width, designed 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.
- (2) **PICKUP COACH** — A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation or other uses.
- (3) **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.

- (4) CAMPING TRAILER — A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.
- (5) 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.
- (6) CONVERTED AND CHOPPED VANS — Recreational structures which are created by altering or changing an existing auto van to make it a recreational vehicle.
- (7) 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.

YARD, FRONT — That part of a lot between the front lot line and fronts of the principal building on the lot, and extended to both side lot lines.

YARD, REAR — That part of a lot between the rear lot line and the backs of the principal building on the lot, and extended to both side lot lines.

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 chapter, it is permissible to park or 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 or rear yard, provided it is not nearer than five feet to the lot line.
- (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 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 14 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.

§ 390-50. 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: tractors, tractor-trailers, semitrailers, farm tractors in excess of six feet in width, 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.

ARTICLE VII Signs and Billboards

§ 390-51. Purpose of sign and billboard 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.

§ 390-52. Definitions.

- A. The following definitions are used in this article:

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

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

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

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

DIRECTORY SIGN — A sign on which the names and locations of occupants or the use of a building is given. This shall include offices and directories at places of worship.

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

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

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

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

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

MARQUEE SIGN — Any sign attached to and made part of a marquee. A "marquee" is defined as a permanent, rooflike 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.

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

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

PROJECTING SIGN — Any sign extending more than 18 inches, but less than five feet, from the face of a wall or building.

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

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

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

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

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

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

§ 390-53. Exceptions to sign regulations.

- A. The following signs and related items shall not be included in the application of the regulations contained in this article:
- (1) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, or names of occupants of premises.
 - (2) Flags and insignia of any government, except when displayed in connection with commercial promotion.
 - (3) Legal notices, identification information, or directional signs erected by governmental bodies.
 - (4) Integral decorative or architectural features of buildings, except letters trademarks, moving parts, or moving lights.
 - (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

§ 390-54. Sign permits required.

- A. Permit required. No persons shall erect, relocate, reconstruct or maintain or cause the aforementioned within the Village any signs without first having obtained and having in force and in effect a permit therefor from the Building Inspector.
- B. Permits. Signs shall not be erected or altered until a permit has been issued by the Building Inspector. Applications for a sign permit shall be made in writing upon forms furnished by said Inspector. The applicant shall file with the application plans and specifications and provide information about the sign, including dimensions, materials, illumination, wiring, height above grade, distance from lot line, and by whom it shall be erected. Permits are not required for a copy change when no change in business name is involved.
- C. Permit fees. A permit fee shall be paid to the Village Treasurer for each sign permit issued under this chapter; provided, however, that a fee shall not be charged for putting an existing sign in conformance with this chapter, or for a copy change when no change in business name is involved. The permit fee shall be in accordance with a fee schedule adopted by resolution of the Village Board.
- D. Inspection. The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Building Inspector, who will assure the sign complies with the regulations of this article.
- E. Exceptions.
- (1) Temporary signs. Permits are not required for such temporary signs as real estate (which advertises sale or rental of the premises upon which it is posted), political

and construction site or similar type signs, provided such signs do not exceed 25 square feet of display surface.

- (2) Window signs. Window signs directing attention to a business or profession conducted on the premises or to a product, service or entertainment sold or offered on said premises shall be permitted without a permit.

§ 390-55. Dangerous and abandoned signs; violations.

- A. Unsafe or abandoned signs. All signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period of six months or when in the judgment of the Building Inspector such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Building Inspector may remove the sign at cost of the owner, following adequate written notice.
- B. Alterations. Any sign which was erected before the adoption of this chapter shall not be rebuilt or relocated without conforming to all of the requirements of this article.
- C. Violations. All signs constructed or maintained in violation of any of the provisions of this article are hereby declared public nuisances with the meaning of this chapter. In addition to the above penalty provisions for violation of this chapter, the Building Inspector may bring an action to abate the nuisance in the manner set forth in the Wisconsin State Statutes.

§ 390-56. Construction and maintenance regulations for signs.

- A. Installation. All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well-painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector.
- B. General requirements.
 - (1) Awnings. Lowest part of any awning shall be seven feet above the sidewalk. Signs are allowed directly on the awning or hanging on the frame, but not below seven feet.
 - (2) Animated signs. Signs with any moving parts, beacon lights, or moving lights shall not be permitted, except revolving signs are permitted.
 - (3) Flashing signs. Flashing signs will be permitted, but the intensity of the bulb cannot exceed 25 watts. Bare reflecting types bulbs of any kind are not allowed for a flashing or nonflashing sign unless they are properly shaded so as not to interfere with surrounding properties.
 - (4) Roof signs. No sign shall be located so as to project above the parapet line, unless approved by the Building Inspector.

- (5) Illuminated signs. Any illuminated signs shall not interfere with surrounding properties or traffic.
 - (6) Projection. Signs including supports shall not project beyond five feet of the face of the wall to which attached.
 - (7) Blanketing. Blanketing of signs shall not be allowed.
 - (8) Maintenance. All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean.
- C. Requirements per zoning district.
- (1) Exceptions to height and setback requirements. Signs may be allowed in the setback area if they are below three feet or are pole-mounted and above 12 feet to the bottom of the sign. The pole diameter of pole-mounted signs shall not exceed 12 inches, and sign shall be located so as to project above the parapet line, unless approved by the Building Inspector.
 - (2) Prohibitions.
 - (a) No sign shall be erected so that any portion of the sign or its supports attach to or interfere with the free use of any fire escape, exit, any required stairway, door, ventilator or window.
 - (b) No sign shall be erected that will interfere with, obstruct, confuse, or mislead traffic.
- D. Residential development identification signs. Residential development identification signs shall not exceed 32 square feet in sign area. A maximum of two such signs is permitted per development after review and approval by the Building Inspector.
- E. Searchlights. The Village Board may permit the temporary use of a searchlight for advertising purposes in any district, provided that the search light will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five days in any six-month period.
- F. Signs on public rights-of-way. Signs shall not be permitted on public rights-of-way except for traffic control, parking and directional signs and as otherwise specified in this chapter. A sign in direct line of vision of any traffic signal, from any point in the traffic lane from a position opposite the near sidewalk line to a position 150 feet before said sidewalk line, shall not have red, green, or amber illumination.

§ 390-57. Specific requirements.

- A. Temporary sign limitations.
- (1) All temporary signs, such as real estate, construction site and political signs, shall be removed within 10 days after their use has discontinued.
 - (2) Temporary signs may be placed on a property, but shall not be located on a right-of-way terrace and shall not interfere with driveway vision clearance.

- B. Electronic message units signs.
- (1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.
 - (2) Segmented messages must be displayed for not less than 1/2 second and more than 10 seconds.
 - (3) Traveling messages may travel no slower than 16 light columns per second and no faster than 32 columns per second.
- C. Portable signs. The maximum size shall be 25 square feet on each face, back-to-back.
- D. Location by limited-access highway. No advertising device shall hereafter be erected or relocated within 300 feet of the right-of-way line of any limited-access highway if the face thereof is visible therefrom, and advertising devices located at a greater distance than 300 feet from the right-of-way line of any limited-access highway and visible therefrom shall not exceed in gross area in square feet 1/200 times the square of the distance of such advertising device from said limited-access highway. All outdoor advertising structures, post signs, accessory signs, or advertising statuary which are declared to be a traffic hazard by the Building Inspector after a recommendation from the Village Engineer, and which do not conform to the provisions of this section, shall be relocated or rearranged in accord with safety standards.
- E. Location by a park. No advertising sign, when viewed from a public park of 10 or more acres in area, shall hereafter be erected or relocated within 300 feet of such public park of 10 acres or more in area, unless said sign is screened from said park by a building, wall or solid fence, and advertising devices located at a greater distance than 300 feet from such public park shall not exceed, in gross area of square feet, 1/200 times the square of the distance of such advertising sign from said park unless said sign is screened from said park by a building, wall or solid fence.
- F. Location adjacent to residential district. No advertising signs shall be permitted within 75 feet of any residential district boundary line unless said sign is completely screened from said residential district by a building, solid fence, or an evergreen planting, which planting shall be not more than two feet shorter than the height of the sign at the time said evergreens are planted; said evergreens shall be spaced not more than 1/2 the height of the tree for regular varieties and one-third the height of the tree for columnar varieties of trees; said evergreen planting shall be continuously maintained; or said sign is facing away from the residential district and the back is screened as provided below.
- G. Sign mounting. All signs shall be mounted in one of the following manners:
- (1) Flat against a building or wall;
 - (2) Back to back in pairs, so that the back of the sign will be screened from public view;
 - (3) In clusters in an arrangement which will screen the back of the signs from public view;

- (4) Or otherwise mounted so that the backs of all signs or sign structures showing to public view shall be painted and maintained a neutral color or a color that blends with surrounding environment.

§ 390-58. Nonconforming signs.

- A. Signs eligible for characterization as legal, nonconforming. Any sign located within the Village limits on the date of adoption of this chapter, or located in an area annexed to the Village hereafter, which does not conform with the provisions of this article is eligible for characterization as a legal nonconforming sign and is permitted, providing it also meets the following requirements:
 - (1) The sign was covered by a proper sign or building permit prior to the date of adoption of this article.
 - (2) If no permit was required under the applicable law for the sign in question and the sign was in all respects in compliance with applicable law on the date of adoption of this article.
- B. Loss of legal, nonconforming status. A sign loses its nonconforming status if one or more of the following occurs:
 - (1) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this article than it was before alteration.
 - (2) The sign is relocated.
 - (3) The sign fails to conform to this chapter regarding maintenance and repair, abandonment, or dangerous or defective signs.
 - (4) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this chapter with a new permit secured therefor or shall be removed.
- C. Legal, nonconforming sign maintenance and repair. Nothing in this article shall relieve the owner or user 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.

§ 390-59. Billboards prohibited.

It shall be unlawful for any person to erect, repair, alter or relocate or maintain within the Village any billboard as defined in this chapter.

