VILLAGE OF BIG BEND
ZONING CODE

TABLE OF CONTENTS

INTRODUCTION

16.01 AUTHORITY pg 4
16.02 PURPOSE pg 4
16.03 ABROGATION & GREATER RESTRICTIONS pg 4
16.04 DEFINITIONS pg 4

GENERAL PROVISIONS

16.05 COMPLIANCE pg 16
16.06 BUILDING PERMITS pg 16
16.07 BUILDING & OCCUPANCY PERMITS pg 16
16.08 SITE REGULATIONS pg 18
16.09 SANITATION & WATER SUPPLY pg 22
16.10 USE REGULATIONS pg 23
16.11 BUILDING LOCATION pg 24
16.12 HEIGHT REGULATIONS pg 26
16.13 AREA REGULATIONS pg 25
16.13.1 UNDESIRABLE STRUCTURES pg 28
16.14 ACCESSORY USES & STRUCTURES pg 26
16.15 RESERVED FOR FUTURE USE pg 30
16.16 OFF-STREET PARKING pg 30
16.17 OFF-STREET LOADING & UNLOADING pg 36
16.18 SIGNS pg 36
16.19 ADULT ORIENTED ESTABLISHMENTS pg 52
16.20 MOBILE HOMES, HOUSE TRAILERS & RECREATIONAL VEHICLES pg 66
16.21 LEGAL NONCONFORMING USES, STRUCTURERS AND LOTS pg 67
16.22 EXISTING PERMITS pg 69
16.23 SITE PLAN & PLAN OF OPERATIONS REVIEW pg 69
16.24 PERFORMANCE STANDARDS pg 78
16.25 CONDITIONAL USE PERMITS pg 73
16.26 WIRELESS TELECOMMUNICATION MOBIL SERVICE FACILITIES pg 77
16.27 ANNEXATIONS pg 71
16.28 ESTABLISHMENT OF OFFICIAL ZONING MAP pg 71
16.29 REGULATIONS MADE APPLICABLE TO EACH DISTRICT pg 72
16.30 A-1 AGRICULTURAL DISTRICT pg 72
16.31 AO AGRICULTURAL OVERLAY DISTRICT pg 74
16.31.5 SHORELAND DISTRICT pg 75
16.32 C-1 CONSERVANCY DISTRICT pg 78
16.32.5 FLOODPLAIN ORDINANCE pg 81
16.34 R-1 RURAL DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT pg 110
16.35 R-2 LOW DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT pg 111
16.36 R-3 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT pg 112
16.36.75 R-P RESIDENTIAL PLEX DISTRICT pg 113
16.36.80 R-M RESIDENTIAL MULTI-FAMILY DISTRICT pg 114

16.37 RESERVED FOR FUTURE USE pg _
16.38 B-1 DOWNTOWN BUSINESS DISTRICT– pg 115
16.39 B-2 LOCAL SERVICE CENTER DISTRICT pg 117
16.40 B-3 GENERAL BUSINESS DISTRICT pg 118
16.41 B-4 HIGHWAY BUSINESS/INDUSTRIAL FLEX DISTRICT pg 119
16.42 I-1 LIGHT INDUSTRIAL DISTRICT pg 121
16.44 LIMITED USE (LTD) OVERLAY DISTRICT pg 122
16.45 INSTITUTIONAL AND PUBLIC SERVICE (IPS) OVERLAY DISTRICT pg 125
16.45.5 PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT pg 126

ADMINISTRATION AND ENFORCEMENT
16.46 ADMINISTRATIVE & ENFORCEMENT OFFICER pg 130
16.47 IDENTIFICATION OF OFFICIAL ORDINANCE & MAP pg 131
16.48 CHANGES & AMENDMENTS pg 131
16.49 VILLAGE PLAN COMMISSION pg 133
16.50 PUBLIC HEARINGS pg 133
16.51 APPEAL PROVISIONS pg 134
16.52 SPECIAL EXCEPTIONS pg 137
16.53 FEES pg 139
16.54 VIOLATIONS & PENALTIES pg 139
16.55 SEVERABILITY pg 141
16.56 EFFECTIVE DATE pg 141
16.57 ADOPTION pg 141

16.01 AUTHORITY

These regulations are adopted under the authority granted by § 61.35, 61.351, 61.354, 62.23(7), and 87.30,144.26 and 144.266.Wis. Stats., and all subsequent amendments thereto as deemed necessary in order to promote public health, safety and welfare.

16.02 PURPOSE

The provisions of this chapter shall be held to be the minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village. Among other purposes, such provisions are intended to provide for adequate light, air, sanitation, drainage, convenience of access, conservation of environmentally sensitive areas/features and safety from fire and other dangers; promote the safety and efficiency of the public streets and highways; aid in conserving and stabilizing the economic values of the community; preserve and promote the general attractiveness and character of the community environment; guide the proper distribution and location of the populations and various land uses; and otherwise provide for the healthy and prosperous growth of the community.

16.03 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this chapter to repeal, abrogate, annul or interfere with any existing easement, covenant or agreement between parties or with any rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height, location or size of buildings and upon the open space requirements, the provisions of this chapter shall govern.

16.04 DEFINITIONS

For the purpose of this chapter, the following definitions shall be used. Words used in the present tense include in the future; the singular number includes the plural; and the plural number includes the singular. The word "structure" includes buildings, while the words "occupied", "used" and "inhabit" include the design or intention to be occupied, used or inhabited; "shall" is always mandatory, not merely permissive. "Board" refers to the Village Board under the jurisdiction of this chapter. Reference to the "Plan Commission" refers to the Village Plan Commission established pursuant to § 62.23, Wis. Stats.; Any reference to an office such as,for instance, "Clerk", "Building Inspector", "Engineer", or "Attorney", "Superintendant of Public Works", "Planner", "Treasurer", means that individual or officer appointed or otherwise officially designated by the Village Board in such capacity, unless otherwise specifically designated.

1) **ADMINISTRATIVE OFFICER**. A staff member such as, for instance, the Building Inspector, Village Administrator, Clerk, Engineer, Attorney, Director of Public Works, Treasurer or Planner.
2) **AGRICULTURAL LAND USE/OPERATIONS (AKA "Farming")**. Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of domestic livestock, and including, for instance, sod farms, orchards, vineyards and tree farms, beekeeping, fish farming and similar.
3) **ALLEY**. A street typically less than 21' wide and primarily intended to provide access to the rear of property(s) fronting upon another public way and not usually intended for the use of through traffic.

4) **APARTMENT**. A suite of rooms or a room in a multiple family dwelling type structure, which suite or room is arranged, intended or designated to be occupied as a residence of a single family, individual or group of individuals.
5) **APPLICANT**. Any landowner, land user(s), their agent, or contractor responsible for submitting and carrying out the requirements of this section and with proper underlying authority, by ownership or owners consent as may be applicable in the case of application for item(s) pertaining to real estate/property.
6) **APPLICATION**. Any application for a permit or approval under this chapter.
7) **APPROVED STORM WATER MANAGEMENT SYSTEM PLAN.** A storm water management system plan recommended for approval by the Village Engineer and adopted by the Village Board.
8) **BASEMENT**. That portion of any structure located wholly or partly below the average adjoining lot grade.
9) **BUILDING**. Any structure used, designed or intended for the protection, shelter, enclosure or protection of persons, animals or property.
10) **BUILDING, ACCESSORY**. A building or portion of a building used for a purpose customarily incidental to the permitted principal use of the lot or to the principal building.
11) **BUILDING HEIGHT**. Unless otherwise provided for more specifically under this Chapter 16, the height of any structure shall be defined as the total height of the structure measured with a vertical line from the average finished grade at the front/street-facing side/line of the structure to the highest point of the structure.
12) **BUILDING, PRINCIPAL**. The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located. Any building intended to be used for human habitation shall constitute a principal building.**CLINIC**. A place of business for the care and diagnostic treatment of sick, ailing, infirm and injured persons and those who are in need of dental, medical or outpatient surgical attention, limited in their scale/capacity to offer the services of 5 or fewer licensed medical practitioners operating simultaneously from the premises and not including any inpatient care.
13) **COMMISSION**. The Village Plan Commission.
14) **DECK**. A structure characterized by a flat open horizontal surface or platform suspended above the grade of the land it covers and which may be supported by posts, beams, cantilevers or by other methods.
15) **DEVELOPMENT**. Any man-made change to improved or unimproved real estate including, but not necessarily limited to, construction of structures and/or buildings, additions or substantial improvements to existing buildings or accessory structures, mining, dredging, filling, grading, paving, extraction, excavation, draining or drilling operations or deposition of material.
16) **DISTRICT, BASIC**. A geographically bound section(s) of the Village for which the regulations governing such things as the height, area and the use of the building and premises are the same.
17) **DISTRICT, OVERLAY.** A geographically bound section(s) of the Village which provides certain additional requirements and/or permissions upon the basic zoning district without otherwise disturbing the requirements of the underlying basic district.
18) **DOMESTIC LIVESTOCK**. Domestic livestock or poultry shall be considered ~~a~~ cows, horses, sheep, goats, rabbits, ducks, chickens, pigeons and other domestic animals ordinarily raised or used on the farm and others as may be determined by the Village Plan Commission to be included hereunder.

19) **DRY LAND ACCESS**. A vehicle access rout which is above the regional flood elevation which connects land located in the floodplain to land which is outside the floodplain, such as a road with its surface above the regional flood elevation wide enough to accommodate wheeled vehicles.
20) **DWELLING, SINGLE FAMILY**. A residential structure designed to house a single family on a lot and surrounded on all sides by a private yard.
21) **DWELLING, PLEX and/or MULTI**. A building or portion thereof designed for and occupied by 2 or more families, including 2 family flats, plex and apartment houses.
22) **DWELLING UNIT**. A housekeeping unit designed and used for occupancy by a single individual or family group and normally containing a separate room for eating, cooking, sleeping, recreation, relaxation storage and personal hygiene.
23) **ELDERLY HOUSING**. Shall have the meaning "housing for older persons" as defined by section 807(b)(2) and (3) of the Fair Housing Act (42 U.S.C. 3607 (b)(2)) as may be amended from time to time.
24) **ENCROACHMENT**. Any fill, structure, building, use or development in the floodway.
25) **EROSION**. The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
26) **EROSION CONTROL PLAN**. A written description and detailed site plan of best management practices designed to meet the requirements of this section and/or Chapter 13 of the Village Ordinance submitted by the applicant for review and approval by the Village Building Inspector and/or Village Engineer.
27) **FAMILY**. The body of persons related by blood, marriage or adoption or 4 or less unrelated persons who live together in one dwelling unit as a single housekeeping entity.
28) **FARM (SEE ALSO AGRICULTURAL USE/OPERATIONS).** A tract of land at least 10 acres in size devoted principally to the raising or crops, livestock and/or farm products.
29) **FENCE**. A tangible barrier or obstruction of any material or line of obstacles above the surface of the ground with purpose or intent of having the effect of preventing passage and/or view across the fence line. It may include hedges and walls depending upon the density/opacity and or manner of construction. Snow fences shall not be permitted as permanent fences.
30) **FLOOD or FLOODING**. A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions: The overflow or rise of inland waters; The rapid accumulation of runoff of surface waters from any source The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
31) **FLOOD HAZARD BOUNDARY MAP**. A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
32) **FLOOD INSURANCE RATE MAP**. A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
33) **FLOOD INSURANCE STUDY**. A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and

provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rage Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.

34) **FLOOD, REGIONAL**. A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

35) **FLOODWAY**. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

36) **FLOOR AREA RATIO (F.A.R.)** Used to indicate total floor area of all buildings allowed on a given lot, expressed as a percentage ratio to the total area of the lot; i.e., an F.A.R. of 100% allows a floor area equal to the total area of the lot, an F.A.R. of 50% allows a floor area of ½ the total area of the lot.

37) **FRONTAGE**. Length of any one property line of premises, which abuts a legally accessible street right-of-way.

38) **GARAGE, PRIVATE**. A structure where private vehicles are kept for storage purposes only and wherein such use is accessory to the principal residential use of the property on which it is stored. Enclosed or roofed car ports shall be considered garages within this definition.

39) **GARAGE, PUBLIC OR COMMERCIAL**. Any building or premises, other than a private or a storage garage, where motor driven vehicles are equipped, repaired, serviced, hired, sold or stored for monetary gain as a business.

40) **GARAGE, STORAGE**. Any building or premises used for the storage only of motor driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold for monetary gain as a business.

41) **GASOLINE SERVICE STATION**. A place where gasoline, diesel fuel, kerosene or lubricating oil or grease for operating motor vehicles is offered for sale to the public, either as a self-service or full service operation and deliveries are made directly into motor vehicles and including facilities for greasing, oiling, washing and minor repairs of vehicles on the premises, but not including major automatic car washing or body repair facilities.

42) **GRADE, ESTABLISHED**. The elevation of the finished street at the centerline or curb as fixed by the Village Engineer or by such authority as shall be designated by law to determine such an elevation.

43) **HIGHWAY**. A right-of-way designated by the Village road and street specifications for the principal purpose of providing vehicular thoroughfare and not necessarily affording direct access to abutting property.

44) **HOME OCCUPATION**. An occupation, professional activity or use that is clearly a customary, incidental and secondary use of a residential dwelling unit.

45) **HOSPITAL**. An institution intended primarily for the medical diagnosis, treatment and care of patients being given medical treatment. An institution intended primarily for the medical diagnosis, treatment and care of patients being given medical treatment. A hospital shall be distinguished from a clinic by virtue of providing for inbound emergency patient delivery and/or inpatient bed care.

46) **HOSPITAL ANIMAL**. An establishment providing for medical care and treatment of animals or pets, but distinguished from a kennel in that no outdoor runs shall be permitted for the boarding of animals which are not undergoing veterinary care.

47) **HOTEL**. A building in which lodging is offered to travelers and tourists for short periods of stay, for compensation, and which provides more than 5 separate sleeping rooms for this purpose.
48) **HUMAN HABITATION**. The use of a building or structure for overnight living and including the aggregate of normal occupancy activities, such as lounging, cooking, eating, sleeping, bathing, sanitations, etc.
49) **IMPERVIOUS SURFACE**. A surface through which rainfall does not infiltrate. Rooftops, sidewalks, parking lots, and street surfaces are examples of impervious surfaces. In any case where there is uncertainty, the Village Engineer shall determine what is considered to be pervious vs impervious surface.
50) **IN-LAW UNIT**. A room or suite of rooms having separate kitchen and bath facilities located within the contiguous area of a single family dwelling occupied by not more than 2 persons related by blood or marriage to the family occupying the dwelling.
51) **INFILTRATION**. The process by which rainfall or surface runoff percolates or penetrates into the underlying soil.
52) **JUNKYARD**. Any premises on which there is an accumulation of scrap metal, paper, glass, lumber or other materials stored for salvage or sale.
53) **KENNEL, COMMERCIAL**. An establishment, structure or premises where dogs or other household pets are raised, sold, bred, boarded, trained or groomed for commercial purpose. The raising and selling of 3 or more litters of animals per year shall constitute a commercial kennel.
54) **KENNEL, HOBBY**. A noncommercial establishment, structure or premises accessory to the principal use of the property where 4 or more animals of 6 months or older are kept for such private purposes as pets, field companions, shows or hobby. The occasional raising of not more than 2 litters of animals per year on the premises with sale or similar dispensation of the animals within 6 months of the birth, shall also be considered a hobby kennel.
55) **LAND DEVELOPMENT ACTIVITY**. The construction of buildings, grading, excavating, construction of roads, parking lots, paved and unpaved storage areas, patios, seawalls and similar facilities, but not including general maintenance of parking lots and drives.
56) **LAND DISTURBING ACTIVITY**. Any man-made change to the land surface including removing vegetative cover, cutting of trees, demolition, excavations, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; and harvesting of trees, and tree nurseries. It is the intent of this definition to prohibit the cutting of trees in primary and secondary environmental corridors and isolated natural areas without an approved construction site erosion control plan and permit or other authorizations asmay be set forth in state and local shoreland management codes. This definition does not prohibit the selective cutting of dead, diseased or fallen trees.
57) **LANDOWNER**. Any person holding title to or having an interest in land.
58) **LAND USER**. Any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.
59) **LETTER OF MAP AMENDMENT (LOMA)**. Official notification from the Federal Emergency Management Agency (FEMA) that a flood hazard boundary map or flood insurance rate map has been amended.
60) **LIVING AREA.** The occupied or usable floor area in a building designed and built with necessary ceiling, flooring, and electrical, heating and plumbing facilities to accommodate normal human habitation. In the case of any uncertainty, the Building Inspector shall determine what is considered to be living area.

61) **LOADING SPACE**. An off-street space or berth on the same lot with a commercial or industrial building or contiguous to a group of such buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise. It shall abut a street, alley or other appropriate means of access.
62) **LOCAL MUNICIPALITY**. The Village of Big Bend.
63) **LOCAL MUNICIPAL ENGINEER**. The professional civil engineer retained or employed by the Village as their Village Engineer.
64) **LOT.** A parcel of land with described boundaries and abutting or having access via an approved easement to a public street or other approved accessway.
65) **LOT AREA.** Area of a lot as defined herein and bounded by lot lines exclusive of land provided by public rights-of-way.
66) **LOT DEPTH.** The mean horizontal distance measured between the front/street line and the opposing rear line or lines of the lot.
67) **LOT LINES.** The lines following the exterior boundaries of a lot as defined herein.
68) **LOT LINE, SIDE.** A lot line extending from a front/street line towards the interior of the lot and separating adjoining lots.
69) **LOT, PARKING.** An area of land graded and surfaced intended to provide a place where motor vehicles can be parked for the purpose of temporary off-street parking.
70) **LOT WIDTH.** The horizontal distance between side lot lines measured at the required front setback line.