§ 390-60. Wind pressure and dead load requirements.

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

§ 390-61. 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 Building Inspector shall give the owner 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 Building Inspector may take any other appropriate legal action necessary to attain compliance.

§ 390-62. Specific sign standards for residential districts.

- A. In all residential districts established by this chapter, the following nonflashing, nonilluminated signs are permitted under the conditions specified:
- (1) Nameplate and identification signs, subject to the following:
 - (a) Area and content, residential. There shall be not more than one nameplate, not exceeding one square foot in area, for each dwelling unit, indicating the name or address of the occupant or a permitted occupation. On a corner lot, two such nameplates for each dwelling unit, one facing each street, shall be permitted.
 - (b) Area and content, nonresidential. For nonresidential buildings, a single identification sign, not exceeding nine square feet in area and indicating only the name and address of the building, may be displayed. On a corner lot, two such signs, one facing each street, shall be permitted.
 - (c) Projection. Such signs shall be affixed flat against the wall of the building.
 - (d) Height. No sign shall project higher than one story or 15 feet above curb level, whichever is lower.
 - (2) "For sale" and "to rent" signs, subject to the following:
 - (a) Area and number. There shall be not more than one such sign per zoning lot, except that on a corner zoning lot, two signs, one facing each street, shall be permitted. No sign shall exceed 12 square feet in area nor be closer than eight feet to any other zoning lot.
 - (b) Height. No sign shall project higher than one story or 15 feet above curb level, whichever is lower, when attached to a building; detached or freestanding signs shall be not more than four feet in height.
 - (3) Signs accessory to a parking area, subject to the following:
 - (a) Area and number. Signs designating parking area entrances or exists are limited to one sign for each such exit, or entrance, and to a maximum size of two square feet each. One sign per parking area, designating the conditions of use or identity of such parking area and limited to a

maximum size of nine square feet, shall be permitted. On a corner lot, two such signs, one facing each street, shall be permitted.

- (b) Projection. No sign shall project beyond the property line into the public way.
 - (c) Height. No sign shall project higher than seven feet above curb level.
- (4) Signs accessory to roadside stands, subject to the following:
- (a) Content. The signs shall be only for the purpose of identification of the roadside stand and advertising the agricultural products for sale therein.
 - (b) Area and number. The signs shall be on the same zoning lot as the roadside stand, and there shall be not more than two signs per lot. No sign shall exceed 12 square feet in area nor be closer than 50 feet from any other zoning lot.
 - (c) Projection. No sign shall project beyond the property line into the public way.
 - (d) Height. No sign shall project higher than 15 feet above curb level.
- (5) Temporary signs accessory to a subdivision development or other permitted improvements in residential districts, subject to the following:
- (a) Content. The signs shall be only for the purpose of identification of homes for sale or rent in the subdivision under construction, or for the identification of other nonresidential uses under construction.
 - (b) Area, number, and setback. Such signs shall not exceed two in number for each subdivision nor 200 square feet each in area. They shall observe the front yard requirement of the principal use and shall be located at least 50 feet from all other boundaries of the site.
 - (c) Height. No sign shall project higher than 15 feet above curb level.
 - (d) Time limitations. The sign or signs shall be removed by the applicant or property owner within two years of the date of the issuance of the zoning certificate.
- (6) Subdivision identification signs, subject to the following:
- (a) Content. The signs shall bear only the name of the subdivision or development.
 - (b) Area and number. There shall be not more than one sign located at each entrance to a subdivision. No sign shall exceed 200 square feet in area.
 - (c) Height. No sign shall project higher than 15 feet above curb level.
- (7) Nonflashing, illuminated bulletins at places of worship, subject to the following:
- (a) Area and number. There shall be not more than one sign per lot, except that on a corner lot, two signs, one facing each street, shall be permitted. No

sign shall exceed 16 square feet in area nor be closer than eight feet from any other zoning lot.

- (b) Projection. No sign shall project beyond the property line into the public way.
- (c) Height. No sign shall project higher than one story or 15 feet above the curb level, whichever is lower.

§ 390-63. Specific sign standards for business districts.

A. In the C-1 and C-2 Districts, business signs and advertising devices are permitted, subject to the following conditions:

- (1) General application.
 - (a) Area. The gross area in square feet of all signs on a zoning lot shall not exceed five times the linear feet of frontage of such zoning lot. However, the gross area of all flashing signs shall not exceed two times the linear feet of frontage of such zoning lot.
 - (b) Projection. No sign shall project more than 18 inches into the public way.
 - (c) Height. No sign shall project higher than 50 feet above curb level, except as may be provided by conditional use.
- (2) Integrated centers. For integrated centers in single ownership or under unified control or individual uses with a minimum frontage of 150 feet, one additional sign on each street frontage, other than those regulated in Subsection A(1) above, shall be permitted subject to the following:
 - (a) Content. Such sign shall advertise only the name and location of such center or individual use and the name and type of business of each occupant of the center.
 - (b) Area. The gross area in square feet of the additional sign on a zoning lot shall not exceed three times the linear feet of frontage of such zoning lot. However, the gross surface area of such additional sign, if flashing, shall not exceed 1 1/2 times the linear feet of frontage of such zoning lot.
 - (c) Setback. Such sign shall be set back a minimum of 15 feet from the front lot line of such center or individual use, except as may be provided by conditional use.
 - (d) Height. No sign shall project higher than 50 feet above curb level, except as may be provided by conditional use.

§ 390-64. Specific sign standards for industrial districts.

A. In the I-1 District, business signs and advertising devices are permitted, subject to the following conditions:

- (1) General application.
 - (a) Area. The gross area in square feet of all signs on a zoning lot shall not exceed four times the linear feet of frontage of such zoning lot. However, the gross area of all flashing signs shall not exceed two times the linear feet of frontage of such zoning lot.
 - (b) Projection. No sign shall project into the public way.
 - (c) Height. No sign shall project higher than 50 feet above curb level, except as may be allowed by conditional use permit.
- (2) Industrial parks. For industrial parks, one additional sign on each street frontage, other than those regulated in Subsection A above, shall be permitted, subject to the following:
 - (a) Content. Such sign shall advertise only the name and location of such industrial park and the name and type of business of each occupant of the park.
 - (b) Area. The gross area in square feet of the additional sign on a zoning lot shall not exceed three times the linear feet of frontage of such zoning lot. However, the gross surface area of such additional sign, if flashing, shall not exceed 1 1/2 times the linear feet or frontage of such zoning lot.
 - (c) Setback. Such sign shall be set back a minimum of one foot from the front lot line of such industrial park.
 - (d) Height. No sign shall project higher than 50 feet above curb level, except as may be allowed by conditional use permit.

ARTICLE VIII

Performance Standards for Industrial Developments

§ 390-65. Intent.

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

§ 390-66. Noise.

- A. No operation or activity shall transmit any noise exceeding 75 dBA from 7:00 a.m. to 10:00 p.m. and 65 dBA from 10:00 p.m. to 7:00 a.m. beyond the property line. The following noises are exempt from the regulations:
 - (1) Noises not directly under the control of the property user.
 - (2) Noises from temporary construction or maintenance activities during daylight hours.

- (3) Noises from emergency, safety or warning devices.

§ 390-67. Vibration.

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

§ 390-68. External lighting.

No operation or activity shall produce any intense glare or lighting with the source directly visible beyond the I-1 Industrial District's boundaries.

§ 390-69. 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 429.02, Wis. Adm. Code.

§ 390-70. Particulate emissions.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Ch. NR 431.05, Wisconsin Adm. Code.

§ 390-71. Visible emissions.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Ch. NR 431.05, Wis. Adm. Code.

§ 390-72. Hazardous pollutants.

- A. No person, corporation or entity shall engage in the operation of its business or conduct any activity which emits any hazardous substances or pollutants in such a quantity, concentration or duration as to be injurious to human health or property.
- B. Hazardous substances or pollutants shall include the following:
 - (1) Any liquid or vapor having a temperature higher than 150° F.
 - (2) Any waters or wastes containing toxic or poisonous materials or oil.

- (3) Any waters or wastes containing strong-acid iron-pickling waste or concentrated plating solutions, whether neutralized or not.
 - (4) Any waters or wastes containing iron, chromium, copper, zinc or similar objectionable or toxic substances.
 - (5) Any waters or wastes containing phenols or other taste- or odor-producing substances.
 - (6) Any radioactive wastes or isotopes.
 - (7) Any mercury or any of its compounds.
 - (8) Any cyanide.
 - (9) Any naphtha, benzol, gasoline, kerosene, paints, solvents, varnishes or any other inflammable liquid or combustible material.
 - (10) Any other substance which may be determined to be injurious to human health or property if used in an improper manner.
- C. Repeated violations of the provisions contained herein are declared to be a public nuisance and an action may be maintained by the Village to abate such nuisance and enjoin such violation.⁴ Proper use and handling of the materials specified herein, or any other materials, shall not be considered a public nuisance so long as the same is not injurious to human health or does not cause damage to property.

ARTICLE IX

Accessory Uses

§ 390-73. Satellite earth stations.

- A. Permit required. No owner shall, within the Village, build, construct, use, or place any type of satellite earth station until a permit shall have first been obtained from the Building Inspector.
- B. Definitions. As used in this article, the following terms shall have the meanings indicated:

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

SATELLITE TELEVISION DISH OR EARTH STATION — An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit. They are also commonly referred to as "disks," "satellite communications systems" or "home earth stations."

4. Editor's Note: See Ch. 235, Nuisances, Public, § 235-6, Abatement of public nuisance.

- C. Application. Application for a satellite earth station permit shall be made in writing to the Building Inspector. With such application, there shall be submitted a fee as listed in the Village of Black Creek Fee Schedule⁵ and a complete set of plans and specifications, including a plot plan showing the location of the proposed satellite earth station with respect to adjoining alleys, lot lines, and buildings. If such application meets all requirements of this section, the application shall be approved.
- D. Installation restrictions. Satellite earth stations installed in any zoning district within the Village shall comply with the following provisions:
- (1) Number of units. Not more than one satellite earth station may be allowed per individual recorded lot except additional stations may be permitted upon application for a conditional use permit in nonresidential zones.
 - (2) Location and setbacks.
 - (a) Any satellite dish shall only be located in the rear yard or a residential lot and at least 15 feet from any property line. Placement of a satellite dish in a business or industrial district shall not be allowed unless a special exception is granted by the Village Board.
 - (b) If the dish cannot receive a usable satellite signal in the rear yard of any residential lot, but can receive such a signal while located in a side yard, it may be located only in a side yard after receiving approval from the Village Board. For corner lots, a side yard is only a yard that does not face a street.
 - (c) No dish shall be placed in the front yard of any residential, business or industrial lot in the Village.
 - (d) The Village Board shall determine whether a signal constitutes a usable satellite signal, based on evidence provided by the person seeking a permit to erect or construct the dish.
 - (3) Mounting. Satellite earth stations located in agricultural or residential districts shall be ground-mounted only. Satellite earth stations may be wall- or roof-mounted in business or industrial districts only. Satellite earth stations attached to the wall or roof of any principal or accessory structure shall be subject to the structure being constructed to carry all imposed loading. The Building Inspector may require engineering calculations.
 - (4) Diameter. The diameter of the satellite television dish shall not exceed eight feet for the ground-mounted dish and six feet for the roof-mounted dish, except for stations used to provide community antenna television services.
 - (5) Height.
 - (a) A ground-mounted satellite dish may not exceed 10 feet in height, as measured from the ground to the highest point of the dish.

5. Editor's Note: The Fee Schedule is on file in the Village offices.

- (b) A roof-mounted satellite dish may not exceed eight feet in height above the surrounding roofline, as measured from the lowest point of the existing roofline.
- (6) Wind pressure. All satellite earth stations shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of 80 mph.
- (7) Electrical installations. Electrical installations in connection with earth satellite receiving stations, including grounding of the system, shall be in accordance with National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer; in cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the satellite earth station to the receivers shall be installed underground unless installation site conditions preclude underground. If a satellite earth station is to be used by two or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for permit. All satellite earth stations shall be grounded against direct lightning strikes.
- (8) Temporary placement. No portable or trailer-mounted satellite earth station shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five days; however, such trial placement shall be in accordance with all provisions of this section. Failure to comply shall result in a citation being issued for violation of this section. Any person making such temporary placement shall give written notice to the Building Inspector of the date when such placement shall begin and end.
- (9) Advertising. No form of advertising or identification, sign or mural are allowed on the dish or framework other than the customary manufacturer's identification plates.
- (10) Interference with broadcasting. Satellite earth stations shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the satellite earth stations shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (11) Compliance with federal regulations. The installation and use of every satellite earth station shall be in conformity with the Federal Cable Communications Policy Act of 1984⁶ and regulations adopted thereunder.
- (12) Color. The color of any satellite dish shall be such that it blends into its surroundings and shall be approved by the Village Board as part of the application.

6. Editor's Note: See 47 U.S.C. § 521 et seq.

E. Enforcement.

- (1) It shall be unlawful to construct, use, build or locate any satellite television dish in violation of any provisions of this section. In the event of any violation, the Village Board or any property owner who would be specifically damaged by such Violation may institute appropriate action or proceedings to enjoin a violation of this section.
- (2) Any person, firm, or corporation who fails to comply with the provisions of this section shall upon conviction be subject to the general penalty found in Chapter 1, General Provisions, § 1-4.

§ 390-74. Radio or television antenna towers.

- A. No radio or television antenna tower shall be erected or installed within the front yard or side yard. The rear setback and the side setback in rear yards shall be that for the principal structure within the respective zoning district. The exact location of the antenna tower shall be subject to approval by the Village Board.
- B. No radio or television tower shall exceed a height of 20 feet above the roofline of the building on the property upon which the antenna is located or 60 feet above the ground measured at grade level, whichever is the minimum.
- C. Radio or television antenna towers shall be erected and installed in accordance with the Wisconsin State Electrical Code, National Electrical Safety Code and the instructions of the manufacturer; in cases of conflict, the stricter requirements shall govern.

§ 390-75. Mobile tower siting regulations.

- A. Purpose. The purpose of this section is to regulate by zoning permit:
 - (1) The siting and construction of any new mobile service support structure and facilities.
 - (2) With regard to a Class 1 collocation, the substantial modification of an existing support structure and mobile service facilities.
 - (3) With regard to a Class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.
- B. Authority. The Village Board has the specific authority under §§ 60.61 and 66.0404, Wis. Stats., to adopt and enforce this chapter.
- C. Definitions. All definitions contained in § 66.0404(1), Wis. Stats., are hereby incorporated by reference.
- D. Siting and construction of any new mobile service support structure and facilities.
 - (1) Application process.

- (a) A permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Village obtainable with this permit.
- (b) A written permit application must be completed by any applicant and submitted to the Village. The application must contain the following information:
 - [1] The name and business address of, and the contact individual for, the applicant.
 - [2] The location of the proposed or affected support structure.
 - [3] The location of the proposed mobile service facility.
 - [4] If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - [5] If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - [6] If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- (c) A permit application will be provided by the Village upon request to any applicant.
- (d) If an applicant submits to the Village an application for a permit to engage in an activity described in this chapter which contains all of the information required under this chapter, the Village shall consider the application complete. If the Village does not believe that the application is complete, the Village shall notify the applicant, in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- (e) Within 90 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree, in writing, to an extension of the ninety-day period:
 - [1] Review the application to determine whether it complies with all applicable aspects of the Village's Building Code⁷ and, subject to the limitations in this section, this chapter.
 - [2] Make a final decision whether to approve or disapprove the application.
 - [3] Notify the applicant, in writing, of its final decision.
 - [4] If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 - (f) The Village may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under § 390-75D(1)(b)[6] of this chapter.
 - (g) If an applicant provides the Village with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, this chapter does not apply to such a structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
- (2) Upon submittal of a complete application, payment of a fee as set forth in the Village Fee Schedule.⁸
- E. Class 1 collocation.
- (1) Application process.
 - (a) A conditional use permit is required for a Class 1 collocation.
 - (b) An application for a conditional use permit must be completed by any applicant and submitted to the Village. The application must contain the following information:
 - [1] The name and business address of, and the contact individual for, the applicant.
 - [2] The location of the proposed or affected support structure.
 - [3] The location of the proposed mobile service facility.
 - [4] If the application is to substantially modify an existing support structure, a construction plan which describes the proposed

7. Editor's Note: See Ch. 120, Building Construction

8. Editor's Note: The Fee Schedule is on file in the Village offices.

modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

- [5] If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - [6] If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- (c) A permit application will be provided by the Village upon request to any applicant.
 - (d) If an applicant submits to the Village an application for a permit to engage in an activity described in this chapter which contains all of the information required under this chapter, the Village shall consider the application complete. If the Village does not believe that the application is complete, the Village shall notify the applicant, in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 - (e) Within 90 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree, in writing, to an extension of the ninety-day period:
 - [1] Review the application to determine whether it complies with all applicable aspects of the Village's building code and, subject to the limitations in this section, this chapter.
 - [2] Make a final decision whether to approve or disapprove the application.
 - [3] Notify the applicant, in writing, of its final decision.
 - [4] If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

- (f) The Village may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under Section 10-1-§ 390-75E(1)(b)[6] of this chapter.
 - (g) If an applicant provides the Village with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in this chapter, this chapter does not apply to such a structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
- (2) Upon submittal of a complete application, payment of a fee as set forth in the Village Fee Schedule.⁹
- F. Class 2 collocation.
- (1) Application process.
 - (a) A zoning permit is required for a Class 2 collocation. A Class 2 collocation is a permitted use in the Village but still requires the issuance of the zoning permit.
 - (b) An application must be completed by any applicant and submitted to the Village. The application must contain the following information:
 - [1] The name and business address of, and the contact individual for, the applicant.
 - [2] The location of the proposed or affected support structure.
 - [3] The location of the proposed mobile service facility.
 - (c) A permit application will be provided by the Village upon request to any applicant.
 - (d) A Class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject as per the Code of the Village of Black Creek.
 - (e) If an applicant submits to the Village an application for a permit to engage in an activity described in this chapter which contains all of the information required under this chapter, the Village shall consider the application complete. If any of the required information is not in the application, the Village shall notify the applicant, in writing, within five days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

⁹ Editor's Note: The Fee Schedule is on file in the Village offices.

- (f) Within 45 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree, in writing, to an extension of the forty-five-day period:
- [1] Make a final decision whether to approve or disapprove the application.
 - [2] Notify the applicant, in writing, of its final decision.
 - [3] If the application is approved, issue the applicant the relevant permit.
 - [4] If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (2) Upon submittal of a complete application, payment of a fee as set forth in the Village Fee Schedule.¹⁰
- G. Penalty provisions. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this chapter shall, upon conviction, pay a forfeiture of not less than \$250 nor more than \$500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this chapter. In addition, the Village Board may seek injunctive relief from a court of record to enjoin further violations.

§ 390-76. Wind energy systems.

- A. Applicability.
- (1) Wind energy systems shall include small wind energy systems and personal wind energy system as defined under wind energy system types in Article XIV of this chapter,
 - (2) Any upgrade, modification, or structural change to a wind energy system constructed prior to the effective date of this chapter that materially alters the size or placement of the system shall comply with the provisions of this chapter.
- B. Purpose. It is the purpose of this section to:
- (1) Promote the safe, effective and efficient use of wind energy systems installed to reduce the on-site consumption of utility supplied energy and/or hot water as a permitted accessory use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.
 - (2) Oversee the permitting of wind energy systems.