71) **MOBILE HOME.** A constructed unit which is or was, as originally constructed, designed to be transported by aid of a motor vehicle upon a public highway and designed, equipped and used/intended to be used primarily for sleeping, eating and living quarters and includes any additions, attachments, annexes, foundations and appurtenances. See Wis Stats 101.91(10).
72) **MOTEL.** A building or series of buildings in which lodging is offered to travelers and tourists for short periods of stay for compensation and which provides more than 5 separate sleeping rooms or units and is distinguished from a hotel primarily by reason of providing direct, independent access to the outdoors and adjoining parking for each rental unit.
73) **MUNICIPALITY.** The Village of Big Bend, Waukesha County, Wisconsin.
74) **NAVIGABLE WATER.** Those intermittent and perennial rivers, streams, ponds, lakes and flowages shown on the USGS Topographic Quadrangle 7.5 minutes series for the Village as periodically updated and any waters considered navigable, in fact, if it meets the test outlined in case law cited herein. Wisconsin case law, specifically, Muench v. Public Service Commission 261 Wis. 492 (1952) and DeGayner & Co. v. D.N.R., 70 Wis.2d 936 (1975) held that a stream is navigable, in fact, if it is capableof floating any boat, skiff or canoe of the shallowest draft used for recreational purposes and that a stream need not be navigable in its normal or natural condition to be navigable in fact. Determinations of navigability are ultimately field determinations and map delineations are merely thebest representation of navigable conditions at any particular time.
75) **NONCONFORMING STRUCTURE.** A structure which does not conform to the building locations, height or building size regulations of the district in which it is located.
76) **NONCONFORMING LOT.** A lot which does not conform to the lot size regulations of the district in which it is located.
77) **NONCONFORMING USE OF LAND.** A use of any land in a way which use does not conform to the use, residential density or open space regulations of the district in which it is located.

78) **NONCONFORMING USE OF STRUCTURE.** A use carried on within any building which does not conform to the use or residential density regulations of the district in which it is located.

79) **NUISANCE.** Any activity, whether passive or active, use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance or inconvenience.

80) **OFFSET.** The shortest horizontal distance measured from the side and/or rear lot line (not along a street) to any roofed or enclosed portion of a building, but not including a roof overhang, as elsewheredefined in this Code, of twenty-four inches (24") or less.

81) **OFF-STREET PARKING SPACE.** The area in a parking lot designed to accommodate a parked motor vehicle as an accessory service to the use of the lot and with adequate access thereto from a public street.

82) **OPEN SPACE.** Any space not occupied with a structure and/or impervious surfacing may be counted as open space.

83) **ORDINARY HIGH WATERMARK.** The point on the bank or shore of body of water up to which the presence and action of surface water is so continuous as to leave a distinctive mark by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognizable characteristics.

84) **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 owner to extent of his interest. The personal representative of at least one owner shall be considered an owner.

85) **OUTDOOR RECREATIONAL FACILITIES.** Land and structures, along with accessory equipment, designed and utilized for leisure time activities of a predominantly "outdoor" nature and of more specified purpose than passive park-like open areas and further classified as follows:

A. Public. Facilities owned and operated by a governmental agency for limited or general public use.

B. Private Commercial. Facilities owned and operated by an individual or group for profit as business, whether or not open to general public use.

C. Private Noncommercial Group. Facilities owned and operated by a group for the exclusive use of the members of such group and their guests and not for profit as a business.

86) **OVERHANG.** That portion of a roof over a structure and designated as an integral part of the structure, which extends from the outer wall of the structure to the eave. Rain gutters are not included or considered part of the overhang.

87) **PATIO**. A flat, open, horizontal surface or platform located on the grade of the land and not considered to be a structure as defined and regulated herein.

88) **PERMIT**. A special permit issued under this chapter which entitles the holder to certain rights such as construction, grading, use, occupancy and similar,… subject to certain terms and conditions.

89) **PERVIOUS SURFACE.** A surface that infiltrates rainfall during a large portion of the design rainfall event. Well managed lawns, fields and woodlands are examples of pervious surfaces.

90) **PLANNED UNIT DEVELOPMENT (P.U.D.)** A method of developing a property through design of all components as a planned unit which satisfies the use, access, sanitation, building and environmental regulations without the use of the standardized zoning restrictions. Planned Unit Development may permit certain flexibility as to the underlying zoning district requirements to the extent such flexibility may result in benefits to be realized by both the developer and the Village.

91) **PLANTING SCREEN.** An area landscaped and maintained with natural growing plant material which effectively screens uses and objects it is intending to hide from surrounding view.

92) **PRACTICAL DIFFICULTY.** That circumstance where special conditions affect a particular property and make strict compliance with the spatial, dimensional and bulk standards of this chapter regarding area, setbacks, offsets, width, height, floor area ratio, and similar… unreasonable and prevent a property from being utilized for a permitted purpose in conformance with the use regulations of the zoning district in which the property is located or would render conformity with such restrictions unnecessarily burdensome.

93) **FLOOR AREA.** The total floor area within a building expressed as square footage and used for purposes of determining, for instance, compliance with minimum required home size, maximum floor area ratio, required onsite parking, and similar,…

94) **PRIVATE CLUB OR LODGE.** A structure or grounds used for regular or periodic meetings or gatherings of a limited group of persons organized to render a service or to socialize as with fraternalism for instance, and customarily carried on as a business whether for or not-for profit.

95) **PROFESSIONAL OFFICE.** The office of a doctor, dentist, minister, architect, landscape, architect, professional engineer, lawyer, author, artist, musician and similar,…or other such recognized professions for instance.

96) **PUBLIC AND QUASI-PUBLIC BUILDINGS.** Public and quasi-public buildings and uses in the sense of this chapter are buildings principally of an institutional nature and servicing a public need, such as hospitals, rest homes, schools, including private academic and nursery schools, day care centers, libraries, museums, public and private utilities, Village Hall, fire stations, and other services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

97) **QUARRYING.** The removal of rock, slate, gravel, sand, topsoil, peat or other natural material from the earth by excavating, stripping, leveling or any other such process for commercial purposes and personal gain.

98) **RECREATIONAL VEHICLE.** Means a vehicle which can be towed, hauled or driven and designed as a temporary living accommodation for recreational camping and travel use and including, but not limited to, travel trailers, truck campers, boats, tent trailers, camping trailers and self-propelled motor homes.

99) **REMODELING.** Any structural alterations, additions, modifications, rebuilding or lateral enlargements of any existing structures, principal or accessory. Remodeling shall also refer to the conversion of living spaces or other floor areas into space for living purposes, such as converting a part of the living area into a bedroom or converting a part of the living area into a bedroom or bathroom regardless of whether such changes require structural alterations to the basic structures. Ordinary maintenance repairs, such as painting, decorating, paneling, replacement of doors, windows and other nonstructural components where structural alteration is not required, shall not be considered remodeling.

100) **RESIDENTIAL DEVELOPMENT.** That which is created to house people, including the residential dwellings as well as all attendant portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, plex and multi-family.

101) **RESTAURANT.** Any building, room or place where meals are prepared, served or sold to transients or the general public, and all places used in connection with it and includes any public or private school lunchroom for which food service is provided by contract. “Meal” does not include soft drinks, ice cream, milk, milk drink and confections. “Restaurant” does not include taverns that serve free lunches,

consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter; churches, religion, fraternal, youth or patriotic organizations which occasionally prepare, serve or sell meals to transients or the general public, any public or private school lunchroom for which food service is directly provided by the school or private individuals selling foods from a moveable or temporary stand at a permitted special public event; bed and breakfast establishments that serve meals only to its lodgers or serving food or beverages through a licensed vending machine.

102) ROAD. A public or private right-of-way usually affording primary access to abutting property.

103) ROADSIDE STAND. An accessory building, structure or equipment used or intended to be used solely by the owner or tenant of property or farm on which such building, structure or equipment is located for the display/sale of agricultural products raised/produced on the property.

104) RUNOFF. The rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface.

105) SETBACK. The shortest horizontal distance between the front (i.e. street side) right-of-way line(s) and the closest point of a principal or accessory structure, excluding a roof overhang measuring twenty-four inches (24") or less.

106) SETBACK LINE. A line parallel to the right-of-way line and extending the full width of the lot.

107) SHORELANDS. Has the meaning given in Wis. Stat. sec. 59.692(1)(b). (i.e. at the time of this writing the area within the following distances from the ordinary high-water mark of navigable waters, as defined under s. 281.31 (2) (d)

A. One thousand feet from a lake, pond or flowage. If the navigable water is a glacial pothole lake, this distance shall be measured from the high-water mark of the lake.

B. Three hundred feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

108) SIDE YARD. The area between side lot lines other than a street lot line and foundation, wall or enclosed portion of a building.

109) SIGN. Means any display of lettering, logos, colors, lights, illuminated neon tubes and related supporting structures, equipment or devices visible to persons or the public from outside of a building or premises, which display either conveys a message to persons or to the public, or intends toadvertise, direct, invite, announce or draw attention to goods, products, services, facilities, opinions, activities, places, persons, property interest or business.

110) SITE. The entire area of land disturbing or land development activity.

111) SITE PLAN. A scaled plan drawing depicting such site information as lot lines, building dimensions/locations, existing and proposed grades, proposed/existing parking areas and surfacing/striping, proposed lighting types, location, intensity and dispersion, proposed signage locations, existing vegetative cover, proposed landscaping plan and surface water drainage,construction site erosion control practices, sanitary facilities, well location and septic system and any other items the Plan Commission feels are necessary for their review. It may also be deemed appropriate that anticipated phasing/completion dates are supplied in the site plan.

112) SPECIAL EXCEPTION. A special or unique situation which may be authorized by the Board of Appeals and is specifically set forth in this chapter as a special exception and which may justify the waiver of the regulation applicable thereto and does not necessarily require determination of an unnecessary hardship or practical difficulty. Special exceptions do not apply to use requests.

113) STABLE, COMMERCIAL. A tract of land on which horses or other livestock are kept for hire, training, board or sale.

114) STABILIZE. Vegetation is well established or other surfacing material is in place such that risk of soil erosion there under is minimal.

115) STORM WATER MANAGEMENT PLAN. A document that identifies what actions will be taken to reduce storm water quantity and pollutant loads from development activity to levels meting the purpose and intent of the Village Ordinance.

116) STORM WATER RUNOFF. The portion of precipitation falling during a rainfall event that runs off the surface of the land and into the natural or artificial conveyance or drainage network.

117) STORY. That portion of building included between the surface of a floor and surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having ½ or more of its height above grade shall be deemed a story for purposes of height regulation.

118) STREET. A village right-of-way accepted by the Village Board for public street purposes and for which the Village bears responsibility and provides management, maintenance and upkeep.

119) STREET FRONTAGE. The lineal measurement of distance on a lot along it's abutting, contiguous right of way as measured at the street line.

120) STREET LINE. A dividing line between a lot, tract, or parcel of land and contiguous public right-of- way.

121) STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground and being more than 6" above grade.

122) STRUCTURE, LEGAL NONCONFORMING. A building, structure or portion thereof lawfully existing at the time of passage of this chapter, but which does not conform in one or more respects to the regulations of this chapter.

123) STRUCTURE, PERMANENT. A structure placed on or fixed into the ground or permanently attached to another permanent structure in a fixed and determined position and intended to remain in place for a period of more than 9 months.

124) STRUCTURE, TEMPORARY. Any structure other than a permanent structure as defined in this section. A temporary structure shall not be permanently affixed to the ground and shall be intended to remain in place for 9 months or less.

125) STRUCTURAL ALTERATION. Any change in the supporting members of a building or any substantial changes in the roof structure or in the exterior walls.

126) SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement to a structure, the cost of which equals or exceeds 50% of the present equalized assessed value of the structure, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. This term does not, however, include either… any project for improvement of the structure necessary in order to comply with the existing State or local health, sanitary or safety code specifications which are required to assure safe living conditions, or any alteration of a structure documented as deserving preservation by the State of Wisconsin Historical Society or listed on the National Register of Historical Places. Ordinary maintenance and repairs suchas interior and exterior painting; decorating, paneling and replacement of doors, windows and other nonstructural components are not considered substantial improvements.

127) SURFACE WATERS. All lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within Village of Big Bend.

128) SWIMMING POOL. A structure designed to hold water more than 18" deep, 10' in diameter and able to contain more than 200 cu. ft. of water for the purpose of swimming.

129) TAVERN. Any place or portion of a place in which fermented malt beverages, wines and/or intoxicating liquors are sold for consumption upon said premises.

130) UNNECESSARY HARDSHIP. That circumstance where, as demonstrated by the property owner, strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance.

131) USE, ACCESSORY. A use subordinate to and customarily incidental to the permitted principal use on/of the property or and located upon the same lot as the principal use.

132) USE, LEGAL NONCONFORMING. The use of a building or land lawfully carried on at the time of passage of this chapter or amendments thereto but which does not now conform to the use regulations established by this chapter.

133) USE, PERMITTED. The utilization of land by occupancy, activity, building or other structure which is specifically enumerated as permitted by the regulations of the underlying zoning district in which the land is located.

134) USE, PRINCIPAL. The main or primary use of a property or structure.

135) USE, TEMPORARY. A use established for a fixed period of time, with the intent to discontinue such use upon the expiration of such fixed period of time, which use does not involve the construction or alteration of any permanent structures.

136) VARIANCE. An authorization granted by the Board of Appeals to construct or alter a buildings, land or structure in a manner that deviates from the dimensional or numerical standards of this chapter. The issuance of a variance shall not have the effect of allowing a use of property otherwise not allowed on other property having a similar condition or situation. Such variance may not allow for a use which is not allowed in the zoning district in which the property is located or allow Foodland construction that is not protected to the flood protection elevation.

137) VILLAGE. Village of Big Bend Wisconsin.

138) VISION SETBACK AREA. An unoccupied triangular space, at the intersection of two streets, a driveway and a street, a railroad track and a street, and similar intersections.

139) WETLANDS. An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions (ref Wis Stats 23.32(1)).

140) WORKING DAY. A calendar day, except Saturdays, Sundays and State of Wisconsin and Village of Big Bend, WI recognized legal holidays.

GENERAL PROVISIONS

16.05 COMPLIANCE

Except as otherwise specifically provided, the use, size, height, and location of buildings or structures now existing or hereafter erected, converted, enlarged or structurally altered, and the provision of open space on the land shall be in compliance with the regulations established herein for the district in which such use, building, and/or structure is located.

16.06 BUILDING PERMIT

A. REQUIRED. No structure or building shall be erected, structurally altered, repaired, remodeled or relocated until a building permit has been issued by the Building Inspector certifying that the building as proposed would be in compliance with the provisions of this chapter and the Municipal Code. Siding and shingling that does not disturb the existing sub-shingle building materials shall not require a permit. Permits for permanent fences shall be required.

B. APPLICATION. An application for a building permit shall be made to the Building Inspector. Such application shall be in accordance with Section 16.07 (2) of this chapter.

C. ISSUANCE. Building permits shall be issued by the Building Inspector and conform to the provisions of this chapter.

16.07 BUILDING AND OCCUPANCY PERMITS

A. REQUIRED. No vacant land shall be occupied or used, except for permitted agricultural purposes, and no building shall be used, occupied or the use changed until an occupancy permit has been issued certifying that any such building, use or occupancy complies with the provisions of this chapter and all other applicable State and County codes. This permit shall be obtained before any building is occupied or any change is made in the type of use or before any legal nonconforming use, lot or structure is resumed, changed, extended or granted conditional use status pursuant to Section 16.25 or this chapter. This permit shall be obtained before any commercial or industrial building is reoccupied following a change of ownership or tenancy.

B. APPLICATION. All permits shall be applied for with the Village Building Inspector. Application for an occupancy permit shall be made prior to occupying the building. The application for the building permit shall contain sufficient information to permit the Building Inspector to ascertain whether commencement of construction of the property shall begin. All necessary permits shall be prepared on forms provided by the Village and shall include for the purpose of proper enforcement of this chapter the following data:

1) A statement by the applicant as to the intended use of the premises and of any existing or proposed buildings thereon.

2) A plat of survey of the property by a Registered Land Surveyor to a recognized engineering scale of not more than 100 feet to 1 inch and properly showing:

a) The boundaries of the property involved.

b) The location of the centerline of any abutting streets.

c) The location on the lot of any existing buildings, proposed additions or new building, including the measured distance between buildings, lot lines and street lines measured to the nearest portion of such buildings.

d) The proposed floor elevation of any proposed buildings in relationship to the existing and/or established grade of any abutting streets and adjacent properties.

e) The elevation shall indicate the slope of all 4 sides of the proposed building.

f) The high water line of any stream or lake on which the property abuts.

g) The proposed locations of the primary and secondary septic systems and private wells.

Where the use involves human occupancy, a structure must either be served by municipal sewer and water or a plan shall be submitted for proposed sewage disposal and water supply systems, and approved by the Waukesha County Department of Environmental Health and evidenced by their issuance of a sanitary permit and private well permit prior to issuance of the building permit.

Fees shall accompany each application for permit in accordance with the established Village fee schedule and such payment shall be made to the Village Clerk.

C. ISSUANCE. Building and occupancy permits shall be issued by the Village Building Inspector after adequate investigation as to the compliance.

1) Building Permit. Provided the application is in order and any building occupancy or uses proposed will be in compliance with the provisions of this chapter, a certification that such permit has been issued shall be posted in a prominent place on the premises during the period of any construction involved in readying the land or building for occupancy.

2) Occupancy Permit. Occupancy permits shall be issued by the Building Inspector after adequate inspection and within 10 days after the proper notification of the completion of the erection, alteration or relocation of a building, use, or occupancy provided it is fully compliant with the requirements of this chapter and the issued building permit.