10. Editor's Note: The Fee Schedule is on file in the Village offices.

- (3) Preserve and protect the public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system, per § 66.0401, Wis. Stats.
- C. Standards. The installation and operation of a wind energy system shall be subject to the following standards:
- (1) Districts allowed. A wind energy system shall require a conditional use permit in all zoning districts as an accessory to a principal use.
 - (2) Structure. A wind tower must be of monopole construction to the extent practicable. If monopole construction is not practicable, a wind tower must be of freestanding construction to the extent practicable. If monopole or freestanding construction is not practicable, a wind tower may be guyed.
 - (3) Setbacks. A wind tower for a wind energy system shall be setback a distance equal to 110% of its total height from:
 - (a) Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road.
 - (b) Any overhead utility lines, unless written permission is granted by the affected utility.
 - (c) Any property lines, unless written permission is granted from the affected landowner or neighbor.
 - (4) Access.
 - (a) All ground-mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
 - (b) The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.
 - (5) Electrical wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
 - (6) Noise. The noise generated by the operation of a wind energy system may not exceed the ambient noise level by more than five dB(A) as measured at any point on property adjacent to the parcel on which the wind energy system is located. The noise level generated by the operation of a wind energy system will be determined during the investigation of a noise complaint by comparing the sound level measured when the wind generator blades are rotating to the sound level measured when the wind generator blades are stopped.
 - (7) Shadow flicker. Wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on

neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

- (8) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
- (9) Appearance, color, and finish. The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.
- (10) Signal interference. The owner of a wind energy system must take such reasonable steps as are necessary to prevent, eliminate, or mitigate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals. If, within 12 months of the installation of a wind energy system, adjacent property owners can justify to the Plan Commission that the system is causing unreasonable interference with such signals as received on their properties, the Plan Commission shall give the system owner not more than three months to correct the interference problem. Should the Plan Commission be convinced at the end of that three-month period that the interference has not been adequately abated, the Plan Commission may order the removal of the system.
- (11) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
- (12) Code compliance. A wind energy system including tower shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
- (13) Utility notification and interconnection. Wind energy systems that connect to the electric utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."
- (14) Meteorological towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a wind energy system.

§ 390-77. Solar energy systems.

A. Applicability.

- (1) This section applies to solar energy systems, including photovoltaic and solar thermal systems, constructed after the effective date of this chapter.
- (2) Any upgrade, modification, or structural change to a solar energy system constructed prior to the effective date of this chapter shall comply with the provisions of this chapter.

B. Purpose. It is the purpose of this section to:

- (1) Promote the safe, effective and efficient use of solar energy systems installed to reduce the on-site consumption of utility supplied energy and/or hot water as a permitted accessory use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.
 - (2) Oversee the permitting of solar energy systems.
 - (3) Preserve and protect the public health and safety without significantly increasing the cost or decreasing the efficiency of a solar energy system, per § 66.0401, Wis. Stats.
- C. Standards. The installation and operation of a solar energy system shall be subject to the following standards:
- (1) Districts allowed. A solar energy system shall require a conditional use permit in all zoning districts as an accessory to a principal use.
 - (2) A solar energy system shall be constructed, installed, and operated in conformance with all applicable state and Village building codes, and in accordance with §§ 66.0401, 66.0403, 700.35, and 700.41, Wis. Stats.
 - (3) A solar energy system shall provide power for the principal use and/or accessory use of the property on which the solar energy system is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
 - (4) A solar energy system connected to the utility grid shall provide written authorization from the local utility company to the Village acknowledging and approving such connection.
 - (5) Roof-mounted solar energy systems.
 - (a) A roof-mounted system may be mounted on a principal building or accessory building.
 - (b) A roof-mounted system, whether mounted on the principal building or accessory building, may not exceed the maximum principal building height or accessory building height specified for the building type in the underlying zoning district.
 - (c) In no instance shall any part of the solar energy system extend beyond the edge of the roof.
 - (d) A roof-mounted system must have a three-foot setback from the edge of the gutter and from the chimney.
 - (e) A roof-mounted system shall be located to ensure that any solar glare is directed away from adjacent properties and roads.
 - (6) Ground-mounted solar energy systems.

- (a) A ground-mounted system shall not exceed the maximum building height for accessory buildings.
 - (b) The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
 - (c) A ground-mounted system or system attached to an accessory building shall not be located within the required front yard setback.
 - (d) Solar panels shall be placed such that concentrated solar radiation or solar glare shall not be directed onto nearby properties or roadways.
 - (e) All exterior electrical and/or plumbing lines must be buried below the surface of the ground and placed in a conduit.
 - (f) A ground-mounted system shall be placed in the side and rear yard only and shall meet all setback and yard requirements for the district in which it is located.
- (7) All mechanical equipment associated with and necessary for the operation of the solar energy system shall comply with the following:
- (a) Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other noninvasive plant species that provides a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of this chapter may be used.
 - (b) Mechanical equipment shall not be located within the minimum front or street yard of the parcel.
 - (c) Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- (8) No adjacent property owners shall be required to remove vegetation or structures that may block sunlight to the solar energy system during the initial installation of a system.
- (9) A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system, provided they comply with the prevailing sign regulations.
- (10) The design of the solar energy system shall conform to applicable industry standards. A building permit shall be obtained for a solar energy system per Chapter 101, Wis. Stats. All wiring shall comply with the applicable version of the National Electric Code (NEC). The local utility provider shall be contacted to determine grid interconnection and net metering policies. The applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certifying organization and any such design shall be certified by an engineer registered in the State of Wisconsin.

- (11) If a solar energy system is defective or is deemed to be unsafe by the Building Inspector, the solar energy system shall be required to be repaired by the owner to meet federal, state, and local safety standards, or be removed by the property owner within the time period allowed by the Plan Commission. If the owner fails to remove or repair the defective or abandoned solar energy system, the Village may pursue a legal action to have the system removed at the owner's expense.

§ 390-78. Geothermal heating systems.

A. Applicability.

- (1) This section applies to geothermal heating systems constructed after the effective date of this chapter.
- (2) Any upgrade, modification, or structural change to a geothermal heating systems constructed prior to the effective date of this chapter shall comply with the provisions of this chapter.

B. Purpose. It is the purpose of this section to:

- (1) Promote the safe, effective and efficient use of geothermal heating systems installed to reduce the on-site consumption of utility-supplied energy as a permitted accessory use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.
- (2) Oversee the permitting of geothermal systems.
- (3) Preserve and protect the public health and safety.

C. Standards. The installation and operation of a geothermal heating system shall be subject to the following standards:

- (1) Districts allowed. A geothermal heating system shall require a conditional use permit in all zoning districts.
- (2) A geothermal heating system shall be constructed, installed, and operated in conformance with all applicable state and Village building codes, and in accordance with Chapter 280, Wis. Stats.
- (3) A geothermal heating system shall conform to applicable industry standards including those of ANSI. Applicants shall submit certificate of compliance demonstrating that the system has been tested and approved by UL or other approved independent testing agency.
- (4) Aboveground equipment shall comply with the setback requirements of the respective zoning district.
- (5) Equipment, piping and devices shall not be located in any easement or right-of-way.
- (6) Setbacks.

- (a) Geothermal heating systems shall conform to all setbacks requirements for accessory structures and shall:
 - [1] Be set back a minimum of 75 feet between a vertical geothermal heating system and a personal on-site wastewater treatment system.
 - [2] Be set back a minimum of 25 feet between a horizontal geothermal heating system and a personal on-site wastewater treatment system.
 - [3] Not be located closer than 200 feet to a water well, except when the well is a private water system well and when the owner is the same for both the water well and the geothermal system, in which case the water well shall not be closer than 75 feet from the geothermal system.

§ 390-79. Electric vehicle infrastructure.

- A. Purpose. The purpose of this section is to facilitate the use of electric vehicles and to expedite the establishment of a convenient, cost-effective electric vehicle infrastructure that such use necessitates.
- B. Permitted locations.
 - (1) Level-1 and Level-2 electric vehicle charging stations are permitted in every zoning district other than the CON Conservancy District, when accessory to the principal use. Such stations located at one-family, multiple-family, and mobile home park dwellings shall be designated as private restricted use only.
 - (a) Level-1 and Level-2 electric vehicle charging stations require a conditional use permit in the CON Conservancy District.
 - (2) Level-3 electric vehicle charging stations are permitted in the C-1, C-2, and I-1 Districts, when accessory to the principal use.
 - (a) If the primary use of the parcel is the retail electric charging of vehicles, then the use shall be considered a gasoline service station for zoning purposes. Such a use shall be located in zoning districts that permit gasoline service stations and shall require a conditional use permit.
- C. General requirements for parking.
 - (1) An electric vehicle charging station space may be included in the calculation for any minimum required parking spaces.
 - (2) Public electric vehicle charging stations are reserved for parking and charging electric vehicles only.
 - (3) Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
- D. Lighting. Site lighting shall be provided where an electric vehicle charging station is installed, unless charging is for daytime purposes only.

- E. Equipment standards and protection.
- (1) Battery charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the surface where mounted. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designed and located as to not impede pedestrian travel or create trip hazards on sidewalks.
 - (2) Adequate battery-charging-station protection, such as concrete-filled steel bollards, shall be used. Curbing may be used in lieu of bollards, if the battery charging station is set back a minimum of 24 inches from the face of the curb.
 - (3) The property owner is not restricted from collecting a service fee for the use of an electric vehicle charging station made available to visitors of the property.
- F. Usage fees. Information shall be posted identifying voltage and amperage levels and any time of use, fees, or safety information related to the electric vehicle charging station.
- G. Signage.
- (1) Each electric vehicle charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. For purposes of this subsection, "charging" means that an electric vehicle is parked at an electric vehicle charging station and is connected to the battery charging station equipment. Restrictions shall be included on the signage, if removal provisions are to be enforced by the property owner.
 - (2) When a sign provides notice that a parking spaces a publicly designated electric vehicle charging station, no person shall park or stand any nonelectric vehicle in a designated electric vehicle charging station space. Further, no person shall park or stand an electric vehicle in a publicly designated electric vehicle charging station space when not electrically charging or parked beyond the days and hours designated on the regulatory signs posted. For purposes of this subsection, "charging," means an electric vehicle is parked at an electric vehicle charging station and is connected to the charging station equipment.
 - (3) Maintenance. Electric vehicle charging stations shall be maintained in all respects, including the functioning of the equipment. A phone number or other contact information shall be provided on the equipment for reporting when it is not functioning or other problems are encountered.