3) EXPIRATION. If within 6 months of the date of the issuance of the building permit the proposed construction has not commenced or if within 18 months an occupancy permit has not been issued, the building permit shall expire, except that, upon showing of valid cause, the Village Board may grant an extension of such permit for a limited and specific period not to exceed 6 months.

4) TEMPORARY OCCUPANCY PERMIT FOR OTHER THAN ONE AND TWO FAMILY USES. An applicant in a commercial or industrial zoning district may request a temporary occupancy permit prior to completion of all improvements required/included in an approved building/site plan if he/she first posts with the Village a letter of credit or cash escrow in an amount equal to 125% of theestimated costs of the incomplete improvements and then only for a maximum of up to 9 months.The Planning Commission may approve such an extension of temporary occupancy provided the Building Inspector shall have given a favorable recommendation of same and subject to full compliance with the terms and conditions of an agreement to be drafted by the Village Attorney specifying the manner of surety and terms for completion of improvements. Any costs incurred by the Village for planning, legal fees, engineering or other technical assistance related to such temporary occupancy shall be charged back to the applicant and paid in full prior to release of the surety. The Plan Commission shall be responsible for setting the appropriate time necessary for full compliance with the building/site plan.

5) EXCAVATION. If, within 30 days from the date an excavation begins, the related structure/building construction has not commenced, the excavated area shall be returned to it's original state and all open ground on the site shall be immediately stabilized in the manner specified by the Building Inspector. Any request for extension beyond this 30 day period shall be submitted to the Planning Commission on or before the 30 day window of time expires. Upon receiving a recommendation from the Building Inspector, the Plan Commission may grant a conditional extension of up to 30 additional days.

6) TEMPORARY STRUCTURE. No temporary structure as defined herein, may be permitted for more than a 9 month period, unless such time is expressly otherwise reduced or extended by action of the Village Plan Commission.

16.08 SITE REGULATIONS.

A. LOT REQUIREMENTS.

1) Building Must Be On The Lot. Every building hereafter erected, structurally altered or relocated shall be located on a lot, as defined herein. Any building used for the principal use permitted in that district shall constitute the principal building and there shall be no more than one principal building on a lot, except in business districts, industrial districts, and planned unit developments when so approved. Accessory buildings shall not be permitted until the principal building is substantially completed.

2) Lot Described. The lot as herein defined shall be exclusive of any land lying in the public right-of- way and/or public waters. Where public waters and/or public right-of-way divide a single describedparcel into 2 or more parts, such severed portions shall be considered separate individual lots.

3) No person shall modify or disturb the land, use of the land or structure(s) upon the land on any property in the Village in such a manner as may result in adverse impacts upon the pre-existing stormwater management and/or drainage conditions of any other property.

B. BUILDING ON A PRIVATE STREET OR ACCESSWAY. The intent of this provision is to discourage the creation of lots and placement of structures which do not have adequate access for emergency vehicles and equipment and to provide a private street or accessway width which could accommodate/become a public right-of-way if necessitated in the future, and to allow the limited creation of parcels which, due to unusual topographical or other unique physical circumstances,cannot abut a public street. Subject to the prior approval of the Plan Commission and Village Board, a building may be permitted on an existing tract of land which does not abut or have direct frontage ona public street or other officially approved accessway. Securing and constructing suitable access by a permanent easement for private street or way purposes at least 33' in width and connecting to a public right-of-way may be required.

C. CONSTRUCTION STANDARDS FOR PRIVATE STREETS AND PRIVATE DRIVES.

1) Definitions.

a) As used herein, the term "private street" shall include all private routes of ingress and egress from any public right-of-way for the purpose of providing access to two (2) or more residential dwellings/units, commercial or industrial buildings, or properties which lack direct access to an existing and improved public right-of-way.

b) As used herein, the term "private drive" shall include all private routes of ingress and egress from any public right-of-way, for the purpose of providing access to only (1) residential dwelling/unit, commercial or industrial building, or property. Sharing of a private drive between multiple tax parcels, buildings or dwelling/units shall be prohibited. The Plan Commission may grant relief to this section and permit a "private drive" providing access to two (2) or more residential dwellings/units, commercial buildings, or properties and/or sharing a private drive between multiple tax parcels where such grant would not be contrary to the

spirit and intent of this chapter, particularly as regards safe access to all buildings and property for police and fire safety purposes. Recitation of the unique or special circumstances warranting such relief shall be made a part of the minutes/records of the meetings and all necessary shared/cross access easements and agreements shall be subject to review and approval of the Village Attorney and recorded in the Waukesha County Register of Deeds prior to start of construction.

Notwithstanding anything contained herein to the contrary, this ordinance shall not apply to private drives that are 200 feet in length or less, as measured from the edge of the public right-of-way along the centerline of the proposed accessway to the nearest exterior point of the principal building being served on the property or to the lot line of a property if no buildings are present.

2) Construction Standards for Private Streets.

a) At the end of the private street, a minimum paved cul-de-sac shall be provided. This cul-de-sac and the private street shall be constructed in accordance with the Village's standard road specifications and the Village's standard road sections in effect at the time of construction.

b) The road ditch construction along the private street shall be required per the Village's standard road specification and road section. The property owner shall obtain all drainage easements necessary to construct these ditches.

c) All costs necessary for the maintenance of the private street to conform to these requirements for the safe passage of emergency vehicles shall be at the property owner's expense.

3) Construction Standards for Private Drives in Excess of 200 Feet in

a) Length. All private dives shall be constructed utilizing a compacted subgrade consisting of quality material suitable for standard highway loading.

b) Drainage structures or culverts, at least 20 feet long with end sections, shall be installed under the surface at the low points in grades, and sloped to drain to the existing storm drainage outlet. These structures or culverts shall be sized to drain their entire storm drainage contributing areas based on the ten (10) year frequency storm design.

c) A minimum of road ditch construction along these private drives shall be required in those areas where storm runoff would otherwise be forced into the traveled surface due to the topography. The property owner shall obtain all drainage easements if/as necessary to construct those ditches.

d) The minimum depth of the stone base shall be 5 inches of 1-1/2 inch crushed stone traffic bond (TB) material compacted in place, over which 5 inches of ¾ inch crushed gravel or crushedstone (TB) material shall be compacted in place.

e) All private drives shall have a gravel surface not less than 14 feet in width, together with turn-around areas as provided in subparagraph 8, and together with emergency vehicle pull off areas as noted below with final approval by the Village Plan Commission. The emergency pull off areas shall be:

1. Every 300 linear feet of driveway;

2. 50 feet long – 10 feet wider than driveway;

3. Same construction standards as indicated in subparagraph 4;

4. All branches and shrubbery shall be cut back to a distance of 5 feet beyond the edge of the pull off area as provided in subparagraph 6;

5. All vegetation, trees and shrubbery must be cut back so that a 10 foot clearance height is provided. All branches and shrubbery shall also be cut back to a distance of 15 feet on either side of the centerline of the traveled surface portion of the private drive;

6. All curves and bends in the surface shall be constructed to safely transport a fire truck with cab and trailer so that this vehicle is confined to the 14-foot surface width;

7. At the end of the private drive, a cul-de-sac or turn around area shall be provided for emergency vehicle use. The minimum size shall be a 45 foot radius cul-de-sac or 45 foot depth X 60 foot wide T turn around;

8. All costs necessary for the maintenance of private drives to conform to these standards for safe passage shall be at the property owner's expense.

4) Plan Submittal and Review.

a) The applicant shall submit construction, site and drainage plans to the Village Clerk's office indicating dimensions, and location and construction materials as needed/requested by the Village. The plans shall be drawn to scale and shall not exceed 1 inch = 20 feet.

b) The applicant shall submit sufficient copies of the plans for the Village Plan Commission.

c) The Village Engineer shall review the plans for compliance with this ordinance and forward recommendations to the Village Plan Commission for review. Village Plan Commission approval is required prior to building permit issuance.

d) The private driveway or street shall be completed prior to an occupancy permit being issued.

e) The Village Engineer and/or Building Inspector or their designee shall inspect the private driveway and streets for compliance with approved plans.

f) The cost of reviewing the plans by the Village Engineer or other Village officials, as well as any inspection services required to insure installation of the private drive and/or private street in accordance with this ordinance, shall be borne by the property owner. The property owner shall reimburse any such expense within thirty (30) days after invoicing, and if not reimbursed, shall constitute a special assessment upon the property in accordance with the provisions of Section 66.0703(2), Wis. Stats.

D. UNDESIRABLE STORAGE. On any property where the outdoor storage of equipment, materials, temporary structures, supplies, vehicles and similar exist, such outdoor storage shall be located or arranged as not to adversely affect the property values and general desirability of the surrounding neighborhood. The Building Inspector or any affected property owner may present any questionable case in writing to the Plan Commission for a determination. A copy of such presentation shall be mailed to the alleged violator of this provision at least 10 days prior to the Plan Commission meeting thereon, and he shall be permitted to present evidence in defense of this storage arrangement. The Plan Commission will decide if the unenclosed storage is adverse and undesirable or if the materials can be neatly stored in a manner that will eliminate such adverse effect. Non-Compliance with any order of the Planning Commission dispensing with the matter of unenclosed storage shall subject the violator to the penalties provided in this Chapter.

E. STREET GRADE. Every building hereafter erected, structurally altered or relocated shall be at a grade approved by the Building Inspector/Village Engineer as being in satisfactory relationship with the established street grades and adjacent property, or with the existing street grade where one is established, with particular consideration for proper drainage and safe vehicular access.

F. PRESERVATION OF TOPOGRAPHY. In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of land shall be made which would result in increasing any portion of the slope to a ratio greater than 3 horizontal to 1 vertical within a distance of 20 feet from the property line, except with prior 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.

16.09 SANITATION AND WATER SUPPLY.

A. SAFE SEWAGE DISPOSAL.
No principal building shall be permitted, erected, structurally altered or relocated unless it has first been certified by the Building Inspector and/or Plumbing Inspector that it will be connected to public sanitary sewer or conforms to all Village ordinances and other governmental laws or regulations then applicable to onsite sewage disposal systems and that satisfactory evidence has been submitted to show that suitable provisions for disposal of sewage is possible for the proposed use on the lot. If it is not served by an approved municipal or other State approved sanitary sewer system, a Waukesha County sanitary system permit shall be required prior to the installation of any new private system.

While every attempt has been made through control of minimum lot size, building location, maximum floor area ratios, and plumbing standards to insure that proper disposal of sewage can/will be provided on any lot, it is recognized that no such standards will completely insure adequate disposal in every situation. This section has been written for the purpose of giving the community the authority to require whatever additional provisions it believes may be necessary to prevent a sanitary waste disposal problem from developing in a situation where it is believed that the standard requirement will not ensure proper sewage disposal.

B. OUTHOUSE PROHIBITED.
No outhouse or privy shall be hereafter permitted under any circumstances.

C. WATER SUPPLY REQUIRED.
No occupancy permit shall be issued for a building used for residence purposes unless provisions are made for a safe and adequate supply of potable water or connection is to be made to an approved municipal or community water system. Where a building is proposed in an area served by a community water system or municipal system, no private wells will be permitted unless first and specifically approved by the Village Board.

D. TEMPORARY SANITARY SYSTEMS. Porta-potty or metro type toilets shall only be permitted on construction sites and only during the period of time that construction is ongoing unless otherwise first extended by the Plan Commission. Porta potties for special events are permitted for no more than one week unless otherwise first extended by the Plan Commission.

E. SEWER REDUCTION. In the case of any existing lot proposed now to be served by both a municipal or municipally approved communal sewage disposal system and water system, and where such services would be available for connection to the lot prior to any occupancy of such lot which occupancy will include a need for safe and potable water and for sanitary waste disposal , the Village Board may, upon recommendation of the Planning Commission and Public Works Committee, authorize a reduction in the lot size, lot width, open space, offset and setback requirements applicable to such lot and increase the permitted floor area ratio. A joint public hearing of the Planning Commission and Village Board shall be held on the matter before the Village Board makes a decision as to any changes. In making it's decision, the Village shall give particular consideration to the following:

1) The suitability of soil, terrain and groundwater conditions and the practicality of providing municipal sewer or water service to the parcel.

2) The effect of any reduction in the lot size, lot width, open space, setback and offset requirements and the increase in floor area ratio and density requirements on the character and value of surrounding development. The maximum amount of reduction in the lot size, lot width, open space, offset and setback requirements, or increase in floor area of individual lots, shall not exceed 30%. Where both municipal sewer and water is provided, the lot area requirements for the individual lots may be reduced to not less than twelve thousand (12,000) square feet.

16.10 USE REGULATIONS.

A. USES RESTRICTED. In any district, no building or land shall be used and no building shall be hereafter erected, structurally altered or relocated except for the uses as hereafter stated for that district, or as permitted as a conditional use.

B. ACCESSORY USES. In any district, accessory buildings, structures and uses customarily incident to the permitted uses in that district shall be permitted subject to such requirements as may be hereafter designated for the district in which they are located or as further regulated in this chapter.

C. UNCLASSIFIED USES. Any use not specifically listed as a permitted use shall be considered to be prohibited, except as may be otherwise be specifically provided for hereinafter. In case of questions as to the classification of a use, the questions shall be submitted to the Plan Commission for determination.

D. ADDITIONAL REQUIREMENTS. Any use in any district which becomes hazardous, harmful, noxious, and offensive or a nuisance to the surrounding neighborhood may require correction or improvement by such measures as are directed by Village Board consistent with reasonable technological and economic practicability. Any building determined to be unfit for human habitation or which may endanger the health, safety and welfare of the public, as may be determined by the Village Board, shall be removed pursuant to the procedures outlined by the Wisconsin Statutes.

E. HOME OCCUPATIONS AND PROFESSIONAL OFFICES. Home occupations and professional offices are allowed in agricultural and single-family residential districts. To obtain the approval necessary to conduct a home occupation or professional business from your residence, it is Village policy that you submit a letter to the Village Clerk, formally requesting such approval. Your letter should indicate your name, home/residence address, telephone number and email address, the type of business you wish to operate and a detailed description of the business operating characteristics. The letter should also summarize any physical changes that would be made to interior or exterior of the residence or the property in order to accommodate the business operations. The letter should recite each standard as specified in the home occupation ordinance (see below), followed by a clear description as to how the standard will be met. If a particular standard does not apply to your situation, an explanation should be provided as to why this is the case. Once completed, the letter should then be sent or delivered to the Village Clerk. Upon receipt of your letter, your request will be reviewed with respect to the home occupation ordinance terms (see below) and the Village Clerk will return a copy of your letter marked either "approved as presented", "approved with the following changes and/or conditions" or "recommended for consideration by the Village Planning Commission".

1) Such use shall not occupy more than 20% of the floor area of the principal building in which it is located. Home occupations shall not be located in any accessory structure.

2) There shall be no exterior alterations made that change the character of the dwelling or provide any exterior evidence of the home occupation, except for the sign herein permitted.

3) Only the members of the immediate family occupying the dwelling shall be engaged in the home occupation.

4) The home occupation shall be conducted only within the enclosed area of the dwelling unit of a single family, duplex unit, or multi-family apartment.

5) No such use shall be permitted which generates pedestrian or vehicular traffic incompatible with the residential character of the neighborhood.

6) Adequate off-street parking areas shall be provided adjacent or reasonably adjacent to the building served and shall be maintained dustless and adequately screened from adjoining residential properties.

7) Such use shall not include the conduct of any retail or wholesale business on the premises, nor the removal of sand gravel, stone, top-soil, or peat moss for commercial purpose.

8) Such use shall not include the operation of any machinery, tools, or other appliances, or the outside storage of materials, or other operational activity which would create smoke, odor, glare, noise, dust, vibration, fire hazard, electrical interference or any other nuisance incompatible to the surrounding residential area.

16.11 BUILDING LOCATION.

A. SETBACKS.

1) The setback lines from which building setbacks shall be measured is the right-of way for all streets, highways, and approved access ways in the Village.

2) Unless otherwise specifically waived or modified by the Planning Commission due the unique circumstances of a particular place, vision setback lines at the intersections of public streets or

highways and of a street or highway with a railroad where the grade is not separated are hereby established as follows:

a) Across each sector between the intersection of a street or highway with a railroad, a vision setback line shall be established by a straight line connecting points on the right-of-way line and the railroad right-of-way lines, which points are located 120' from the intersection of these 2 lines.

b) Across each sector between the intersection of a street and a highway which has an established width of 100' or more, a vision setback line shall be established by a straight line connecting 2 points on the intersecting right-of-way lines, which are located 60' from the intersection.

c) Across each sector between any other intersecting streets, a vision setback line shall be established by a straight line connecting 2 points on the intersecting right-of-way lines which are located 30' from the intersection.

3) In the vision setback area no structure of any kind shall be permitted which exceeds a height of 3' above the elevation of the center of the intersections, except for necessary highway and traffic signs, public utility lines, and open fences (50% open construction) through which there is a clear vision, nor shall any plant material be permitted which obscures safe vision of the approached to the intersections.

4) No principal building or its accessory buildings shall be erected, altered or placed so that any portion is closer to the right-of-way line than the setback distance hereafter specified by the regulations for the district in which such building is located with the following exceptions applicable only where the setback requirements of the properties involved are identical.

a) Where the nearest existing building on one side of the building is within 500' and has less than the required setback, the average between such existing setback and the required setback shall apply.

b) Where the nearest existing buildings on both sides of such building are within 500' of the building but not closer than 300' to each other and have less than the required setback, the average of such existing setbacks and the required setback shall apply.

c) Where the nearest existing buildings on both sides of such building are within 300' of each other and have less than the required setback, the average between such existing setbacks shall apply.

d) In the case of a proposed addition to an existing building which has less than the required setback, such existing building may be considered the "nearest existing building" inorder to apply the above exceptions in determining required setback for the proposed addition.

5) No other structures of any kind, except necessary highway and traffic signs, public utility lines, drainage structures, rural mailboxes, newspaper boxes and open stairs extending 6' or less from the enclosed portion of the structure shall be hereafter erected, altered or placed within such base setback area. Private retaining walls, guard posts or other landscape structures shall not be permitted unless placed below the street centerline elevation.

6) Additions to and replacements of existing structures may be made within the established setback areas as long as they do not further encroach into the setback area, subject to approval of the Plan Commission and provided the owner will file with the Village an agreement in writing which shall be recorded in the Waukesha County Register of Deeds office to the effect that the owner will

remove all new construction additions and replacements erected after the adoption of this chapter at his expense, when/if necessary for the improvement of the highway.

7) In all cases where any of the highways for which setback lines are established by this chapter are located on municipal boundaries, such establishment shall apply only within the Village of Big Bend areas.

8) On corner lots of record as of the date of the adoption of this chapter, the effect of the setback regulations shall be the same from both right-of-way lines.

B. OFFSETS.

1) No principal building or its accessory buildings shall be hereafter erected or altered so that any portion thereof is closer to any lot line than the offset distance specified by the regulations for the district in which such building is located, with the following exceptions:

a) In the case of any legal lot of record which has a minimum average width of less than 120', the offset from the side lot line may be reduced proportionately to the ratio between the actual average lot width and the required minimum average lot width but not less than 5'. Nodetached accessory building shall be located less than 10' to any structure used for a residential dwelling.

b) Where a lot abuts a district boundary line, the side yards from such line in the district of less restricted use shall be not less than that required for the district of more restrictive use.

c) In the case of multiple family or commercial use structures, the side yards may be modified as follows:

d) Two or more buildings on adjoining lots may be erected with common or directly adjoining walls, provided the requirements of the state Commercial Building Code relative to such construction are complied with and provided that at both ends of such "row" type buildingsthe applicable offset requirements shall be complied with.

C. MAINTENANCE AND USE OF SETBACK AND OFFSET AREAS.

1) Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for the storage or display of equipment. Vehicles, trailers, boats, supplies, products or any other materials, may not be parked/stored closer than 10 feet to a lot line unless situated upon a properly located, approved and surfaced driveway and except as may otherwise be specifically provided for in this Chapter. Firewood (neatly stacked) may be permitted provided it is located not less than 2 feet from a side or rear lot line.

16.12 HEIGHT REGULATIONS.

A. MAXIMUM HEIGHT RESTRICTED. In any district no building or structure shall be hereafter erected or structurally altered to a height in ~~ac~~**ex**cess of that specified by the regulations for that district.

B. EXCEPTIONS. The following may be excepted from the height regulations in all districts:

1) Chimneys and flues.

2) Accessory farm buildings within Agricultural Districts, but not to exceed 60' in height.

3) Subject to the approval of the Plan Commission and Village Board, cooling towers, elevator bulkheads, fire towers, monuments, stacks, scenery lofts, tanks, water towers, ornamental towers,

cupolas, lightning rods, weather vanes, spires, wireless or broadcasting towers, masts, aerials, silos, grain elevators, TV discs, solar panels, wind energy converters, and necessary mechanical appurtenances may be permitted.

16.13 <u>AREA REGULATIONS.</u>

A. FLOOR AREA.

1) Any building intended in whole or part for residential purposes shall provide a minimum living area as hereinafter specified by the regulations for the district in which such building is located. Such minimums are stated in terms of the minimum total living area required for a building and that portion of the total which must be provided on the first floor level. Such minimum total shall be increased by 100 sq. ft. for any building not having a basement of at least 300 sq. ft. in area.

2) Living area shall be measured at each level from the outside edge of wall to outside edge of wall and for purposes of computing total minimum living area shall not include garages, other outbuildings, open porches or unfinished basements. Breezeways, exposed basements split levels and the secondary floors of multi-stories residence may be included in computing total minimum living area according to the following schedule.

3) The portion of the basement of an exposed basement residence or split level residence which has been designed as an integral part of the living area of the home may be included in computing total minimum living area when at least one side is exposed and access has been provided to the outside at grade level by means of at least one door. Such computations shall maintain a minimum basement floor area of 300 sq. ft.

4) That portion of the second floors of multi-storied buildings which have a minimum distance between the ceiling face and the top of the first floor ceiling joist of 7', may be included in computing the total minimum living area, provided there are permanent stairways leading from each floor to the next floor.

5) In a split level building the first floor living area shall include all area which is not over another living area of the building.

6) The Board of Appeals may grant an exception to permit a building of less than the required minimum living area where such grant would not be contrary to the spirit or intent of this chapter, would not be of such character or quality as to depreciate the property values of the surrounding area and provided that in no case shall a minimum floor area of less than 900 sq. ft. be permitted.

B. LOT SIZE.

No lot shall be hereafter created with less area or of less minimum average width than specified by the regulations of the district in which such lot is located.

1) For purpose of this chapter, the lot area shall be measured from the right-of-way.

2) The lot shall be at least as wide as the specified minimum average width as measured at the building setback line .

3) No lot area shall be reduced by any means so as to create a lot of less than the required size or so that the existing offsets, setbacks, open space or lot area would be reduced below that required by the regulations for the district in which such lot is located.

4) Where a lot has less land area or width than required for the district in which it is located and was a legal lot of record at the time of the passage of this chapter, such lot may be used for any purpose permitted in such district, but not for residential purposes for more than one family

provided, however, that in no case shall the setback and offset requirements be reduced, except by order of the Board of Appeals after due hearing or as otherwise herein provided.

C. OPEN SPACE

1) To be considered useable and therefore, countable, such open area shall be readily accessible and of a size and shape which can be reasonably considered to provide for the amenities and necessities of light, air, play space, garden, etc. Crop, pasture and wooded land may be included in computing such open area.

2) No part of the open space provided for any building shall be included as part of the open space required for another building, except as herein provided for planned unit developments

16.13.1 UNDESIRABLE STRUCTURES.

The Building Inspector may refuse to issue a permit for the construction, erection, structural alteration or relocation of any building or structure in/to the Village of Big Bend, which structure, building or plan he believes to be of such character, by virtue of its unorthodox, abnormal or extraordinary character, scale, design or appearance may have an adverse impact on the nearby properties, is substantially incompatible with the neighborhood or any adversely affect the general desirability of the neighborhood or diminish the community/public peace and safety or is contrary to the spirit and intent of this Zoning Code. In the case of such denial to issue permit, the request for permit shall be referred to the Planning Commissionfor final determination or recommendation to the Village Board as to suitability for permit issuance. The Planning Commission/Village Board may attach and make integral to the building permit, any conditions it fells may be necessary in order to make the project/plan compatible or to mitigate the identified potentialadverse impacts.

16.14 ACCESSORY USES AND STRUCTURES.

A. GENERAL

1) Every accessory use or structure shall conform to the applicable regulations for the district in which it is located except as specifically otherwise prohibited or provided for below.

a) No accessory use or structure shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factor creates a nuisance or substantial adverse effect on the property value or reasonable, peaceful enjoyment of the surrounding properties or the Village as a whole.

b) All accessory buildings shall be constructed in such a way that their exterior appearance is compatible with the principal structure on the parcel and on adjacent parcels where theprincipal structure is within 50’ of the accessory structure under consideration. This determination shall be made by the Building Inspector. If the Building Inspector feels the proposal is not compatible, the Building Inspector shall elevate the request to the Planning Commission for review and consideration. The Planning Commission may approve, approve with conditions or deny the proposed building plan, reciting in the minutes of the meeting the specific basis for such action. This paragraph does not apply to agricultural use buildingslocated on properties zoned and used for agricultural operations and containing at least 10 acres in area.

c) In no case shall any accessory structure in any agricultural or residential zoning district be used for business, commercial or industrial purposes, except as may be permitted by special permit

or approval elsewhere in this Code. If the Board of Appeals shall grant a variance or special exception to construct an accessory structure which exceeds the permitted size requirement in a residential or agricultural district, a deed restriction must be recorded in the Waukesha County Register of Deeds' office restricting the use against any commercial use. Recording of this deed restriction must be accomplished prior to issuance of the building permit.

d) No detached garage or accessory building shall be erected prior to the erection of the principal building to which it is accessory.

e) All approved accessory buildings 600 sq. ft. in area or larger shall be subject to the requirement that a deed restriction be recorded in the Waukesha County Register of Deeds' office restricting the use of such building against any commercial use. Recording of this deed restriction must be accomplished prior to issuance of the building permit.

B. SIZE AND LOCATION

1) No accessory building shall be erected, structurally altered or placed on a lot in any district so that any portion thereof is closer than 10 feet to the principal building or other accessory buildings.

2) In any residential, business, or industrial district, the accessory buildings shall be located behind the front line of the principal structure, unless otherwise specifically approved by the Planning Commission following review and consideration of a site plan, when not part of the main building and shall not:

a) Be nearer than the required offsets for that district except as follows:

1. Non-storage related accessory uses/structures may be permitted a reduction in required offset to as little as five (5) ft. with prior written approval of the Village Building Inspector upon making a specific determination that the structure will not result in adverse impacts upon surrounding properties as to such things as, but not necessarily limited to, aesthetics, safety, noise and similar. No such reduction in offset as may be granted by the Village shall be construed to waive or supersede the requirements/limitations of any/all applicable easements that may be present on the property.

2. Storage related accessory uses/structures two (200) hundred sq. ft. in floor area or less may be permitted reduction in required offset to as little as 5ft. with prior approval of the Village Building Inspector upon making a specific determination that the structure will not result in adverse impacts upon surrounding properties as to such things as, but not necessarily limited to aesthetics, safety, noise and similar, No such reduction in offset as may be granted by the Village shall be construed to waive or supersede the requirements/limitations of any/all applicable easements that may be present on the property.

3. Storage related accessory uses/structures over two (200) hundred sq. ft. in floor area but no greater than eight (800) hundred sq. ft. in floor area and located in the R-1 or RCE Zoning Districts may be permitted reduction in required offset to as little as twenty (20) ft. with prior approval of the Village Building Inspector upon making a specific determination that the structure will not result in adverse impacts upon surrounding properties as to such things as, but not necessarily limited to, aesthetics, safety, noise and similar. No such reduction in offset as may be granted by the Village shall be

construed to waive or supersede the requirements/limitations of any/all applicable easements that may be present on the property.

b) Have a building height greater than 18' tall.

1. However, the maximum building height of accessory structures may be increased to exceed the height limitation by not more than ten (10) ft. for the district in which the accessory building is located, provided that all required offset and setback requirements are increased by two (2) ft. in distance for each one (1) foot of accessory building height above the district maximum, and provided the accessory structure is approved by the Plan Commission.

Note: The Planning Commission may require the addition of screening, landscaping and may attach any other conditions they deem necessary in order to ensure that the proposed structure is compatible within it's surroundings and to break up the view from adjacent properties or from the street.

c) Exceed the height of the principal building unless the proposed building/site plan shall first and specifically be reviewed and approved by the Planning Commission as to compatibility with the surrounding area on such matters as scale, colors, materials, location, … and similar.

a) The total square footage of all accessory structures, together with any other structures on a lot, shall not cause violation of the maximum F.A.R. or minimum open space requirements of the zoning district.

b) In any residential district, there shall be not more than two (2) accessory buildings which, together, may not exceed 800 square feet in combined total floor area, except for the following:

1. Bonus square footage may be permitted for additional side yard offsets at the rate of + 10 sq. ft. of floor area for each one foot of side yard offset above the district minimum, provided that no such bonus shall exceed 300 sq. ft. in total and provided the accessory structure is first reviewed/approved by the Plan Commission.

Note: The Planning Commission may require the addition of screening/landscaping and may attach any other conditions they deem necessary in order to ensure that the proposed structure is compatible within it's surroundings and to break up the view from adjacent properties or from the street.

2. Bonus square footage may be permitted on parcels in excess of 40,000 sq. ft. to the extent that the maximum total floor area for all accessory structures on the lot may be equal to or less than 2% of the total parcel area and provided the accessory structure is first reviewed/approved by the Plan Commission.

Note: The Planning Commission may require the addition of screening/landscaping and may attach any other conditions they deem necessary in order to ensure that the proposed structure is compatible within it's surroundings and to break up the view from adjacent properties or from the street.

C. GARAGES. A private garage at least 400 sq. ft. in area shall be required for each single family and duplex unit hereafter erected. Such structures shall be either attached or detached and shall conform to the offset and setback requirements of the district in which it is located.

D. SWIMMING POOLS.

1) Use Permitted. Above and below ground swimming pools are permitted as accessory uses/structures in any residential zoning district:

a) The pool must be intended to be used solely by the residents of the property on which the pool is to be located and their guests.

b) Any pool, together with its surrounding walk, patios, diving platforms, bathhouses, slides and similar accessory structures/appurtenances, shall be so located that all parts of the complex are in conformity with the setback and offset requirements of the underlying district.

c) Every private swimming pool shall be completely surrounded by a fence or wall not less than 4' in height, but not to exceed 6' in height, which shall be so constructed as not to have openings, holes or gaps which would allow ease of access by unauthorized persons, except for doors or gates. A dwelling or accessory building may be used as part of such enclosure. All gates or doors opening through enclosures shall be equipped with an inside, self-closing and self- latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. The requirement of this subparagraph shall be applicable to all private swimming pools, including those constructed before the effective date of this section. Owners of private swimming pools constructed prior to the effective date of this chapter are required to be in compliance with this subparagraph. If an access ladder is provided, it shall be designed so that it can be locked, tipped or otherwise placed as will prohibit access to the pool by any person when the pool is not in authorized use.

d) A temporary fence may be used while the pool is under construction. A permanent fence shall be constructed within 30 days after water is in the pool. The temporary fencing shall be subject to prior review and approval as to the design/manner of installation prior to it's use/installation.

e) Aboveground pools with self-providing fencing to prevent unguarded entry shall be allowed without separate additional fencing if such fence is of minimum height and design as specified above. All access from grade to aboveground pools having ladders, stairs or ramps shall not have less than equal safeguard protection as is provided for the pool proper under **iii.** above.

f) There shall be an unobstructed areaway of at least 3' around the entire pool on aboveground pools.

g) Heating units, pumps and filter equipment shall not be located closer than 20' to any property line.

h) The fence requirement may be waived by the Building Inspector if the pool is an aboveground pool, the deck or pool wall of such pool is at least 4' in height from grade and the Building Inspector determines from an inspection that, except for ladders or other access devices, the outside pool wall or decking is at least 4' from grade and provides no direct access to the pool.

i) All overhead wiring shall be at least 10 feet from the inside wall of any swimming pool and below ground electrical wiring shall be at least 5 feet from the inside wall of any swimming pool.

j) Permit Required. No swimming pool shall be constructed/installed unless a permit has been issued by the Building Inspector in accordance with the Village ordinance governing the installation and maintenance of swimming pools.

E. FENCES.

1) Residential Fences. May be permitted up to the property lines in residential districts but shall not in any case exceed a height of six (6) feet: Residential fences in the street yard shall not exceed a height of four (4) feet and shall be 50% or more open (i.e. not more than 50% opaque) and shall not be closer than two (2) feet to any public right-of-way. All residential fences shall display their most aesthetic side towards the public and/or neighboring view.

2) Security Fences. Are permitted up to the property lines in all districts except residential districts. Security fences shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

F. SATELLITE DISHES.

1) Subject to Plan Commission approval, a satellite dish larger than 24" in diameter may be permitted as an accessory use in any district provided it does not exceed fifteen feet in height and provided it meets the offset and setback requirements of the underlying district. In no case shall a satellite dish be allowed closer to the base setback line than the principal building. To the maximum extent possible, and at the Plannning Commissions discretion, the satellite dish shall be effectively screened from the surrounding view. The manner of such screening shall be as required by the Plan Commission.

16.15 RESERVED FOR FUTURE USE

16.16 OFF-STREET PARKING.

A. SPACES REQUIRED. Any building hereafter erected shall be provided with off-street vehicle parking space not more than 500' at the nearest point from the building served and to be used exclusively by the residents, patrons or employees of the building. A parking space shall be a minim of 9' in width and 20' in depth for 30°, 45°, 60°, and 90° stalls. There shall be a drive aisle of at least 14' for single parking stalls and 24' between opposite facing parking stalls. The following schedule shall be utilized to determine the number of paved and striped parking spaces required for the various uses.

1) Single or Multi-Family Dwelling Unit. Two spaces per unit. Garage space can be used to satisfy this requirement.

2) Auditoriums, Churches, Theaters, Community Centers, and Other Places of Public Assembly. One (1) space for each three (3) seats provided.

3) Retail Business Establishments. Seven (7) spaces for the first 1,000 sq. ft. then 5.5 spaces per 1,000 sq. ft. thereafter of floor area devoted to the principal use of the property. This requirement does not apply to the area of the building utilized for storage purposes. No additional space will be required for such storage space.

4) Restaurants, Taverns, Clubs, Etc. Seven (7) spaces per 1,000 sq. ft. of gross seating area plus one (1) space per two (2) employees. This requirement does not apply to the area of the building utilized for storage purposes. No additional space will be required for such storage space.

5) Wholesale and Other General Business Establishments. One (1) space for each two (2) employees during any 12 hour period and one (1) space per 300 sq. ft. of office floor area.

6) Office Buildings. One (1) space for each 300 sq. ft. of floor area.

7) Medical and Dental Clinics. Five (5) spaces for each doctor and one (1) space for each employee.

8) Industrial Buildings and Warehouse Buildings. One (1) space for each employee during any 12 hour period and one (1) space per 300 sq. ft. of office space.

9) Sanitariums, Institutions, Rest Homes, Nursing Homes. One (1) space for each five (5) beds plus one (1) space for every two (2) employees.