§ 390-80. Accessory dwelling units.

- A. Requirements. To be permissible as a compliant development under a conditional use permit, an accessory dwelling unit (ADU) shall comply with all of the following:
- (1) An ADU shall be established in conjunction with a principal dwelling.
 - (2) An ADU located within, or attached to, a principal dwelling shall have a separate entrance from the principal dwelling.
 - (3) The principal dwelling must be a single-family detached dwelling.

- (4) No ADU shall be constructed prior to the construction of a principal dwelling.
- (5) An ADU shall be located on the same lot of land as the principal dwelling.
- (6) The principal dwelling or the accessory dwelling unit must be owner-occupied, except that a temporary absence of up to six months is allowed.
- (7) No more than one accessory dwelling unit may be located on a lot.
- (8) The number of occupants of the accessory dwelling unit shall not exceed one family or two unrelated individuals.
- (9) The accessory dwelling unit shall not be sold separately from the principal dwelling.

B. Standards.

- (1) The maximum height of a detached building containing an ADU, including one built above a garage, shall be 25 feet.
- (2) The maximum size of an ADU shall be 75% of the principal dwelling's floor area, up to a maximum size of 700 square feet.
- (3) The minimum setback requirements shall be those for accessory building or structures of the underlying zoning district.
- (4) Accessory dwelling unit entryways within a rear or side yard shall be connected to a street frontage by a paved walkway or driveway.
- (5) The appearance or character of the principal building shall not be significantly altered so that its appearance is no longer that of a single-family dwelling.
- (6) The exterior finish material of an ADU shall be substantially consistent with the type, size, and placement of exterior finish material of the principal dwelling.
- (7) The roof pitch of an ADU shall match the predominant roof pitch of the principal dwelling.
- (8) Trim, projecting eaves, and other such architectural accouterment of an ADU shall match those of the principal dwelling.
- (9) Windows of an ADU shall match those in the principal dwelling in proportion (relationship of width to height) and orientation (horizontal or vertical).
- (10) An ADU shall comply in all respects with the Wisconsin Uniform Development Code and all other applicable building codes and standards.

§ 390-81. Keeping of bees.

- A. Notwithstanding any other provision of this chapter, bees may be kept in the A-1 District as a permitted use and in the R-1 and R-2 Districts upon approval of a conditional use permit.

- B. Any person found in violation of this section shall be subject to enforcement procedures and penalties under this chapter.
- C. The keeping of bees shall comply in all respects with the following:
- (1) No bees shall be intentionally kept and maintained other than mason bees or honey bees.
 - (2) No hive shall exceed 20 cubic feet in volume.
 - (3) An ever-present supply of water shall be provided for all hives.
 - (4) The Village Clerk-Treasurer shall be notified immediately if a hive swarms. The owner is responsible for tracking and managing the swarm and notifying affected landowners.
 - (5) On R-1 and R-2 lots:
 - (a) No more than two hives may be kept on a residential zoning lot.
 - (b) Hives shall not be located on vacant lots.
 - (c) Hives shall be located in the back or rear yard in a sunny location.
 - (d) No hive shall be located closer than 10 feet from any property line of a residential district lot.
 - (e) No hive shall be located closer than 10 feet from a public sidewalk or 25 feet from a principal building on an abutting lot in different ownership.
 - (f) The area around the hive(s) shall be kept clean of hive scrapings to avoid attracting wasps, nuisance insects, and animals.
 - (g) Signage shall be posted informing that bees are kept on the property. Such signage shall conform to the following:
 - [1] Signs shall be no smaller than seven inches by 10 inches and printed in a font size clearly legible to the general public.
 - [2] Signs shall be placed at locations visible to all adjoining parcels.
 - [3] Signs shall be posted to a fence or semipermanent post at a height no lower than four feet and no higher than six feet.
 - [4] Signs shall be made of aluminum, heavy-duty plastic, or vinyl laminate.
 - [5] Signs shall be composed of black writing on a yellow background.
 - [6] Signs shall include the words "Caution" or "Warning" in large block letters at the top and "Bees," "Honeybees," "Beehives," or similar below.
 - (h) A flyway barrier at least six feet in height shall shield any part of a property line of a lot in different ownership that is within 25 feet of a hive. The flyway barrier must effectively direct bees to fly up and over the

barrier when flying in the direction of the barrier. The flyway barrier shall consist of a wall, fence, dense vegetation, or combination thereof, and it shall be positioned to transect both legs of a triangle extending from an apex at the hive to each end point of the part of the property line to be shielded.

§ 390-82. Backyard chickens.

- A. Districts allowed. Notwithstanding any other provision of this chapter, backyard chickens may be kept in the R-1 and R-2 Districts upon approval of a conditional use permit.
- B. Violations. Any person found in violation of this section shall be subject to enforcement procedures and penalties under this chapter.
- C. Standards. The keeping of backyard chickens shall comply in all respects with the following:
- (1) General.
 - (a) No more than four chickens may be kept.
 - (b) The keeping of roosters is prohibited.
 - (c) Chickens raised and kept on the property for food shall not be slaughtered outdoors.
 - (d) Any henhouse and outdoor run that is abandoned or its use discontinued for the keeping of chickens for a period of 365 consecutive days shall be removed from the premises by the property owner.
 - (e) Modifications of a henhouse and outdoor run for some other use is prohibited.
 - (2) Enclosure requirements and prohibitions.
 - (a) Chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
 - (b) The enclosure shall be a predator-proof, rodent-resistant, insulated structure that is adequately ventilated to allow free movement of the fowl.
 - (c) The size of the henhouse shall provide a minimum of three square feet per chicken.
 - (d) The structure shall not be greater than 100 square feet in size.
 - (e) The maximum height of the enclosure, including the area of a covered run, shall not exceed six feet.
 - (f) The construction of the enclosure shall utilize a building design and materials suitable for a residential district.
 - (g) The enclosure must include a floor.

- (h) The use of dilapidated corrugated metal, dilapidated sheet metal, plastic, polymer or tarp-type material, pallets, scrap materials and/or similar materials shall be prohibited.
 - (i) The reuse of storage containers, vehicles or parts thereof, and similar objects for a henhouse/run are prohibited.
- (3) Location.
- (a) The enclosure housing chickens shall be located at least 25 feet from any residential structure on an adjacent lot.
 - (b) No henhouse or outdoor run shall be located within 15 feet of any side or rear lot line, and/or sited to obstruct an existing drainage course or create a drainage problem for the property on which it is situated or for any neighboring property.
 - (c) No henhouse shall be located within the street yard or primary street yard on a corner lot or double frontage lot.
- (4) Level of care.
- (a) Chickens shall be kept in a sanitary condition, be provided with fresh water and adequate amounts of food at all times.
 - (b) Chickens shall be secured within a henhouse during nondaylight hours.
 - (c) Chickens may not roam free outside of a henhouse or enclosed run, or roam off of the permitted property. A dog, cat, or other domesticated animal that kills a chicken off of the permitted property shall not, for that reason alone, be considered a dangerous or aggressive animal.
 - (d) All chicken waste shall be properly disposed.
- (5) Registration. The owner, operator, or tenant shall register the premise where chickens are kept with the Wisconsin Department of Agriculture, Trade and Consumer Protection as required by state law and maintain such registration for so long as may be required.

ARTICLE X

Accessory Uses and Structures; Fences and Hedges

§ 390-83. Accessory uses or structures.

- A. Principal use to be present. An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction.
- B. Placement restrictions. An accessory use or structure in a residential district may be established subject to the following regulations:

- (1) Accessory building number limits. In any residential district, in addition to the principal building, a detached garage or attached garage and one additional accessory building may be placed on a lot.
 - (2) Accessory building size limits. No detached accessory building or structure shall exceed the height of the principal building or structure.
 - (3) Attached accessory buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
 - (4) Detached accessory buildings. No detached accessory building shall occupy any portion of the required front yard, and no detached accessory building shall occupy more than 40% of the required rear yard, or be located within three feet of any other accessory building or lot line. An accessory building shall not be nearer than 10 feet to the principal structure unless the applicable building code regulations in regard to one-hour, fire-resistive construction are complied with. In no event can the accessory uses or structures be forward of the front line of the principal structure. All necessary buildings, except small portable storage sheds, shall be attached to a concrete foundation.
 - (5) Accessory building setbacks. Accessory building setbacks shall be as prescribed for each zoning district.
- C. Use restrictions, residential district. Accessory uses or structures in residential districts shall not involve the conduct of any business, trade, or industry except for home occupations as defined herein, and shall not be occupied as a dwelling unit.
- D. Placement restrictions, nonresidential districts. An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall have setbacks as prescribed in each zoning district.
- E. Reversed corner lots. When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the interior lot to the rear, nor nearer than five feet to the side line of the adjacent structure.
- F. Landscaping and decorative uses. Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flagpoles, ornamental light standards, lawn furniture, sundials, birdbaths, trees, shrubs and flowers and gardens.
- G. Temporary uses. Temporary accessory uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Administrator.
- H. Garages in embankments in front yards. Where the mean natural grade of a front yard is more than eight feet above the curb level, a private garage may be erected within the front yard, provided as follows:
- (1) That such private garage shall be located not less than five feet from the front lot line.

- (2) That the floor level of such private garage shall be not more than one foot above the curb level.
- (3) That at least 1/2 the height of such private garage shall be below the mean grade of the front yard.

§ 390-84. Outside storage of firewood.

- A. No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of 30 days from the date of its delivery.
- B. Firewood should be neatly stacked and may not be stacked closer than two feet to any lot line and not higher than six feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high the fence. Fences as used in this section shall not include hedges and other vegetation.
- C. All brush, debris, and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.
- D. Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this chapter.
- E. Not more than 15% of the side or rear yard may be used for storage of firewood at any one time.