10) Hospitals. One (1) space for each two (2) beds plus one (1) space for every two (2) employees.

11) Hotels and Motels. One (1) space for each guest room plus one (1) space for every two (2) employees.

12) Colleges, Vocational and Night Schools, Secondary and Elementary Schools. One (1) space for each employee plus one (1) space for every two (2) students. At elementary and secondary schools the number of stalls for student parking shall be determined by the Plan Commission after consultation with the administration of that school and appropriate provisions will be made consistent with the intent of this provision.

13) Multiple Use Facilities. Shall be based upon a maximum space requirement as determined by the Plan Commission.

B. ADJUSTMENTS TO REQUIRED PARKING. The Plan Commission may grant relief to the parking regulations for expansion of existing uses and changes in existing business and industrial uses.

C. RESIDENTIAL PARKING. Parking of vehicles or boats accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Residential vehicles, cube vans, panel trucks, motor homes, recreational vehicles, pick-up trucks, boats used for private and recreational use only or one similar vehicle used in a business for transportation to and from a place ofemployment may be parked on a residential property, as long as such use does not become a nuisanceto the surrounding neighborhood. Any nuisance or parking of vehicles that have a larger than one ton load capacity such as semi-tractors, dump trucks, school buses, etc., requires a conditional use permit.

D. PARKING OF TRUCKS AND EQUIPMENT. No other vehicular equipment of a commercial or industrial nature, as excepted in sub. (3) Above, shall be parked or stored for more than two (2) consecutive hours and four (4) cumulative hours during any 24-hour period on any lot in any zoning district, except business or industrial districts or as follows:

1) Agricultural equipment (such as farm tractors, plows, seeders, combines, cultivators, farm trucks, etc.) used in a farm operation and located within an agricultural district.

2) Not more than one panel, van or pick-up truck used in the conduct of conforming business activity being carried on in a residential or agricultural district or used to commute to a business elsewhere. The Plan Commission may, if the need is evident, permit more than one such vehicle if they find the increase in the number of such vehicles will not to cause a nuisance. No limitation shall be placed on vans or pick-up trucks if they are used for private non-business or noncommercial recreational purposes.

3) Consideration for issuance of conditional use permit, pursuant to §16.25 may be given to allow the parking of commercial or industrial type vehicles in certain zoning districts. This determination shall be made by the Plan commission. In business or industrial districts where such vehicles are accessory to an otherwise permitted business or commercial use, a conditional use permit will not

be required and there are no limitations as to the number of such vehicles which may be parked on the property except as may be established under the provisions of the applicable zoning district.

E. SURFACING. Any off-street parking area, other than that provided for a single family residence, having a capacity for more than four (4) vehicles shall be surfaced using 2" bituminous asphalt or 5" of concrete and shall be permanently striped in accordance with the approved site plan. Where unique or extraordinary circumstances warrant, and at the exclusive discretion of the Village, the Planning Commission and Village Board may consider and approve the use of similar, dust free and permanently stripeable surface material placed over a properly prepared and stable base provided the construction plans and material specifications shall first have been provided for the Village Engineer's review, consideration and written recommendation. An extension of up to one year after occupancy for the installation of paving and/or striping may be granted to the property owner by the Plan Commission, which extension is subject to the terms and conditions setforth herein below.

F. SURETY. If the subject property is to be occupied prior to the installation of all required paving, and/or striping the property owner shall file, subject to approval by the Planner, a certificate of cash deposit or a certified check in the amount equal to 125% of the estimate of paving and installation cost. An enforceable contract for all work indicated on the site plan, on the subject property, from a qualified contractor (valid for 365-day period), shall be used to determine the amount of surety.

G. SCREENING. Any off-street parking area, other than that provided for a single family residence, which abuts or faces a residential district shall provide a planting screen, landscaped fence, or combination of a berm and plantings at least 6' in height along the side abutting or fronting on a residence district. However, no screening may be installed in a vision corner.

H. SIDE YARD.

1) In any off-street parking area, other than that provided for a residence, which abuts a residence district, no vehicle may be parked closer than 10' to the abutting lot line. No vehicle may be parked in a vision corner.

2) Surfaced residential driveways or parking areas must be a least 2' from the adjacent property line and landscaped with vegetative materials. Plan Commission may review similar proposals.

I. SETBACK. No vehicle shall be parked closer than 10' to the right-of-way line or within a vision corner.

J. LIGHTING. Lights provided in any parking area shall be hooded or beamed so as not to create undesirable glare or illumination of adjacent residential property.

16.17 <u>OFF-STREET LOADING AND UNLOADING.</u>

A. REQUIRED. In any business or industrial district an off-street loading space shall be provided, inaddition to the defined off-street parking area for every 10,000 sq. ft. or fraction thereof in excess of 3,000 sq. ft. of building area, exclusive of storage areas used for commercial purposes.

B. SPACES. Efficient space for loading or unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that adjacent streets and alleys shall at all times be free and non-obstructed to the passage of traffic.

C. AREAS. Each such loading space shall have an area at least 10' wide by 45' long, and with a minimum of 14' height clearance.

16.18 SIGNS. The purpose of this Section shall be to:

A. Regulate the size, type, quantity, construction standards, maintenance and placement of signs situated within the boundaries of the Village of Big Bend, Wisconsin.

B. Promote the public health, safety, welfare and comfort of the general public by:

1) Enabling the public to locate goods, services, activities, places and facilities without difficulty or confusion;

2) Protecting property values, public investment and overall neighborhood character by promoting an attractive, harmonious and aesthetically-pleasing environment free from excessive visual clutter of signs and preventing conditions which have undesirable impacts on surrounding properties;

3) Reducing distractions and obstructions from signs which could adversely impact pedestrian and/or traffic safety;

4) Alleviating potential hazards caused by signs projecting over or encroaching upon thepublic right-of-way;

5) Preserving or enhancing the natural beauty and unique physical characteristics of the Village as a community in which to live and work by requiring new and replacement signage which is:

a) Aesthetically harmonious with the nearby buildings, surrounding neighborhood aesthetics and other signs in the area as to, for instance but not necessarily limited to, materials, colors, scale, placement/location, landscaping, manner/hours of illumination;

b) Complementary to the Village's architectural character and unobtrusive style of development.

16.18.1 SCOPE OF REGULATIONS. Except as otherwise noted in this Section, the regulations of this Section shall govern all outdoor signs, sign structures, and sign devices with respect to location, safety, size, construction standards, erection, attachment, support, lighting, anchorage, maintenance, physical appearance and aesthetics for all areas of the Village.

16.18.2. DEFINITIONS.

A. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1) Area means measurement of sign area calculated as the sum of the area within the smallest regular polygon that will encompass all elements of the actual sign face including any writing, representation, emblem or any figure or similar character together with any material forming an integral part of the display or forming the backing surface or background on which the message or symbols are displayed.

a) For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any background of a different color than the natural color or finish material of the building.

b) The area of supporting framework (for example brackets, posts, etc.) shall not be included in the area if such framework is incidental to the display.

c) When a sign has two or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two feet from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

2) Awning means a stationary or retractable structure that serves as a shelter over a door, window or building front.

3) Awning sign means any lettering or imagery sewn or printed on the fabric portion of an awning. Decorative awnings without imagery are not considered signs.

4) Banner means a sign intended to be hung either with or without a frame, and which possesses characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind.

5) Base setback line means the edge of the established ultimate street right-of-way.

6) Beacon means a stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which is intended to attract or divert attention.

7) Canopy sign means any sign that is attached to or part of an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.

8) Changeable copy means a sign or portion thereof designed to accommodate frequent message changes composed of characters, letters, or illustrations and that can be changed or rearranged manually without altering the face or surface of such sign. Also referred to as "reader boards".

9) Contiguous project/development area means a grouping of individual parcels, buildings and/or uses conceived, approved and developed as a unified whole (i.e. Subdivision plat, condominium plat, mixed use or multi-building PUD).

10) Display surface means the surface made available on the sign, either for the direct mounting of letters and decorations, or for the mounting of facing material intended to carry the entire advertising message.

11) Election Campaign Period means that period of time as described in Wis Stats Section 12.04.

12) Electronic message means signs with alphabetic, pictographic, or symbolic informational content that can be changed or altered on a fixed display screen composed of electrically illuminated segments. Includes LED displays, electronic signs, LED video displays and electronic variable message signs.

13) External illumination means illumination of a sign with an exterior light source.

14) Facing means the surface of the sign or billboard upon, against or through which the message of the sign or billboard is displayed.

15) Flashing sign means a sign whose illumination is not kept constant in intensity at all times when in use and/or which exhibits changes in light, color, direction, animation and word/text changes. Illuminated signs that indicate the date, time and temperature will not be considered flashing signs.

16) Freestanding sign means a sign that is attached to or part of a completely self-supporting structure other than a building. The supporting structure shall be set firmly in, upon or below the ground surface and shall not be attached to any building.

17) Height means the distance between the existing preconstruction grade at the base of the sign and the highest point on the sign or supporting structure.

18) Illuminated sign means a sign in which an artificial source of light is used in connection with the display of such sign.

19) Internal illumination means the illumination of a sign in which the source of light is contained within the sign itself.

20) Letters and decorations means the letters, illustrations, symbols, figures, insignia, logo and other media employed to express and/or illustrate the sign message.

21) Lot means a designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law.

22) Lot line means a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

23) Major tenant means the tenant within a multi-tenant building that occupies the greatest square footage of that building.

24) Marquee means a permanent roof like structure extending from part of the wall of a building but not supported by the ground, and constructed of durable material such as metal or glass.

25) Marquee sign means a sign attached to, painted on, or supported by a marquee.

26) Neon or other gas tube illumination means illumination from a light source consisting of a neon or other gas tube which forms letters, symbols or other shapes.

27) Nonconforming sign means a sign existing at the effective date of the ordinance from which this Section is derived which does not conform to the terms of this Section.

28) Off-premises sign means any sign that calls or directs attention to goods, products, facilities or services not located on the premises where the sign is located, or a sign that identifies or directs persons to a different location from where the sign is located or a sign that ~~or~~ identifies an occupant or business that is not situated on the same lot as the sign.

29) Offset means the regulated minimum distance of a structure from a side or rear lot line.

30) On-premises sign means any sign that calls or directs attention to goods, products, facilities or services located on the premises where the sign is located or identifies an occupant, business or property situated on the same lot as the sign.

31) Outdoor advertising means any outdoor structure, device or image that is used as anannouncement, declaration, demonstration, display, illustration, instruction, guide, indication, symbol, insignia, logo, emblem or advertisement.

32) Pennant means a variety of flags usually tapering to a point or swallowtail or a long rectangle.

33) Portable sign means a sign not permanently affixed to the ground, building or other structure and which may be easily moved from place to place.

34) Projecting sign means a sign affixed or attached directly to the exterior wall of a building or structure and extending more than ten inches from the exterior wall of the building or structure.

35) Roof sign means a sign or billboard which is located or projects above the lowest point of the eaves or the top of the parapet wall of any building, or which is painted on or fastened to a roof.

36) Sandwich board sign means a self-supporting A-shaped freestanding temporary sign with only two visible sides that contain commercial speech.

37) Setback means the regulated minimum horizontal distance between the base setback line and any structure on a lot.

38) Shopping center means a planned/coordinated grouping of architecturally unified commercial establishments built on the same site and managed as one operating unit offering for sale goods such as food, drugs, hardware and personal services.

39) Sign means any display of lettering, logos, colors, lights, illuminated neon tubes and related supporting structures, equipment or devices visible to persons or the public from outside of a

building or premises, which display either conveys a message to persons or to the public, or intends to advertise, direct, invite, announce or draw attention to goods, products, services, facilities, opinions, activities, places, persons, property interest or business.

40) Sign Code Administrator (SCA) means the Village employee responsible for administering this Section.

41) Street means a public or private right-of-way for pedestrian or vehicular traffic.

42) Temporary sign means a sign intended to be used for a period of no more than 14 consecutive days or 30 cumulative days in any 12 month period unless otherwise specified in this Section.

43) Trim means the moldings, battens, capping, nailing strips, latticing and platforms attached to any sign or billboard structure.

44) Voting item means each office being voted upon, as well as each position within such an office and any referendum question on the Village of Big Bend ballot during a particular election campaign period.

45) Wall sign means a sign or billboard affixed or attached directly to the exterior wall of a building and extending ten inches or less from the exterior wall of the building or structure.

46) Window sign means a sign attached to, placed upon or painted on the interior of a window or door of a building that is intended for viewing from the exterior of such building.

47) Wheeled sign means a sign with wheels attached to aid in it's portability.

16.18.3. APPEALS.

The Planning Commission may, in its judgment, waive or modify the provisions of this Section where it would further the public interest and uphold the purpose of this Section as put forth in section 16.18 above. Such waiver or modification may be based on, among other things, site-specific hardships such as topographic or architectural aberrations, traffic safety, accessibility and visual encumbrances or limitations.

Note: The Board of Zoning Appeals shall not have authority or jurisdiction over the provisions of the Sign Code.

16.18.4. PENALTY.

Any person, firm, company or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Section shall be subject to a forfeiture of not less than $50.00 nor more than $500.00 for each offense, together with the costs of the action. Each day that a violation exists shall constitute a separate violation and be punishable as such.

16.18.5. PERMITS

A. Authority.

It shall be unlawful for any person to erect, repair, alter, relocate, display or possess any sign or sign structure or sign device as defined in this Section without first obtaining a sign permit from the Village of Big Bend and making payment of the fees required by this Section. All signs requiring electricity shall, in addition, be subject to the provisions of the electrical and building codes and any additional permit fees as may be required under such codes.

B. Application for Permit.

1) Application for a sign permit shall be to the Village of Big Bend, and shall contain or have attached thereto the following information:

a) Name, address and telephone number of the applicant, and the location of building, structure or lot to which or upon which the sign is to be attached, erected or displayed.

b) Name of person, firm, corporation or association intending to construct/place/display the sign.

c) Written consent of the owner of the building, structure or land to which or upon which the sign is to be affixed, installed or displayed.

d) A scale drawing of such sign indicating the dimensions, materials to be used, manner of illumination, if any, and the method of construction, attachment or display.

e) A scale drawing indicating the proposed location and position of such sign in relation to nearby buildings or structures.

2) Sign permit applications shall be filed with the SCA, who shall review the application for its completeness and accuracy and approve or deny, in writing, the application within 30 days of receipt from the applicant unless the time is extended by written agreement with the applicant or the application requires Planning Commission approval. A sign permit shall become null and void if work authorized under the permit has not been completed within 12 months of the date of issuance.

3) Issuance of permits.

a) It shall be the duty of the SCA, upon the filing of an application for a sign permit, to examine such plans and specifications and other data to determine compliance with the requirementsof this Section and all other regulations of the Village of Big Bend.

b) Following examination of the sign permit application, the SCA shall take one of the following actions:

1. If the proposed sign is not in compliance with the requirements of this Section and all other regulations of the Village, the SCA shall deny such permit and state the specific reasons for the denial.

2. If the proposed sign complies with all dimensional requirements of this Section, the SCA shall consider the purpose, appearance, location, lighting, height, size and impact of thesign relative the scenic beauty of the vicinity and to the ”purpose” as set forth in section 16.18 above. If the SCA feels, on the basis of the considerations in this Section, that there is a question as to whether or not the proposed sign is in accordance with the “purpose” of this Section, the applicant shall be referred to the Planning Commission. Following its review, the Planning Commission shall approve, approve with modifications or deny thesign permit application.

3. If the SCA determines that the sign is in compliance with the “purpose” of this Section and all other regulations of the Village, the sign permit may be issued.

4. Issuance of a permit as provided herein shall not be deemed an assumption of liability by the Village.

16.18.8. FEES.

The applicant shall pay an application fee for each individual sign in accordance with the current applicable schedule of sign fees, such schedule of fees being reviewed and updated/adopted by the Village Board from time to time.

16.18.9. REVOCATION OF PERMITS.

The SCA is authorized and empowered to revoke any sign permit upon determination that the sign authorized by the permit has been constructed or is being maintained in violation of the permit or the provisions of this Section.

16.18.10. REGULATIONS AND STANDARDS

A. Prohibited signs.

The following types of signs are prohibited in the Village of Big Bend:

1) Roof signs.

2) Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property or private property so as to be visible from a public right-of-way where the apparent primary use/purpose of the vehicle or trailer is to display signage. This provision is not intended to prohibit signs placed on or affixed to vehicles and trailers, such as lettering on motor vehicles for instance, where the sign is incidental to the primary use of the vehicle or trailer.

3) Signs that are attached or otherwise affixed to rocks, trees or other living vegetation.

4) Signs that imitate, interfere with, obstruct the view of or can be confused with any authorized traffic control sign, signal or other device.

5) Flashing or rotating signs, signs containing moving parts and signs containing reflective elements that sparkle or twinkle in the sunlight are not permitted. Signs indicating the current time and/or temperature may be permitted provided they meet all other provisions of this Section and are subject to approval of the Village Planning Commission.

6) "A" frame, sandwich board, sidewalk, or curb signs, except as provided for in subsection 16.18.15(d)8. below.

7) Banners, pennants, streamers, balloons and other gas-filled figures, except as a temporary sign, as may be provided for in section 16.18.11 below.

8) Off-premises signs except Village approved temporary off-premises signs to identify businesses whose accessibility and/or visibility is being adversely affected during road construction.

9) Any sign advertising or identifying a business or organization which is either defunct or notlocated on the premises where the sign is located is not permitted.

10) Portable and wheeled signs except as a temporary sign, as may be provided for in section 16.18.11 below.

11) Signs or other advertising painted directly on walls unless specifically approved by the Planning Commission.

12) Inflatable signs and tethered balloons except as a temporary sign, as may be provided for in section 16.18.11 below.

13) Signs erected at or near the intersection of any streets, driveways or railroad crossings in such manner as to obstruct free and clear vision by motorists or pedestrians of oncoming traffic; or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, imitate or be confused with any authorized traffic sign, signal or device.

16.18.11. EXEMPTIONS.

A. The following outdoor signs, sign structures or devices may be exempted from the permit process outlined in Section 16.18.5. above but may still be required to comply with the illumination, landscaping and location provisions of this Section where applicable:

1) One wall sign not to exceed six square feet in size maintained by the owner or occupant of any residential building.

2) Public informational bulletin boards not more than15 square feet in size provided by the Village or similar governmental or quasi-governmental organization and placed upon public property, Village owned property and or the public right-of-way (or upon private property with the express written consent of the underlying property owner) for purposes of making public announcements and information most readily available to the public including as may be required by law. Such signs may be subject to the location, lighting and landscaping standards as set forth in Sections 16.18.12, 16.18.13 and 16.18.14 below and shall not exceed seven feet in height.

3) Memorial signs or tablets recording names of buildings and date of erection, when cut into any masonry surface of the building or when constructed of bronze or other incombustible materials and permanently affixed to the building, grave markers, statuary or other similarly constructed remembrances of persons or events that are noncommercial in nature.

4) Traffic signs, legal notices, railroad crossing signs, danger and such temporary emergency or non-advertising signs as may be erected for the public safety.

5) Non-illuminated signs painted on canopies, awnings and marquees. Such signs shall not exceed an aggregate gross surface area of four square feet per display with individual letters not exceeding six inches in height.

6) One freestanding sign up to 15 square feet in area and setback at least 10 feet from the edge of the public right-of-way on parcels where an active and permitted agricultural use is present on the premises and the property is Zoned A-1 Agricultural District.

7) Flags displayed from flagpoles provided the location, quantity, height, and manner of construction/installation of such flagpoles as accessory structures shall first be properly reviewed and approved if/as necessary.

8) Special decorative "Village of Big Bend" and/or directional displays or signs in public right-of-way owned, installed and maintained by the Village.

9) Signs which are located within the interior of any building and which are not visible from the exterior of the building.

10) Miscellaneous temporary signs in residentially zoned/used areas (i.e. R-1 – R-4 and R–P, R-M, A-1, LTD and Residential PUD) provided that no person shall attach posters, notices or signs to utility poles, meter posts, or trees in or along any street right-of-way within the Village; and that no person shall put up any notice or sign upon any building, wall, fence, or other property, of another person without first having obtained the consent of the owner of such property. The maximum time limit for such temporary signs to be displayed in residentially zoned areas (with each date that any one or more such signs are displayed counting as one day) shall not exceed 30 cumulative days in a one-year period. Not more than 4 temporary signs may be displayed simultaneously on any one residentially zoned property. Such signs shall be six (6) square feet or less in area, seven feet or less in height and shall not be electrically illuminated.

In the case of residentially zoned properties being actively marketed for sale or lease, the duration for display of up to two (out of the four signs referred to above) may be extended to include the period that begins when the property becomes actively marketed for sale or lease and ends 14days after the property has been sold or leased.

11) Miscellaneous temporary signs in non-residentially zoned/used areas (i.e. B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD) provided that no person shall attach posters, notices or signs to utility poles, meter posts, or trees in or along any street right-of-way within the village;and that no person shall put up any sign upon any building, wall, fence, or other property, of another person without first having obtained the consent of the owner of such property. The maximum time limit for such temporary signs in non-residentially zoned areas is seven (7) consecutive days and shall not exceed thirty (30) cumulative days in a one-year period (with each date that any one or more such signs are displayed counting as one day). Not more than 4 temporary signs may be displayed simultaneously on any one non-residentially zoned property. Such signs shall be fifteen (15) square feet or less in area, ten feet or less in height and shall not be electrically illuminated.

In the case of properties being actively marketed for sale or lease, the duration for display of up to two (out of the four signs referred to above) may be extended to include the period that begins when the property becomes actively marketed for sale or lease and ends 14 days after the property has been sold or leased.

12) The following temporary signs shall also be exempted from section 16.18.5 above subject to the following conditions:

a) During the period of time that is described in Wis Stats Section 12.04 as the "Election campaign period" plus up to 2 days thereafter, when an election or voting matter is scheduled to be conducted in/by the Village of Big Bend on any matter whatsoever, all properties in the Village of Big Bend shall be permitted up to one additional temporary sign display per voting item, and per subcategorized items, on the ballot per property as follows and in addition to any/all other signs otherwise permitted by this Section:

1. B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD:

a. Up to 1 such sign per street frontage (or in the case of parcels with frontage on two roadways which may be allowed up to two such signs, one facing each) not to exceed 9 sq.ft. in area and 5 feet in height. In lieu of these individual signs allocated per voting item, a property owner may utilize that total square footage as would be allowed under the individual signs provision, and accumulate that square footage into fewer but larger signs (i.e. 6 balloted voting items = 45 square feet of permitted signage per street frontage) so a property owner may choose to place one 45 square foot sign per street frontage, or two 22.5 square foot signs, or four 11.5 square foot… signs instead of the individual signs per ballot item. Any permitted signs larger than 9 square feet in area shall not exceed 7 feet in height. Such larger signs shall not be electrically illuminated.

2. R-1 – R-4 and R–P, R-M, A-1, LTD and Residential PUD:

a. Up to 1 such sign per street frontage (or in the case of parcels with frontage on two roadways which may be allowed up to two such signs, one facing each roadway) not to exceed 6 sq.ft. in area and 4 feet in height. Such signs shall not be electrically illuminated. In lieu of these individual signs allocated per voting item, a property ownermay utilize that total square footage as would be allowed under the individual signs provision, and accumulate that square footage into fewer but larger signs (i.e. 6 balloted voting items = 36 square feet of permitted signage per street frontage) so a

property owner may choose to place one 36 square foot sign per street frontage, or two 18 square foot signs, or four 9 square foot… signs instead of the individual signs per ballot item. Any permitted signs larger than 6 square feet in area shall not exceed 7 feet in height. Such larger signs shall not be electrically illuminated.

b) During the period of time that a construction or building project is actively underway on a parcel of land attendant to a current, approved construction or building permit, the following temporary sign display(s) may be permitted per property as follows and in addition to any/all other signs otherwise permitted by this Section:

1. B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD:
Up to 1 sign per street frontage (or in the case of parcels with frontage on two roadways which may be allowed up to two such signs, one facing each roadway) not to exceed 25 sq.ft. in area, 7 feet in height and setback not less than 10 feet from all lot lines. Such signs shall not be electrically illuminated.

2. R-1 – R-4 and R–P, R-M, A-1, LTD and Residential PUD:
Up to 1 sign per street frontage (or in the case of parcels with frontage on two roadways which may be allowed up to two such signs, one facing each roadway) not to exceed 15 sq.ft. in area, 7 feet in height and setback not less than 10 feet from all lot lines. Such signs shall not be electrically illuminated.

16.18.12. ILLUMINATION STANDARDS.

A. In addition to complying with the provisions of this Section, all signs for which electrical wiring and connections are to be used shall be subject to the applicable provisions of the Village of Big Bend Electrical Code. No person may erect a sign with exposed electrical cords and wires.

B. The use of unshielded lighting whereby the source of illumination is visible to the surrounding view, including exposed incandescent light bulbs hung or strung on poles, wires or any other type of support intended to illuminate a sign or other advertising device is expressly prohibited.

C. Unless otherwise specifically approved by the Planning Commission, no sign shall be illuminated, either internally or externally, between the hours of 11:00 p.m. and sunrise unless the premises on which it is located is open for business during that time and signs located in or adjacent to residential zoning districts and/or residential use shall not be illuminated between the hours of 9:00 p.m. and sunrise.

D. All sign lighting shall be so designed, located, shielded or hooded so as to prevent the casting of glare or direct light upon adjacent roadways, surrounding properties or into the sky.

16.18.13. LANDSCAPING STANDARDS.

A. In the case of any pole or ground mounted freestanding signs, a landscape area shall be provided extending a minimum of five feet from the base of the sign and around its perimeter. A planting plan for the required landscape area shall be subject to review and approval of the SCA.

B. Where any sign is proposed to be externally illuminated using ground mounted fixtures (i.e., floodlight), landscape plantings shall be installed in such manner as will entirely shield the light source from the surrounding view. Landscape plantings shall be of the type as will ensure effective year roundscreening.

16.18.14. LOCATION STANDARDS.

A. In any zoning district, no sign or sign supporting structure shall be setback/offset less than ten feet from any abutting lot line, right-of-way or driveway.

B. Placement of all signs shall be subject to the vision setback regulations as put forth in the Village of Big Bend Zoning Code.

C. No nonresidential sign shall be located closer than 50 feet to an abutting residential zone unless specifically approved by the Planning Commission.

16.18.15. <u>PERMITTED PERMANENT SIGNS.</u>

A. On properties Zoned R-P, R-M and where the permitted/approved principal use includes more than 4 residential dwelling units on a single parcel containing 22,000 sq.ft. or less in land area, the following sign(s) may be permitted:

1) Number. One freestanding sign display per parcel and one wall mounted building sign display for each building, except that where a parcel or building abuts two or more streets, one freestanding sign and one wall mounted building sign may be allowed for each abutting street frontage.

2) Area. Building mounted signs shall not exceed six (6) square feet in gross surface area. Freestanding signs shall not exceed fifteen (15) square feet in area.

3) Location. Freestanding signs shall not be located closer than ten feet to any property line or driveway. No permanent freestanding sign shall be placed closer than 50 feet to another permanent freestanding sign on any single property measured as the crow fly's between the nearest points on the sign or sign structure of the two freestanding permanent signs.

4) Height. Freestanding signs shall not exceed seven feet as measured from preconstruction grade at the base of the sign.

B. On properties Zoned R-P, R-M and where the permitted/approved principal use includes more than 4 residential dwelling units on a single parcel containing more than 22,000 sq.ft.in land area, the following sign(s) may be permitted:

1) Number. One freestanding sign display per parcel and one wall mounted building sign display for each building, except that where a parcel or building abuts two or more streets, one freestanding sign and one wall mounted building sign may be allowed for each abutting street frontage.

2) Area. Building mounted signs shall not exceed six (6) square feet in gross surface area. Freestanding signs shall not exceed thirty two (32) square feet in area.

3) Location. Freestanding signs shall not be located closer than ten feet to any property line or driveway. No permanent freestanding sign shall be placed closer than 50 feet to another permanent freestanding sign on any single property measured as the crow fly's between the nearest points on the sign or sign structure of the two freestanding permanent signs.

4) Height. Freestanding signs shall not exceed seven feet as measured from preconstruction grade at the base of the sign.

C. Each contiguous project/development area containing more than 1 acre in underlying land area may be permitted the following freestanding signs:

1) Number. There shall not be more than one such sign for each point of vehicular access into the project/development area from the public road right-of-way

2) Area. Such signs shall not exceed 24 square feet in area per sign on parcels zoned R-1 – R-4 and R–P, R-M, A-1, LTD, Residential PUD and IPS.

3) Area: Such signs shall not exceed 40 square feet in area per sign on parcels zoned B-1 – B-5, I-1, IPS, nonresidential Use or Mixed Use PUD.

4) Location. Such signs shall not be located closer than ten feet to any property line or driveway.

5) Height. Such signs shall not exceed seven feet as measured from preconstruction grade at the base of the sign.

D. On properties zoned B-1 – B-4, I-1, and Nonresidential Use or Mixed Use PUD and containing permitted and approved use(s) and building(s):

1) Wall signs.

a) Number. There shall be no more than one wall sign for each principal building except for the case of buildings occupied by multiple tenants which are more specifically regulated in subsection 16.18.15(d)9. of this Section below, and except for the case of buildings that front two or more streets in which case one wall sign may be permitted for each facade facing a street.

b) Area. The gross surface area of a wall sign shall not exceed 40 square feet (not to exceed 30 square feet for properties zoned B-1) or 75 percent of the building occupants/tenant's lineal facade frontage, whichever is less.

c) Secondary entrance wall sign. Businesses with a secondary customer entrance (i.e. a rear or side entrance) may display a second wall sign on the wall containing the secondary entrance.

1. Maximum number per lot: Only one secondary entrance wall sign may be allowed for each business with a secondary entrance.

2. Maximum permitted area per sign: One-half the area of the primary allowed entrance wall sign provided that the secondary entrance abuts a parking lot. If the secondary entrance abuts a pedestrian way, service drive or loading area only, the sign shall not exceed eight square feet in area.

d) Location. A wall sign may be located on the outermost wall of any principal building but shall not project more than ten inches from the wall to which the sign is to be affixed.

e) Height. A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed.

2) Freestanding ground signs. On properties zoned B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD and containing permitted and approved use(s) and building(s):

a) Number. There shall not be more than one freestanding ground/monument sign for each principal building except where a building is situated on a lot that abuts two or more streets, then one freestanding sign may be allowed for each abutting street frontage.

b) Area. The gross surface area of a ground sign shall not exceed 50 square feet of area (not to exceed 40 square feet for properties zoned B-1).

c) Location. A ground sign may not be located closer than ten feet to any property line, or driveway. No freestanding ground signs shall be placed closer than 50 feet to another freestanding sign on any single property measured as the crow flies between the nearest pointson the sign or sign structure of the two freestanding permanent signs.

d) Height. A ground sign shall not project higher than ten feet, as measured from preconstruction grade at the base of the sign.

3) Projecting signs. On properties zoned B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD and containing permitted and approved use(s) and building(s):

a) Number. There shall not be more than one projecting sign for each principal building orindividual tenant occupant therein.

b) Area. The gross surface area of a projecting sign shall not exceed 15 square feet.

c) Location. A projecting sign shall not extend more than five feet over the lot line and in no case shall extend to within five feet of the back of curb. Projecting signs shall be spaced a minimum of 25 feet apart. Projecting signs shall not be located within 50 feet of any freestanding ground sign.

d) Height. The minimum clearance to grade beneath the sign shall be eight feet as measured from the lowest part of the sign. The maximum height shall be 15 feet.

4) Awning, canopy and marquee signs. On properties zoned B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD and containing permitted and approved use(s) and building(s):

a) Number. Not more than one awning, canopy or marquee sign exceeding an aggregate gross surface area of four square feet shall be permitted for each principal building or individual tenant occupant therein.

b) Area. Awning, canopy and marquee signs which are four square feet or less in aggregate gross surface area are exempt from the provisions of this Section. The gross surface area of an awning, canopy or marquee sign shall not exceed 50 percent of the surface area to which such sign is to be affixed or 30 square feet in area, whichever is less.

c) Height. The minimum clearance to grade beneath the awning, canopy or marquee shall be eight feet measured from the lowest part of the awning, canopy or marquee.

d) No awning, canopy or marquee shall extend closer than two feet to the back of curb.

e) The roofs of all awnings, canopies and marquees shall be used for no other purpose than to form and constitute a roof. The roofs of all awnings, canopies and marquees shall not drain directly onto the public right-of-way.

f) Awnings, canopies and marquees shall not interfere with street trees and/or traffic signs and signals.

g) Translucent and/or internally lit plastic awnings, canopies or marquees are not permitted.

5) Window signs. On properties zoned B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD and containing permitted and approved use(s) and building(s): Each building or individual tenant occupant space therein shall be allowed to display window signage not exceeding 30 percent (not exceeding 25 percent for properties located in the zoned B-1) of the glass area of the window upon which the sign is displayed. Window signage shall not be placed on door windows or other windows needed to be kept clear for pedestrian safety. Signs that emit a steady blinking, flashing, strobe or other light animation shall not be allowed. If the signage is applied directly to windows, itmust be professionally designed and of a permanent material so as not to peel, chip, crack, smudge or rub off easily.

a) Window obstruction by interior signs shall not exceed more than 30 percent (not to exceed 25 percent for properties located in the B-1 Zoning District) for any one window, nor more than ten percent of all combined window areas on the same facade of the structure. Area devotedto signage within windows shall count toward the wall sign area maximum as may also be permitted for the use.

6) Special conditions. On properties zoned B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD and containing permitted and approved use(s) and building(s): All signs on a lot shall exhibit uniformity in design, colors, size, materials, lighting, etc., and shall be so located as will prevent visual distraction and cluttered appearance among signs.

7) Changeable copy and electronic message signs. On properties zoned B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD and containing permitted and approved use(s) and

building(s): Changeable copy and electronic message signs shall only be allowed with prior Planning Commission approval. In reviewing the permit request the Planning Commission may approve or deny any application based upon, but not limited to, architectural design, size, interference with surrounding development, area, shape, height, manner or intensity of lighting, location, pedestrian and vehicular traffic safety.