§ 390-85. Fences and hedges.

- A. Fences defined. For the purpose of this section, a "fence" is herein defined as an enclosed barrier consisting of vegetation, wood, stone, or metal intended to prevent ingress or egress. For the purpose of this section, the term "fence" shall include plantings, such as hedges and shrubbery.
- B. Fences categorized. Fences shall be categorized into three classifications:
 - (1) Boundary fence. A fence placed three feet from 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. Location of fences regulated.
 - (1) Except as provided in § 390-86, a fence, wall, hedge or shrubbery may be erected, placed, maintained or grown along a lot line on residentially zoned property or adjacent thereto to a height not exceeding six feet above the ground level, except that no such fence, wall, hedge or shrubbery which is located in a required front or corner side yard shall exceed a height of three feet above the

street grade nearest thereto, within 25 feet of the intersection of any street lines or any projected street lines. Where such lot line is adjacent to nonresidentially zoned property, there shall be an eight-foot limit on the height of a fence, wall, hedge or shrubbery along such lot line.

- (2) Fences in or adjacent to residential properties may, by mutual consent of the two adjacent parties involved, be located on the lot line. If mutual consent cannot be obtained, then such fences shall be set back from the lot line a sufficient distance to guarantee that the owner constructing the fence will, at all future times, be able to maintain the same without transgressing the boundary line between his property and the adjacent non-consenting owner.
- (3) The good or finished side of the fence must face the adjoining property; posts must face the owner's property.

§ 390-86. Private residential swimming pools.

- A. Definition. A "private or residential swimming pool" is an outdoor or indoor structure containing a body of water in a receptacle or other container having a depth for water of 18 inches or more with a minimum surface of 48 square feet, located above or below the surface of ground elevation, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be use for the operation and maintenance of a private residential swimming pool by the owner, operator or lessee thereof, and his family and by friends invited to use it.
- B. Permit required. Before work is commenced on the construction or erection of private or residential swimming pool or on any alterations, additions, remodeling or other improvements, an application for a permit to construct, erect, alter, remodel or add must be obtained from the Building Inspector for the Village of Black Creek. Plans and specifications and pertinent explanatory data should be submitted to the Village at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. The fees for such permit shall be as listed in the Village of Black Creek Fee Schedule.¹¹
- C. Construction requirements. In addition to such other requirements as may be reasonably imposed by the Village, the Building Inspector shall not issue a permit for construction of any private residential swimming pool or for any alterations, additions, remodeling or other improvements to an existing private residential swimming pool unless the following construction requirements are observed in such construction, alteration, addition, remodeling or other improvements:
 - (1) All materials and methods of construction in the construction alteration addition, remodeling or other improvements of private residential swimming pools shall be approved by the Building Inspector.
 - (2) All plumbing as defined in Ch. SPS 382, Wis. Adm. Code, in relation to swimming pool installation shall be in accord with the Village of Black Creek Plumbing Code.

¹¹ Editor's Note: The Fee Schedule is on file in Village offices.

- (3) Every private residential swimming pool shall be provided with a suitable draining method, and in no case shall the waters from any pool be drained into the sanitary sewer, nor onto lands of other property owners adjacent to that on which the pool is located or in the general vicinity.
- (4) Every outdoor private residential swimming pool in the ground shall be completely enclosed by a fence or wall no less than six feet in height but not to exceed seven feet in height, which shall be constructed as not to have openings, holes or gaps larger than three inches in any dimension except for doors and gates. A residence or accessory building may be used as part of such enclosure. All gates or doors opening through such enclosure shall be equipped with a locking device for keeping the gate or door securely locked at all times when the pool is not in actual use. Aboveground pools using a ladder for ingress or egress shall have this ladder removed or flipped up when the pool is not in use. The requirements of this subsection shall be applicable to all private swimming pools, whether constructed before or after the effective date of this chapter, except in case of any pool where the Building Inspector finds that there are special circumstances existing that prevent such pool from being a safety hazard.
- (5) All private residential swimming pools having a capacity in excess of 150 cubic feet shall be equipped with a satisfactory recirculation and purification system that is in good operating condition and which shall be used when the pool is in use. The owner of the pool shall secure adequate instruction from the installing contractor or other qualified source with respect to the system's proper maintenance. Such instruction shall include the use of high-test calcium hypochlorite (dry chlorine carrier) or sodium hypochlorite (piqueed chlorine), or an equally effective germicide and algicide, and the importance and procedure for maintaining proper pH (alkalinity and acidity) control.
- (6) No attachment from plug receptacles shall be installed within 10 feet horizontally from the inside walls of a portable or permanent swimming pool.
- (7) Clearance of electric service drops to residences or any other overhead electrical wires shall be a minimum of 10 feet horizontally from any portion of portable or permanent pools and their pertinent equipment, such as diving boards, ladders, ramps, platforms, etc., which may be part of the pool.
- (8) The requirements of this subsection shall be applicable to all private residential swimming pools, whether constructed before or after the effective date of this chapter, except in the case of an existing pool where the Electrical Inspector finds that there are special circumstances existing that prevent such pool from being a safety hazard.
- (9) All horizontal measurements mentioned in the above sections shall be measured at right angles from the nearest outside pool wall and away from the main body of water.

D. Setbacks and other requirements.

- (1) Location. Swimming pools shall be erected and constructed only in the rear yard of a lot, unless permission is obtained from the Plan Commission. No swimming pool shall be erected or constructed on an otherwise vacant lot, unless that vacant

lot is owned by the owner of the adjacent residence and is contiguous to that residential lot.

- (2) Side and rear yard requirements. No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in this chapter for an accessory building, but in no event less than 10 feet from a lot line unless permission is obtained from the Plan Commission.
 - (3) Area. The area occupied by an outdoor pool shall not exceed 40% of the available rear yard in which it is located.
- E. Use permit. No private residential swimming pool for which a building permit is issued for the construction, alteration, remodeling or other improvements shall be used by the owner, operator or lessee until the Building Inspector has inspected the pool and has ascertained that said private residential swimming pool conforms to the requirements of this section. If all requirements have been met, the Building Inspector shall issue a use permit for the same. Such use permit shall be issued without further fee and shall be retained on the premises at all times by the owner, operator or lessee.
- F. Enforcement by order. The Building Inspector is hereby given authority to issue an order to terminate use of any pool if the same is found to be operating contrary to the provisions of this section or otherwise in a manner detrimental to health and safety. In the event of any violation of such order, the Building Inspector may seek injunctive relief in Outagamie County Circuit Court.
- G. Penalties. Any person violating the provisions of this section shall be subject to a monetary forfeiture of not less than \$50 nor more than \$250 per incident.
- H. Guidelines for filling. Residents of the Village may choose to have any residential or private pool filled by the Fire Department.
- (1) Residents will be billed by the full fire truckload; partial truckloads of water used will be billed at the entire truckload rate. Current water rates per gallon, service charge and a surcharge will be per PSC Rules; see Schedule BW-1. Forms may be obtained from the Village Clerk-Treasurer. All billing for residential and private pools will be billed from the Village Clerk-Treasurer's office.

ARTICLE XI Administration

§ 390-87. General administrative system.

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

§ 390-88. Zoning administrator.

- A. The Village Building Inspector is hereby designated as the administrative and enforcement officer for the provisions of this chapter and is also herein referred to as the "Zoning Administrator." The duty of the Zoning Administrator shall be to interpret and administer this chapter and to issue, after on-site inspection, all permits required by this chapter. The Zoning Administrator shall further:
- (1) Maintain records of all permits issued, inspections made, work approved and other official actions.
 - (2) Record the lowest-floor elevations of all structures erected, moved, altered or improved in the floodland districts.
 - (3) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
 - (4) Inspect all structures, lands and waters as often as necessary to assure compliance with this chapter.
 - (5) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises, and report uncorrected violations to the Village Attorney in a manner specified by him/her.
 - (6) Prohibit the use or erection of any structure, land or water until he/she has inspected and approved such use or erection.
 - (7) Request assistance and cooperation from the Police Department and Village Attorney as deemed necessary.

§ 390-89. Role of specific officials in zoning administration.

- A. Plan Commission. The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Village to the Village Board, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this chapter, its functions are primarily recommendatory to the Village Board pursuant to guidelines set forth in this chapter as to various matters and, always, being mindful of the intent and purposes of this chapter; recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation on occasion 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 Plan Commission and the holding of public hearings by said Board, has ultimate authority to grant permitted conditional uses, planned unit development conditional uses, make changes and amendments in zoning districts, the Zoning Map and supplementary floodland Zoning Map, and to amend the text of this chapter. The Board may delegate to the Plan Commission the responsibility to hold

some or all public hearings as required under this section and other provisions therefor 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 XIII of this chapter for detail provisions.

§ 390-90. Zoning permit.

- A. Zoning permit required. No new structure, new use of land, water or air, or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit.
- B. Applications for a zoning permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:
- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
 - (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - (3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.
 - (4) Additional information as may be required by the Zoning Administrator or the Plan Commission (if involved).
- C. Action.
- (1) A zoning permit shall be granted or denied, in writing, by the Zoning Administrator within 30 days of application, and the applicant shall post such permit in a conspicuous place at the site.
 - (2) The permit shall expire within six months unless substantial work has commenced, or within 18 months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration, the applicant 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.

§ 390-91. Certificate of compliance required.

- A. Certificate required. No vacant land hereafter developed; no building hereafter erected, relocated, moved, reconstructed or structurally altered; and no floodlands hereafter filled, excavated or developed shall be occupied or used until a certificate of compliance has been issued by the Zoning Administrator. Such certificate shall show that the structure, premises or use is in conformity with the provisions of this chapter.
- B. Application for certificate of compliance. Application shall be made in the same manner as for a zoning permit pursuant to § 390-90 and coincidental with application for zoning and/or building permit. Application for certificate of compliance in the floodland districts shall include certification by a registered professional engineer or land surveyor that the plans therefor will fully comply with the floodland regulations set forth in this chapter; before certificate shall issue, further such certification by engineer or surveyor shall also be filed to the effect that the project does, indeed, so comply.
- C. Existing uses. Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this chapter, certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this chapter.
- D. Nonconforming uses.
 - (1) No nonconforming use shall be maintained, renewed or changed until a certificate of compliance has been issued by the Zoning Administrator.
 - (2) Certificates of compliance for the continued occupancy of nonconforming uses existing at the time of the passage of this chapter shall be issued by the Zoning Administrator, and the certificate shall state that the use is a nonconforming one and does not conform with the provisions of this chapter. The Zoning Administrator shall notify the owners of the property being used as nonconforming use.