8) Sandwich board signs. On properties zoned B-1 – B-4, IPS, I-1, and Nonresidential Use or Mixed Use PUD and containing permitted and approved use(s) and building(s):

- **a)** Sandwich board signs are self-supporting A-shaped freestanding temporary signs with only two visible sides that contain signage.
- **b)** The maximum area shall be eight square feet per side of sign with the maximum height being 48 inches.
- **c)** Sandwich board signs shall be of sufficiently sturdy construction/design and weight as not to be blown around or picked-up in moderate winds.
- **d)** Only one sandwich board sign per building or per tenant occupant space therein shall be permitted. Sandwich board signs shall not be placed more than ten feet from the front primary entrance of the building or tenant occupant space unless a staff waiver is granted duringpermit review due to extenuating circumstances.
- **e)** Sandwich board signs shall not be placed so as to cause the width of any public walkway to be reduced below four feet in width, nor shall they be erected or maintained in a manner that prevents free ingress or egress from any door, driveway, window or fire escape.
- **f)** A no-fee sandwich board sign permit is required prior to the installation or placement of the sign. If the sign is to be located within the public right-of-way, business owners shall sign a disclaimer that holds harmless and indemnifies the Village from any liability for use of said public right-of-way.
- **g)** A sketch including dimensions, materials and location of the sandwich board sign must be attached to the permit application. The permit application must be approved and signed by Village staff prior to display of a sandwich board sign. If a sign is displayed prior to obtaining a sandwich board sign permit, application may be denied. Replacement of an approved sandwich board sign shall require a new permit.
- **h)** Sandwich board signs shall not be illuminated, nor shall they contain moving parts or have balloons, streamers, pennants, or similar adornment attached to them. Attaching sandwich board signs to structures, poles, objects, signs, etc. by means of chains, cords, rope, wire, cable, etc. is prohibited. Signs shall be removed from public sidewalk if there is any snow accumulation (signs may not be displayed again until such snow is removed) except those located on private property. Signs shall only be displayed during business operating hours.
- **i)** Sandwich board signs placed in violation of this section may result in immediate removal of the sign by the Village and the temporary sign permit privileges for any violating business may be denied for the remainder of the year.
- **j)** Sandwich board signs within the public right-of-way but which present an unreasonable impediment to visibility, ingress or egress may be moved or removed by the Village as may be necessary to maintain the public health, safety and welfare and for municipal purposes (i.e., code enforcement, snow removal, traffic issues, maintenance, etc.).

9) Multiple-tenant signs. Nonresidential multiple-tenant buildings shall be permitted one wall sign per tenant not exceeding 30 square feet in area or 75 percent of the tenant's lineal facade

frontage, whichever is less. The multiple tenants may also share the sign space on the permitted freestanding sign(s). Major tenants may be allowed a larger wall sign subject to Planning Commission approval.

10) Prior to issuance of a sign permit for any business located in a multiple-tenant building, a master sign plan for that building depicting the design, dimensions, location, materials, content, color scheme, type of illumination, if any, method of construction and attachment for all signs planned to be installed on the building and property (based upon anticipated full occupancy) may be required to be approved by the Planning Commission.

11) Distance between signs on an individual parcel shall generally be measured in the shortest straight line, as the crow would fly, between two signs.

16.18.16. EXISTING SIGNS.

A. Existing signs which become nonconforming upon adoption of the ordinance from which this Section is derived shall not be reconstructed, remodeled, relocated or changed in size or content unless such action will make the sign conforming in all respects with this Section.

Note: Normal maintenance and/or simple change of sign face or lettering shall not necessarily trigger the requirement for full conformance with the current requirements of the sign code.

B. A nonconforming sign or sign structure which is destroyed or damaged may be restored only after the owner has shown that the damage did not exceed 50 percent of the appraised value of the sign. If such sign or sign structure is destroyed or damaged to an extent exceeding 50 percent of the appraised sign value, it shall be removed and shall not be reconstructed or replaced unless such action makes the sign and sign structure conforming, in all respects, to the Sign Code. If restoration of a damaged sign is permitted but not completed within three months of the date damage occurred, such sign shall be removed timely upon notice from the Village or replaced in a manner as will conform with all specifications of this Section.

C. At any such time as the owner of any building or lot, on which a nonconforming sign is located, requests Planning Commission approval for any change to the use, building or lot, the PlanningCommission may require that such nonconforming sign(s) be removed or made to conform with this Section as a condition of building, site or use approval.

16.18.17. DESIGN, CONSTRUCTION AND ERECTION STANDARDS.

A. Structure design.

1) All signs shall be constructed, erected and maintained to safely withstand wind and live load pressure as specified by Wisconsin State Statute and applicable building and administrative code.

2) The design, construction and erection of all signs shall be by a competent professional in the sign design and construction industry.

3) Wall signs attached to exterior building walls shall be anchored or attached in such a manner as will ensure stability and safety.

4) Signs attached to buildings shall not cover, conflict or interfere with the architectural features of the building façade(s).

B. Aesthetic design. The design of all signs shall fulfill the purpose cited in section 16.18 above and those signs located in the B-1 Zoning District specifically shall reflect the unique character of the surrounding area, architecture,…

16.18.18. MAINTENANCE AND REMOVAL OF SIGNS.

A. The Village of Big Bend may cause any sign, sign structure or sign device that is, in their opinion, an immediate peril to persons or property to be summarily removed without notice.

1) Appearance requirements.

a) The owner of any sign as defined and regulated by this Section shall be required to properly maintain the appearance of all parts and supports of their sign as directed by the village.

b) If the sign owner does not provide proper sign maintenance within 60 days after written notification from the Village, the sign may be removed as provided in subsection (2) below.

2) Removal of certain signs and billboards.

a) Any sign now or hereafter existing which no longer advertises a bona fide business, product, or service, or which sign is dilapidated, out of repair, unsafe, insecure or has been constructed, erected or maintained in violation of the provisions of this Section shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which such sign may be found. If within ten days after written notification from the Village the sign owner fails to comply with such notice the Village may remove or contract for the removal of such sign. Any expense incident thereto shall be paid by the owner of the building or land to which such sign is attached. If such costs and expenses are not paid within 30 days from the date of billing, then the costs and expenses incurred for such removal shall be assessed against the real estate upon which such sign is located and collected as other taxes are collected on such real estate.

b) Any sign that is constructed without proper approval and permit shall either be removed or issued a proper permit within five days' of the owner receiving written notice from the Village. If the owner of such sign is not issued a proper permit or fails to remove such sign, the Village may remove, or contract for the removal of, such sign. Any expense incident thereto shall be paid by the owner of the building or land to which such sign is attached. If such cost and expenses are not paid within ten days from the date of billing, then the costs and expenses incurred for such removal shall be assessed against the real estate upon which such sign is located and collected as other taxes are collected on such real estate.

c) If the owner of an illegal sign cannot be ascertained by the Village, then notice as indicated in subsection (2)a. above of this section shall be given to the owner of the real estate upon which the sign is located. If the owner of the real estate is not issued a proper permit or does not remove the sign within ten days then the Village may remove, or contract for the removal of, such sign. Any expense incident thereto shall be paid by the owner of the building or land to which such sign is attached. If such costs and expenses are not paid within ten days from the date of billing, then the costs and expenses incurred for such removal shall be assessed against the real estate upon which such sign is located and collected as other taxes are collected on such real estate.

d) The cost of removing or relocating any signs located in the road right-of-way at such time as the Village may need the right-of-way cleared of such sign(s) for any public purpose whatsoever shall be paid by the sign owner.

16.18.19. SEVERABILITY.

If any section, clause, provision or portion of this Section 16.18 is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby. If an application of this Section to a particular sign or structure is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other sign or structure not specifically included in such judgment.

16.19 ADULT ORIENTED ESTABLISHMENTS

A. Purpose and findings.

1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of citizens of the Village of Big Bend, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Village of Big Bend. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Village, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 426 U.S. 50 (1976); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); Barnes v. Glen Theatre, Inc. 501 U.S. 560 (1991); City of Erie v. Pap's A.M., 120 S. Ct. 1382 (2000); East of the River Enterprises II v. City of Hudson, 2000 Wisc. App. Lexis 734 (Ct. App. Aug. 1, 2000); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003), and on studies in other communities, including but not limited to Phoenix, Arizona; Houston, Texas; Minneapolis, Minnesota; St. Paul, Minnesota; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Waukesha; Oklahoma City,Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Waukesha; New York, New York; and St. Croix County, Wisconsin; and the Report of the Attorney General's Working Group on Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the Village Board finds that:

a) Sexually oriented businesses lend themselves to ancillary and unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

b) Certain employees of sexually oriented businesses, defined in this chapter as adult theaters and adult cabarets, engage in higher incidences of certain types of illicit sexual behavior than employees of other establishments.

c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented business, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

d) Offering and providing such space encourages such activities, which creates unhealthy conditions.

e) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purposes of engaging in sex within the premises of such sexually oriented businesses.

f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B, amebiasis, salmonella infections and shigella infections.

g) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the HIV virus in the United States: 600 in 1982; 2,200 in 1983, 4,600 in 1984; 8,555 in 1985, and 253,448 through December 31, 1992.

h) The State of Wisconsin Division of Health indicated that on July 25, 1986, there was 96 cases of AIDS reported in the state, including 54 cases that resulted in death and that a tenfold increase in reported cases was expected between 1986 and 1991.

i) The number of cases of early (less than one year) syphilis in the United States reportedannually has risen, with 33,613 cases reported in 1982, and 45,200 through November 1990.

j) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

k) In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components and from an infected mother to her newborn.

l) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

m) Sanitary conditions in some sexually oriented businesses are unhealthy in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

n) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult -oriented films.

o) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented business are located.

p) Studies of the relationship between sexually oriented business and neighborhood property values have found a negative impact on both residential and commercial property values.

q) There is an increase in the potential for infiltration by organized crime for the purpose of unlawful conduct.

r) The consumption of alcoholic beverages on the premises of sexually oriented businesses exacerbated the deleterious secondary effects of such businesses on the community. In fact, the Supreme Court has gone so far as to assert that "common sense indicates that any form of nudity coupled with alcohol begets undesirable behavior." Ben's Bar, 2003 WL 132541, *19 (citations omitted).

s) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect the substantial government concerns addressed in the above subsections.

t) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the Village. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

u) The disclosure of certain information by those persons ultimately responsible for the day-to- day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

v) In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent, or who are likely to be witnesses to such conduct.

w) The general welfare, health, morals and safety of the citizens of the Village of Big Bend will be promoted by the enactment of this chapter.

B. Definitions.

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

1) ADULT ARCADE Any place to which the public is permitted or invited, wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled or still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show imagesto five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting specified sexual activities or specified anatomical areas.

2) ADULT BOOKSTORE or ADULT VIDEO STORE

a) A commercial establishment that has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, slides or other visual representations, which are characterized by their emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas; or

2. Instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

b) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as " adult bookstore" or " adult video store"

so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe specified sexual activities or specified anatomical areas. A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

c) This definition shall expressly exclude films, motion pictures, videocassettes, slides or other similar photographic reproductions given an "R" rating by the Motion Picture Association of America.

3) ADULT CABARET A nightclub, dance hall, bar, restaurant, or similar commercial establishment which regularly features:

a) Persons who appear seminude;

b) Live performances that are characterized by the exposure of specified sexual activities or specified anatomical areas; or

c) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the exhibition or display of specified sexual activities or specified anatomical areas.

d) This definition shall expressly exclude films, motion pictures, videocassettes, slides or other similar photographic reproductions given an "R" rating by the Motion Picture Association of America.

4) ADULT MOTEL A hotel, motel or similar commercial establishment, which:

a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions, which are characterized by the depiction of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

b) Offers a sleeping room for rent for a period of time that is less than 10 hours; or

c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

5) ADULT MOTION PICTURE THEATER A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. This definition shall expressly exclude films, motion pictures, videocassettes, slides or other similar photographic reproductions given an "R" rating by the Motion Picture Association of America.

6) ADULT THEATER A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear nude or seminude, or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

7) BOARD The Village Board for the Village of Big Bend, Waukesha County, Wisconsin.

8) DIRECTLY To require physical contact. For instance, when this chapter prohibits an employee to receive a gratuity "directly" from a patron, it prohibits the direct touching of skin, other body parts or clothing.

9) DISTINGUISHED OR CHARACTERIZED BY The dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical

areas," the films so described are those whose dominant or principal character and theme are the exhibition or display of specified sexual activities or specified anatomical areas.

10) EMPLOYEE, EMPLOY and EMPLOYMENT Describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.

11) ESCORT A person who, for consideration, and for another person, agrees or offers to privately model lingerie or to privately perform a striptease.

12) ESCORT AGENCY A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

13) ESTABLISH or ESTABLISHMENT Includes any of the following:

- **a)** The opening or commencement of any sexually oriented business as a new business;
- **b)** The conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;
- **c)** The addition of any sexually oriented business to any other existing sexually oriented business; or
- **d)** The relocation of any sexually oriented business.

14) LICENSEE A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

15) NUDE, NUDITY or STATE OF NUDITY The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

16) OPERATE or CAUSE TO BE OPERATED To cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

17) PERSON An individual, proprietorship, partnership, corporation, association, or other legal entity.

18) PREMISES The real property upon which the sexually oriented business is located, and all appurtenance thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, the private walkways, and parking lots and/or parking garages adjacent thereto under the ownership, control or supervision of the owner or operator of the business.

19) REGULARLY FEATURES or REGULARLY SHOWS A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the sexually oriented business.

20) SEMINUDE or SEMINUDE CONDITION The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

21) SEXUAL ENCOUNTER CENTER A business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities. The definition of sexual encounter center or any sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

22) SEXUALLY ORIENTED BUSINESS An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, or sexual encounter center.

23) SPECIFIED ANATOMICAL AREAS

- **a)** The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- **b)** Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

24) SPECIFIED SEXUAL ACTIVITY

- **a)** The fondling of another person's genitals, pubic region, anus, or female breasts;
- **b)** Actual sex acts, normal or perverted, including intercourse, oral copulation, masturbation, or sodomy; or
- **c)** Excretory functions as part of, or in connection with, any of the activities set forth in Subsection A or B above.

25) SUBSTANTIAL ENLARGEMENT Of a sexually oriented business, means the increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this chapter takes effect.

26) TRANSFER OF OWNERSHIP OR CONTROL Of a sexually oriented business, means and includes any of the following:

- **a)** The sale, lease, or sublease of the business;
- **b)** The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- **c)** The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

C. Classification. "Sexually oriented businesses" are classified as follows:

1. **1)** Adult arcades;
2. **2)** Adult bookstores or adult video stores;
3. **3)** Adult cabarets;
4. **4)** Adult motels;
5. **5)** Adult motion-picture theaters;
6. **6)** Adult theaters;
7. **7)** Escort agencies;
8. **8)** Sexual encounter centers.

D. License.

1) Except as provided in Subsection D below, from and after the effective date of this chapter, no sexually oriented business shall be operated or maintained in the Village of Big Bend without first obtaining a license to operate issued by the Village of Big Bend.

2) A license may be issued only for one sexually oriented business located at one fixed and certain place. Any person, partnership, or corporation which desires to operate more than one sexually oriented business must have a license for each.

3) No licensee may transfer ownership or control of the sexually oriented business to any other person, partnership or corporation.

4) All sexually oriented businesses existing at the time of the passage of this chapter must submit an application for a license within 60 days of the passing of this chapter.

E. Application for license.

1) Any person, partnership or corporation desiring to secure a license shall submit an application to the Village Clerk. The application shall be filed in triplicate and dated by the Village Clerk. A copy of the application shall be distributed promptly by the Village Clerk to the Village of Big Bend Police Department and to the applicant.

2) If the Village of Big Bend Police Department is aware of any information bearing on the applicant's qualifications, that information shall be filed in writing with the Village Clerk.

3) An application for a license must be made on a form provided by the Village of Big Bend. All applicants must be qualified according to the provisions of this chapter.

4) An application shall be considered complete if it includes the information required in this section.

5) An applicant for a license shall furnish the following information under oath:

a) Name and address.

b) Written proof that the individual is at least 18 years of age. Written proof of age may be in the form of either:

1. A copy of a birth certificate and current photo;

2. A current driver's license with picture; or

3. Other picture identification document issued by a governmental agency and demonstrating proof of age.

c) The name, business location, business mailing address and phone number of the proposed sexually oriented business.

d) A statement as to whether the licensee of the sexually oriented business intends to serve, sell, use or provide any intoxicating liquor, cereal malt beverage or any type of alcoholic beverage on the premises of the sexually oriented business.

e) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name, address and ages of all shareholders of the corporation owning more than 5% of the stock in said corporation and all officers and directors of the corporation, and the name and address of the registered agents.

f) If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest, the application shall state the names, addresses and ages of all persons having a financial interest in the partnership, joint venture or other type of organization.

g) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business, shall accompany the application for a sexually oriented

business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to anaccuracy of plus or minus six inches.

h) If the person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If the person who wishes to operate a sexually oriented business is other than an individual (such as a corporation or partnership), each officer, director, director, general partner, or other person identified in Subsection E(5) and (6) shall sign the application for a license as the applicant. Each applicant must be qualified under this section and each applicant shall be considered as a licensee if the license is granted.

i) Within 21 days of receiving an application for a license, the Village Clerk shall notify the applicant whether the application is granted or denied.

j) Whenever an application is denied, the Village Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within 10 days of receipt of notification of denial, a public hearing shall be held within 10 days thereafter, as hereinafter provided.

k) Failure or refusal of the applicant to give any information relevant to the application or his or her refusal to submit to or cooperate with regard to any information required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Village Board.

F. Standards for issuance of license. The Village Board shall approve the issuance of a license unless one or more of the following is found to be true:

1) An applicant (including all individuals, officers, directors, shareholders, or persons with a financial interest in the organization) is less than 18 years of age.

2) An applicant is delinquent in the payment owed to the Village of Big Bend of taxes, fees, fines or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.

3) An applicant has failed to provide information as required in section 5 for issuance of the license.

4) The license application fee required by this chapter has not been paid.

5) An applicant has falsely answered a question or request for information on the application form.

6) The proposed sexually oriented business is not in compliance with the location restrictions established or physical layout restrictions established for sexually oriented businesses in this chapter.

7) The applicant states or the Village Board subsequently discovers that the applicant intends to serve, sell, use or provide any intoxicating liquor, cereal malt beverages, or any type of alcoholic beverages on the premises of the sexually oriented business.

8) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the applicant, the expiration date, and the address of the sexually oriented business.

G. Fees. A license fee of $250 shall be submitted with the application for a license. If the application is denied, 1/2 of the fee shall be returned. The remainder shall be applied toward processing and administrative costs.

H. Display of license. The license shall be displayed in a conspicuous public place, at or near the entrance of the sexually oriented business, so that it may be easily read at any time.