§ 390-92. Site plan approval.

- A. Site plan approval. All applications for zoning permits for any construction, reconstruction, expansion or conversion, except for one- and two-family residences in residential districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this section.
- B. Application. The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission, Zoning Administrator, and Village 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 Plan Commission within 10 days. The Plan Commission shall review the application and

may refer the application and plans to one or more expert consultants selected by the Village Board to advise whether the application and plans meet all the requirements applicable thereto in this chapter. Within 30 days of its receipt of the application, the Commission shall authorize the Zoning Administrator to issue or refuse a zoning permit.

- D. Requirements. In acting on any site plan, the Plan Commission shall consider the following:
- (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading; and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community; and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - (3) The adequacy of the proposed water supply, drainage facilities, and sanitary and waste disposal.
 - (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this section.
 - (5) Compliance with the requirements of Title III of the Americans with Disabilities Act.¹²
- E. Effect on municipal services. Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Village Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Village Board and shall not issue final approval until the Village Board has entered into an agreement with the applicant regarding the development of such facilities.

§ 390-93. Violations and penalties.

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

12. Editor's Note: See 42 U.S.C. § 12181 et seq.

- B. Remedial action. Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Village Board, the Zoning Administrator, or the Village Attorney may institute appropriate legal action or proceedings.
- C. Penalties. Any person, firm or corporation who fails to comply with the provisions of this chapter or any order of the Zoning Administrator, Plan Commission, or Village Board issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Chapter 1, General Provisions, § 1-4, of the Code of the Village of Black Creek, except that the minimum forfeiture shall be \$100.

ARTICLE XII

Changes and Amendments

§ 390-94. Authority.

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

§ 390-95. Initiation of changes or amendments.

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

§ 390-96. Procedure for changes or amendments.

- A. Petitions for any change to the district boundaries and maps or amendments to the text regulations shall be addressed to the Village Board and shall be filed with the Zoning Administrator, describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:
- (1) Plot plan drawn to a scale of one inch equals 100 feet, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 300 feet of the area proposed to be rezoned;
 - (2) Owners' names and addresses of all properties lying within 100 feet of the area proposed to be rezoned;

- (3) Together with additional information as may be required by the Plan Commission or Village Board.
- B. Recommendations. The Village Board or the Village Clerk-Treasurer shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text and zoning maps within the corporate limits and shall recommend, in writing, that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. In arriving at its recommendation, the Commission may, on occasion, of its own volition, conduct its own public hearing on proposed amendments.
- C. Hearings.
- (1) The Village Board, following receipt of recommendation of the Plan Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985, Wis. Stats. At least 10 days prior, written notice shall also be given to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.
 - (2) The Village Board may delegate to the Plan Commission the responsibility to hold public hearings as required under this section.
- D. Board's action. Following such hearing and after consideration of the Plan Commission's recommendations, the Village Board shall vote on the proposed ordinance effecting the proposed change or amendment.

§ 390-97. Protest.

- A. In the event of a protest against amendment to the Zoning Map, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the full Village Board membership.
- B. In the event of protest against amendment to the text of the regulations of this chapter, duly signed and acknowledged by 20% of the number of persons casting ballots in the last general election, it shall cause a three-fourths vote of the full Village Board membership to adopt such amendment.

ARTICLE XIII
Board of Appeals

§ 390-98. Authority.

The Board of Appeals is hereby established as authorized under the provisions of § 62.23, Wis. Stats.

§ 390-99. Jurisdiction.

- A. Jurisdiction. The Board of Appeals is hereby entrusted with the jurisdiction and authority to:
- (1) Hear and decide appeals from any order, requirement, decision, or determination made under the provisions of this chapter.
 - (2) Hear and pass upon the application for variances from the terms provided in this chapter in the manner prescribed by and subject to the standards established herein.
 - (3) Hear and decide all matters referred to it or upon which it is required to pass under this chapter, as prescribed by § 62.23, Wis. Stats.
 - (4) May, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of this chapter in harmony with its general purpose and intent, and in accordance with general or specific rules therein contained.

§ 390-100. Membership.

- A. Board members. The Board of Appeals shall consist of five members appointed by the Village President and subject to confirmation by the Black Creek Village Board. The Village President shall designate one of the members as chairperson. Members of the Board of Appeals shall be removable by the Village President for cause upon written charges and after a public hearing. A secretary, who does not have to be a Board of Appeals member, shall be appointed by the Board of Appeals.
- B. Alternates. The Village President may appoint two alternate members to the Board of Appeals. Annually, the Village Board Chairman shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the Board of Appeals is absent or refuses to vote because of interest. The second alternate shall act only when the first alternate so refuses or is absent or when more than one member of the Board of Appeals so refuses or is absent.
- C. Terms. Board of Appeals members shall be appointed to three-year terms, except for those first appointed, in which case one member shall serve for one year, two members for two years and two members for three years. Alternate members shall serve staggered terms of three years.

- D. Compensation. The members of the Board of Appeals shall serve at such compensation, if any, to be fixed by ordinance or resolution.
- E. Vacancies, including vacancies of alternates, shall be filled for the unexpired terms of members whose terms become vacant. The Village President shall appoint members to fill the vacancies, subject to approval by the Village Board.

§ 390-101. Application and decision.

- A. Application for appeal or variance. Application for appeal or variance shall be made on a form provided by the Village of Black Creek and shall be submitted to the Village Clerk-Treasurer.
- B. A fee as established in the Village of Black Creek Fee Schedule¹³ shall be paid at the time of submittal of the application.

§ 390-102. Procedures.

- A. Meetings and rules.
 - (1) All meetings shall be held at the call of the Chairperson of the Board of Appeals and at such times as the Board of Appeals may determine.
 - (2) All hearings conducted shall be open to the public. Any person may appear and testify at a hearing either in person or by a duly authorized agent or attorney.
 - (3) Notice of the time and place of such public hearing shall be published as provided by the state law on planning and zoning and applicable to the Village of Black Creek.
 - (4) The Chairperson, or in his/her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
 - (5) The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions.
 - (6) All official proceedings regarding the action of the Board of Appeals shall be a matter of public record and placed on file with the Board of Appeals.
 - (7) The Board of Appeals shall adopt its own rules and procedures, not in conflict with this chapter or with the applicable Wisconsin State Statutes, and select or appoint such officers as it deems necessary.
- B. Decisions. All decisions and findings of the Board of Appeals on appeals or upon application for a variance shall be by the concurring vote of four members of the Board of Appeals and after said hearing shall in all instances be final administrative decisions and shall be subject to judicial review as by law may be provided.

13. Editor's Note: The Fee Schedule is on file in the Village offices.

§ 390-103. Appeals.

- A. Powers. The Board of Appeals shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter. The Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- B. Procedures. Appeals to the Board of Appeals may be taken by a person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the Building Inspector or other administrative officer. Such appeal shall be taken within 30 days of the order, requirement, decision or determination appealed from by filing with the Building Inspector and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals may request the applicant to provide additional information as may be needed to determine the case.
- C. Stays. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board of Appeals after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, 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 or notice to the officer from whom the appeal is taken and on due cause shown.

§ 390-104. Variances.

- A. Powers and duties. The Board of Appeals shall have the power to authorize upon appeal a variance from the terms of this chapter where a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship.
- B. Requirements for a variance. In general, the power to authorize a variance from the requirements of this chapter shall be sparingly exercised and only under the peculiar and exceptional circumstances. No variance shall be granted for actions which require an amendment to this chapter. Variances shall only be granted when the Board of Appeals finds that:
 - (1) Denial of variation may result in hardship to the property owner due to physiographical considerations. 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 variation is based are unique to the property for which variation is being sought, and that such variance is necessary

for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

- (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
- (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
- (5) The proposed variation will not undermine the spirit and general and specific purposes of this chapter.

§ 390-105. Interpretations.

The Board of Appeals shall have the power to hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts.

§ 390-106. Public hearings.

- A. Time period. Upon filing with the Board of Appeals an application for an appeal or variance, the Board shall fix a reasonable time (not more than 60 days from the filing date) for a public hearing.
- B. Notice of hearing. A Class 2 notice pursuant to Chapter 985, Wis. Stats., shall be published, specifying the date, time and place of the hearing and matters to come before the Board of Appeals. At least 10 days before the public hearing, a written notice shall be given to all adjacent property owners.

§ 390-107. Appeals of Board decisions.

Any person or person, jointly or severally, aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the municipality may, within 30 days after the filing of the decision in the office of the Board of Appeals, commence an action seeking the remedy available by certiorari.

ARTICLE XIV

Terminology

§ 390-108. Definitions; word use.

- A. For the purpose of this chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future, the singular number includes the plural number, and the plural number includes the singular number. The word "shall" is mandatory and not permissive.

ABUTTING — Having a common property line or district line.

ACCESSORY DWELLING UNIT — A second dwelling unit contained within a single-family dwelling or within a detached building located on the same lot as a single-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

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

ALLEY — A public way which affords only a secondary means of access to abutting property.

ANSI — The American National Standards Institute.

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

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

BACKYARD CHICKENS — See § 390-82 of this chapter.

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

BATTERY CHARGING STATION — An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles.

BATTERY ELECTRIC VEHICLE — Any vehicle that operates exclusively on electrical energy from an off-board source (generally, the electric grid) that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating.

BED-AND-BREAKFAST — Any place of lodging that provides eight or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than 10 nights in a twelve-month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast, as defined in relevant Wisconsin Statutes.

BEEES — Honey bees or mason bees raised for honey or pollination.

BLACK CREEK — The Village of Black Creek, Wisconsin.

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

BOARDINGHOUSE — A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three or more

persons not members of a family, but not exceeding 12 persons and not open to transient customers.

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

BUILDING — Any structure, including decks, intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

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

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

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

BUILDING, PRINCIPAL (ALSO PRINCIPAL STRUCTURE) — A building in which the principal use of the lot on which it is located is conducted.

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

BUSINESS AND MANUFACTURING BUILDINGS — For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space occupied by counters, racks, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

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

CHARGING LEVELS — The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms 1, 2, and 3 are the most common charging levels, and include the following specifications:

- (1) Level-1: Voltage from 0 through 120; considered slow charging.
- (2) Level-2: Voltage from 120 through 240; considered medium charging.
- (3) Level-3: Voltage greater than 240; considered fast or rapid charging.

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

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

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

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

DISTRICT — 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.

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

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

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

DWELLING, SINGLE-FAMILY — A detached building or manufactured home designed for or occupied by one family in conformance with all of the following minimum standards which may be accepted by a conditional use.

- (1) The dwelling shall be at least 28 feet in width and 40 feet in length excluding an attached garage, porch or deck.
- (2) The dwelling shall be installed on a footed foundation in conformity with the Uniform Dwelling Code (UDC). All wheels axles and tow hats shall be removed. All weight-bearing and non-weight-bearing foundation walls shall be of either cement block or poured walls and enclose the entire dwelling in accordance with § 70.043(1), Wis. Stats. The enclosed foundation walls shall be approved by the Village Building Inspector to be in compliance with UDC and may require a plan to be certified by a registered architect to ensure proper support.
- (3) The dwelling shall be equipped with foundation siding which is in design, color, and texture an integral part of the exterior walls of the dwelling.
- (4) The dwelling shall have a pitched roof of no less than four inches of rise for every 12 inches of run. All dwelling roofs shall be surfaced with any of the following: wood shakes, asphalt, composite or wood shingles, clay or concrete tiles, slate, or built-up gravel materials.

- (5) The dwelling shall have overhanging eaves of at least six inches.
- (6) The dwelling is properly connected to utilities.

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

ELECTRIC VEHICLE — Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; either partially or exclusively, on electrical energy from the grid, or an off-board source (generally, the electric grid, that is stored onboard via a battery for motive purpose. "Electric vehicle" includes:

- (1) A battery electric vehicle.
- (2) A plug-in hybrid electric vehicle.

ELECTRIC VEHICLE CHARGING STATION — A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

ELECTRIC VEHICLE CHARGING STATION, PRIVATE RESTRICTED USE — An electric vehicle charging station that is:

- (1) Privately owned and restricted access (e.g., single-family home, executive parking, designated employee parking);
- (2) Or publicly owned and restricted (e.g., fleet parking with no access to the general public).

ELECTRIC VEHICLE CHARGING STATION, PUBLIC USE — An electric vehicle charging station that is:

- (1) Publicly owned and publicly available (e.g., park and ride parking, public library parking lot, on-street parking).
- (2) Privately owned and available to visitors of the use (e.g., shopping center parking).

ELECTRIC VEHICLE INFRASTRUCTURE — Conduit/wiring, structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations and rapid charging stations.

ELECTRIC VEHICLE PARKING SPACE — Any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

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

FAMILY — One or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in one dwelling unit shall constitute a family. A

family may include in addition thereto two but not more than two persons not related by blood, marriage or adoption. A person shall be considered to be related for the purpose of this section if he/she is dwelling for the purpose of adoption or for a foster care program.

- (1) Exceptions: Nothing in this chapter shall prohibit, under the definition of "family," priests, lay brothers, nurses or such other collective body of persons living together in one house under the same management and care, subsisting in common, and directing their attention to a common object or the promotion of their mutual interest and social happiness as set forth by the Wisconsin Supreme Court in *Missionaries of Our Lady of LaSalette vs. the Village of Whitefish Bay Board of Zoning Appeals*, 267 Wis. 6091, which is hereby incorporated by reference.

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

FLICKER or SHADOW FLICKER — The effect that results when the shadow cast by the rotating blade of a wind energy system moves across a fixed point.

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

FLOODLANDS — For the purpose of this chapter, the "floodlands" are all lands contained in the regional flood or 100-year-recurrence-interval flood.

FLOODPLAIN FRINGE — Those floodlands outside the floodway, subject to inundation by the 100-year-recurrence-interval flood.

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

FLOOD PROTECTION ELEVATION — A point two feet above the water surface elevation of the 100-year-recurrence-interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris, accumulation, wave action, and obstructions of bridge openings.

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

FLOODWAY — A designated portion of the 100-year-flood area that will safely convey the regulatory flood discharge with small acceptable upstream and downstream stage increases limited in Wisconsin to 0.1 foot unless special legal measures are provided. The "floodway," which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures, and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.

FLOOR AREA, BUSINESS AND MANUFACTURING BUILDINGS — For the purposes of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage

areas located within selling or working space occupied by counters, racks, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

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

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

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

GEOHERMAL HEATING SYSTEM — A sealed, watertight loop of pipe buried outside of a building foundation, intended to recirculate a liquid solution through a heat exchanger. This includes, but is not limited, to vertical closed loop, horizontal closed loop and body of water closed loop systems.

GROUND-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system not attached to another structure and is ground mounted.

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 or accessory building thereto, in connection with which there are no signs or exterior display or storage other than a sign permitted by this chapter, and no activity that will indicate from the exterior that the buildings is being used in whole or in part for any purpose other than that of a dwelling. The use is to be clearly incidental to the use of the dwelling unit for residential purposes and shall not endanger the public health or safety. No articles shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises, and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. Persons operating a home occupation shall employ no more than one nonresident employee. No business such as a shop, store or child nursery shall be conducted upon the premises. No material or equipment shall be stored outside the confines of the home. No mechanical equipment may be used which creates a disturbance such as noise, dust, odor or electrical disturbance. The home may not be altered to attract business. No motors shall be utilized which exceed one horsepower each and not exceeding five horsepower in total, such activity being deemed a public nuisance. Repairing of motor bicycles, motorcycles, and motor-driven cycles, other than those licensed and owned by the occupants of a home in a residential area, is strictly prohibited. For the purpose of this definition, the definitions of the above-mentioned vehicles shall be as set forth in Ch. 340, Wis. Stats. Such repairing is deemed a public nuisance. It is immaterial for the purpose of this subsection whether or not such repairing is done in return for remuneration.

HORIZONTAL GEOTHERMAL SYSTEM — A geothermal heating system constructed to contain horizontal piping and the installation and grouting of the horizontal piping when such piping does not exceed 20 feet in depth.

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

HOUSE NUMBERS — The official number assigned that premises by the Village of Black Creek and recognized by the Outagamie County 911 Public Safety Communications Center.

LOADING AREA — A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

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

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

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

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

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

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

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

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

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

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

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

MANUFACTURED HOME — A structure manufactured after June 15, 1976, which the files a certification required by the Department of Housing and Urban Development and complies with the standards established under 42 U.S.C. §§ 5401 to 5425.

MOBILE HOME — A vehicle manufactured or assembled before June 15, 1976 (effective date of Federal Manufactured Construction and Housing Safety Standards Act of 1974¹⁴), designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and use or intended to be used primarily for human habitation, with walls of rigid, uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air-conditioning, electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

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

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

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

NONELECTRIC VEHICLE — Any motor vehicle that does not meet the definition of electric vehicle.

OVERLAY DISTRICT — 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.

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

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

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

14. Editor's Note: See 42 U.S.C. § 5401 et seq.

PHOTOVOLTAIC CELL — A semiconductor device that converts solar energy into electricity.

PLUG-IN HYBRID ELECTRIC VEHICLE — An electric vehicle that:

- (1) Contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor.
- (2) Charges its battery primarily by connecting to the grid or other off-board electrical source (generally, the electric grid).
- (3) May additionally be able to sustain battery charge using an on-board internal-combustion-driven generator.
- (4) Has the ability to travel powered by electricity.

PREMISES — Any lot or parcel of land owned by any person, firm or corporation, public or private, improved with building, whether occupied or unoccupied.

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

REAR YARD — A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

REGIONAL FLOOD — A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year, there is a 1% chance that the regional flood may occur or be exceeded. During a typical thirty-year mortgage period, the regional flood has a 26% chance of occurrence.

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

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

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

SIGNS — Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which

anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street or highway.

SOLAR COLLECTOR — A device, structure or part of a device or structure a substantial purpose of which is to transform solar energy into thermal, mechanical, chemical or electrical energy.

SOLAR GLARE — The effect produced by light reflecting from a solar panel with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

SOLAR PANEL — A group of photovoltaic cells are assembled on a panel. Panels are assembled on site into solar arrays.

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

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

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

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

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

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

UL — The Underwriters Laboratories testing service.

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

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

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

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

VERTICAL GEOTHERMAL SYSTEM — A geothermal heating system constructed to contain vertical piping and the installation and grouting of the vertical piping exceeding 20 feet in depth.

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

WIND ENERGY SYSTEM — Equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system. For the purposes of this chapter, wind energy systems are limited to small wind energy systems and personal wind energy systems.

WIND ENERGY SYSTEM TYPES — The following types of wind energy systems are regulated under the terms of this chapter:

- (1) Small wind energy system. A wind energy system that has a nameplate capacity of 50 kilowatts or less, and one wind tower and turbine, and a maximum height of 100 feet.
- (2) Personal wind energy system. A wind energy system that has a nameplate capacity of 10 kilowatts or less, one wind tower and turbine, and a maximum height of 35 feet.

WIND GENERATOR — Blades and associated mechanical and electrical conversion components mounted on top of the tower.

WIND TOWER — The monopole, freestanding, or guyed structure that supports a wind turbine generator.

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

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