I. Renewal of license.

1) Every license issued pursuant to this chapter will terminate at the expiration of one year from the date of issuance, unless sooner suspended or revoked. A license must be renewed before operation is allowed to continue. A license may be renewed only by making an application as provided for in section 5. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be upon a form provided by the Village of Big Bend and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

2) A license renewal fee of $250 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty in the amount of $100 shall be assessed against any applicant who files for a renewal less than 60 days before the license expires. If the application is denied, 1/2 of the total fees collected shall be returned.

3) If the Village of Big Bend Police Department is aware of any information bearing on applicant's qualifications, that information shall be filed in writing with the Village Clerk.

J. Inspection.

1) For the purposes of ensuring compliance with this chapter, an applicant, operator or licensee shall permit law enforcement officers and any other federal, state, county or Village agency in the performance of any function connected with the enforcement of this chapter normally and regularly conducted by such agencies to inspect at any time the business is occupied or open for business those portions of the premises of a sexually oriented business which patrons or customers are permitted to occupy.

2) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

K. Suspension.

1) The Village Board shall issue a written intent to suspend a license for a period not to exceed 30 days if it determines that a licensee, operator or employee of a licensee has:

a) Violated or is not in compliance with any section of this chapter; or

b) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

2) The Village Board shall give the licensee 10 days written notice of the charges against him and the opportunity for a public hearing before the Board, as hereinafter provided.

L. Revocation.

1) The Village Board shall revoke by written notice a license for a sexually oriented business if a cause for suspension in 11 occurs and the license has been suspended within the preceding 12 months.

2) The Village Board shall revoke by written notice a license if it determines that any of the following reasons exist:

a) Discovery that false or misleading information or data was given on any application or material facts were omitted from the application;

b) The licensee, operator or any employee of the licensee violates any provisions of this chapter or any rules or regulation adopted by the Board pursuant to this chapter; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days, if the Board shall find that the licensee had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge;

c) The licensee becomes ineligible to obtain a license or permit;

d) Any cost or fee required to be paid by this chapter is not paid;

e) Any intoxicating liquor, cereal malt beverage or other alcoholic beverage is served or consumed on the premises of the sexually oriented business;

f) A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;

g) A licensee has knowingly allowed prostitution on the premises;

h) A licensee has knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

i) A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual act to occur in or on the licensed premises. This Subsection will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either: in exchange for money; or in a public place or within public view.

3) The Village Board, before revoking any license, shall give the licensee at least 10 days written notice of the charges against him and the opportunity for a public hearing as hereinafter provided.

4) The transfer of ownership or control of a license shall automatically and immediately revoke the license.

5) Any licensee whose license is revoked shall not be eligible to receive a license for one year from the date of revocation.

M. Administrative review procedure. Chapter 68 of the Wisconsin Statutes concerning municipal administrative procedure shall govern the administrative procedure and review concerning the granting, denial, renewal or nonrenewal of a permit or a license. A request for an initial determination shall be made by an aggrieved person pursuant to the provisions contained in § 68.08, Wis. Stats., to the Village Clerk. An administrative appeal pursuant to the provision contained in § 68.10, Wis. Stats., may be made by an aggrieved person to the Board of Appeals and a hearing shall be held by the Board of Appeals pursuant to § 68.11, Wis. Stats. Any party to a proceeding resulting in a final determination may seek judicial review pursuant to the provisions contained in § 68.13, Wis. Stats.

N. Transfer of license. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

O. Physical layout of sexually oriented businesses. Any sexually oriented business having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any specified anatomical areas or specified sexual activity must comply with the following requirements:

1) Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the sexually oriented business and shall be unobstructed by any door, lock or other control-type devices.

2) Construction. Every booth, room or cubicle shall meet the following construction requirements:

a) Each booth, room, or cubicle shall be separated from adjacent booths, rooms or cubicles and any nonpublic areas by a wall.

b) Each booth shall have at least one side totally open to the public lighted aisle which may be secured when the booth is in use by a door which extends from a height of not less than two feet above the floor.

c) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light-colored, nonabsorbent, smooth textured and easily cleanable.

d) The floor must be light-colored, nonabsorbent, smooth-textured and easily cleanable.

e) The lighting level of each booth, room, or cubicle when not in use shall be a minimum of five footcandles at all times, as measured from the floor.

3) Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

P. Location.

1) The business shall be located:

a) Within 500 feet of an existing sexually oriented business;

b) Within 500 feet of any residential dwelling, including but not limited to houses, apartments, condominiums, or flats;

c) Within 500 feet of any preexisting place of worship, including but not limited to any church, synagogue, mosque, temple or building which is primarily used for religious worship and related religious activities;

d) Within 500 feet of any public or private educational facility, including but not limited to any child day-care establishments, nursery schools, preschools, kindergartens, elementary schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally at a school;

e) Within 500 feet from any public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, a playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Village which is under the control, operation or management of the Village and recreational authorities; or

f) Within 500 feet of any premises that in any manner sells or dispenses alcohol or is licensed pursuant to the alcoholic beverage control regulations of the state.

2) For the purposes of this section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in Subsection A. The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

Q. Responsibility of license.

1) Every act or omission by an employee constituting a violation of the provisions of this section shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's conduct, and the licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.

2) Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the licensee for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed.

3) No employee of a sexually oriented business shall allow any minor to loiter around or to frequent a sexually oriented business. It shall be the duty of the licensee of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours and to prevent any person under the age of 18 years of age from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:

a) A valid operator's, commercial operator's or chauffeur's driver's license; or

b) Personal identification card issued by the State of Wisconsin reflecting that such person is 18 years of age or older.

4) The licensee shall maintain the premises in a clean and sanitary manner at all times.

5) The licensee shall maintain at least five footcandles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles is necessary to enable a patron to view any activity in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisle; provided, however, at no time shall there be less than one footcandle of illumination of said aisles, as measured from the floor.

6) The licensee shall insure compliance of the sexually oriented business and its patrons with the provisions of this chapter.

7) The licensee shall insure that no alcoholic beverages are sold, used or consumed on the premises of a sexually oriented business.

R. Escort agencies.

1) An escort agency shall not employ any person under the age of 18 years.

2) A person commits an offense if the person acts as an escort, or agrees to act as an escort for any person under the age of 18 years.

S. Additional regulations concerning sexually oriented businesses.

1) It shall be prohibited in a sexually oriented business for a person to appear in a state of nudity or engage in specified sexual activities.

2) It shall be prohibited in a sexually oriented business, to appear in a seminude condition, unless the person is an employee, who, while seminude, is at least five feet from any patron or customer and on a stage at least two feet from the floor.

3) It shall be prohibited for an employee, while seminude in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or

give any gratuity directly to any employee, while that employee is seminude in a sexually oriented business.

4) It shall be prohibited in a sexually oriented business to serve, sell, use, provide or consume any intoxicating liquor, cereal malt beverage or any other alcoholic beverage.

T. Prohibition against children in sexually oriented business. It shall be prohibited for a person under the age of 18 years to be on the premises of a sexually oriented business.

U. Hours of operations.

1) No sexually oriented business shall be open between the hours of 2:00 a.m. and 8:00 a.m. on weekdays or between the hours of 2:00 a.m. and 12:00 noon on Sundays.

2) All sexually oriented businesses shall be open to inspection at all reasonable times by the Big Bend Police Department and the Building Inspector.

V. Exclusions. The provisions of this chapter do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or seminude performances. While expressive live nudity may occur within these establishments, this chapter seeks only to minimize and prevent the secondaryeffects of sexually oriented businesses on the community. Negative secondary effects have not been associated with the establishments referenced in this section.

W. Enforcement. The Village of Big Bend Police Department shall have the authority to enter any sexually oriented business within the Village at all reasonable times to inspect the premises and enforce this chapter.

X. Violations and penalties; prosecution. A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this chapter is subject to a suit for injunction as well as municipal prosecution. Such violation shall be punishable by a fine of $500 plus court costs. Each day a sexually oriented business so operates is a separate offense or violation.

16.20 **MOBILE HOMES, HOUSE TRAILERS & RECREATIONAL VEHICLES** (i.e. a vehicle which can be towed, hauled or driven and designed as a temporary living accommodation for recreational campingand travel use and including, but not limited to, travel trailers, truck campers, boats, tent trailers, camping trailers and self-propelled motor homes)

A. HABITATION PROHIBITED. No house trailer, mobile home and/or recreational vehicle shall be used for the purpose of long term (i.e. 30 cumulative days per year) human habitation unless specifically approved in advance by the Village Planning Commission for a specific and limited period of time during construction of a new single family residence or repair/reconstruction of a single family residence. The Planning Commission may base it's decision about such temporary habitation on, for instance but not necessarily limited to, availability of utilities, impact upon surrounding neighbors, proposed duration, sanitary waste and potable water supply plans, and similar.

B. STORAGE PROHIBITED. No mobile home in excess of 25' in length or 8' 6" in width shall be located or stored on any property except in an approved mobile home park, unless completely enclosed in a structure as approved by Plan Commission or otherwise permitted under this Code.

16.21 LEGAL NON-CONFORMING USES, STRUCTURES AND LOTS.

A. DEFINITIONS.

1) Legal, nonconforming lots or structures. A legal, nonconforming lot or structure shall refer to a dwelling, building or structure on a property that existed lawfully before the current zoning ordinance was enacted or amended, including, but not limited to, existing, legal, nonconforming lots or structures, which land or structure does not conform with one or more of the development regulations in the Village's Zoning Code.

2) Legal, nonconforming uses. The continued lawful use of a property, building, premises, structure or fixture existing at the time of the adoption or amendment of a zoning ordinance, including, but not limited to, existing, legal, nonconforming uses are permitted although the use does not conform with the provisions of the Village's Zoning Code.

B. REGULATIONS FOR NONCONFORMING LOTS, STRUCTURES OR USES.

1) Nonconforming uses.

a) Nonconforming uses prohibited. Uses which do not conform with the Village of Big Bend Zoning Code are prohibited unless they are determined to be legal, nonconforming uses as provided for hereunder.

b) The continued lawful use of a building, premise, structure or fixture existing at the time of the adoption or amendment of a Village of Big Bend Zoning Code shall be considered a legal, nonconforming use and may continue, although the use does not conform with the provisions of the Village of Big Bend Zoning Code. Legal, nonconforming uses may not be extended, expanded, enlarged or intensified except as provided for hereunder.

c) Upon petition to and approval of the Planning Commission and Village Board, such legal, nonconforming use may be changed to another use provided the Planning Commission and Village Board determined the new use would not result in a greater degree of nonconformity and provided further, that such new use shall thereafter determine the degree of legal, nonconformity.

d) Where the structure, building, premises or fixture is damaged or structural repairs are necessary to the extent of more than 50 percent of its current, local, fair market value as determined by the Village of Big Bend Assessor, it shall not be restored for use except in conformity of the regulations of the district in which it is located.

2) Nonconforming lots or structures.

a) Lots or structures which are not in conformance with the Village of Big Bend's Zoning Code and which were not existing at the time of the adoption or amendment of the Zoning Code are prohibited and may not be extended except as otherwise set forth herein. Nonconforming structures which were existing at the time of the adoption or amendment of the Village of Big Bend's Zoning Code shall be considered legal, nonconforming lots or structures and are permitted subject to the following provisions:

b) Legal, nonconforming structures or lots may be repaired, maintained, renovated or remodeled within their existing footprint.

c) Legal, nonconforming structures damaged or destroyed on or after March 2, 2006, where the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold or infestation, may be repaired or reconstructed to the size, location and use that it had immediately before the damage or destruction occurred. Notwithstanding the foregoing, a legal, nonconforming structure damaged or destroyed as provided for herein may be repaired or reconstructed to a size larger than it was immediately before the damage or destruction if the expansion and size is necessary to comply with applicable state or federal requirements.

d) Any established structure that is damaged or destroyed may be rebuilt on its previous location, unless within a road right-of-way or a documented easement area, in which case, the structure may only be rebuilt in accordance with an applicable Planning Commission and Village Board approved location.

e) The size and shape of existing legal nonconforming lots shall not be altered in any way that would increase the degree of such non-conformity to the applicable district regulations.

f) The burden of establishing that any nonconformity is a legal nonconformity shall, in all cases,be solely upon the owner of such nonconformity.

C. DISCONTINUANCE OF LEGAL, NONCONFORMING USES, LOTS OR STRUCTURES.

Where any legal, nonconforming use, lot or structure is discontinued or abandoned for a period of 12 consecutive months, the nonconforming use, lot or structure shall be deemed abandoned and any future use of the structure or land shall conform to the regulations of the district in which it is located.

D. EXPANSIONS OR INTENSIFICATIONS OF LEGAL, NONCONFORMING USES.

1) Conditions permitting the expansion or intensification of legal, nonconforming uses. The enlargement, expansion or intensification of a legal, nonconforming use, excluding regulated shoreland/wetlands and floodplains, may be allowed by the Planning Commission and Village Board following a joint public hearing, duly noticed and held by the Planning Commission and Village Board, provided that the Planning Commission and Village Board shall review, determine and set forth the following in writing with its/their approval(s):

a) Such enlargement, expansion or intensification is consistent with the public interest and does not adversely impact the public health, safety or welfare.

b) Such enlargement or intensification shall not have a deleterious effect on property in the surrounding neighborhood due to visual appearance, increased pedestrian or vehicle traffic, noise, smoke, odor or other similar factors. No such enlargement, expansion or intensification of a nonconforming use shall be permitted unless all buildings, height, yard, coverage and off- street parking and other requirements of this chapter for the district in which the use is locatedare adhered to.

c) Protests of nonconforming use expansions. In the event a written protest is made against any enlargement, expansion, or intensification of a nonconforming use, which is signed and acknowledged by the owners of 20 percent of the property immediately adjoining such property and/or by the owners of 20 percent of the properties whose frontage is directly across the street from such properties, is filed with the village clerk; such enlargement, expansion or intensification shall not be allowed except by approval of the Village Board.

E. CONDITIONAL USE STATUS. Subject to the provisions of the conditional use section of this Code, conditional use status may be granted to existing legal non-conforming uses upon petition of the owner and where such use is determined not to be adverse to the public health, safety, or welfare, would not conflict with the spirit or intent of the chapter or would not be otherwise detrimental to thecommunity and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the recommendation of the Plan Commission and approval of the Village Board following a joint public hearing. If this conditional use is terminated for any reason, the property shall not revert back to legal non-conforming status, but the use shall terminate.

16.22 EXISTING PERMITS.

A. CONSTRUCTION PERMITTED. Nothing in this chapter shall require any change in the plans, construction, size or designated use of any property or building or part thereof for which a building and/or zoning permit has been issued before the effective date of this chapter and the construction/use of which shall have been substantially started within six (6) months from the date of such permit and remains active through completion.

B. SUBSEQUENTLY NON-CONFORMING. Any such use, building or part thereof which does not conform to the use regulations of the district in which it is located shall, however, subsequently be considered a legal non-conforming use and or building.

16.23 SITE PLAN AND PLAN OF OPERATIONS REVIEW.

A. PURPOSE AND INTENT. For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure, with the exception of necessary public and/or quasi-public utility buildings, utility structures, necessary related utility installations and one and two family residential dwellings, without first obtaining the approval of the Village Plan Commission of detailed site plans, plan of operation, architectural plans and any other plans required as set forth in this section. New tenants and/or owners and individuals proposing a change in use are required to have site plan and plan of operation approval.

B. ADMINISTRATION.

1) All required plan data shall be submitted to the Village Clerk, along with a completed application form and any required application fees as may be established and periodically modified by the Village Board from time to time. The Clerk shall transmit all applications and their accompanying plans to the Plan Commission, Zoning Administrator/Planner, and Building Inspector for theirreview. Plan data to be submitted with plan review applications shall include the following:

*As to below, marked items (i.e. *) are not necessarily needed with existing building application unless requested by the Plan Commission.

a) A plat of survey drawn by a registered land surveyor including the site plan information drawn to a recognized engineering scale of not more than 100 ft. to 1 inch.

b) Name of project noted.

c) Owners and developer's name and address noted.

d) Architect and/or engineer's name and address noted.
e) Date of plan submittal.
f) Scale of drawing noted on plan.
g) Existing and proposed topography shown at a contour interval not less than two (2) ft.. Topography shall extend 40 ft. onto adjacent property or to the building on the adjacent lot, whichever is greater.*
h) The characteristics of soils related to contemplated specific uses.*
i) Total number of parking spaces and layout, including driveways shall be shown on the plan. The drawing shall indicate whether parking area is paved or unpaved.
j) The type, size and location of all structures with all building dimensions shown
k) Indicated height of building(s).
l) Indicate existing and proposed street locations on the site plan.
m) Indicate existing and proposed public right-of-ways and widths.
n) North arrow shown.
o) Locate existing and general location of proposed septic systems, sanitary sewers, storm sewers and water mains as applicable.
p) Submit a storm water management plan indicating all facilities, including detention/retention areas. The design criteria shall meet the requirements as stated in the Erosion Control and Storm Water Management section of this ordinance.*
q) Locate existing trees that are eight (8) inches in diameter or larger.*
r) Note location, extent, and type of proposed plantings.*
s) Note location of pedestrian sidewalks and walkways.
t) A graphic outline of any development staging that is planned is required to be shown on the site plan.
u) Architectural plans, elevations and perspective drawings and sketches illustrating the design and character of proposed structures. These plans shall include proposed building colors and buildings materials.*
v) Landscaping plan including the location of all proposed and existing trees, the species (including common and botanical names), size at planting, size at maturity and quantity for all proposed new plants.
w) Lighting plan and photometric plan may be required upon Plan Commission request.

C. PLAN OF OPERATIONS.

1) No use shall be approved until the Village and staff has reviewed/approved the plan of operation application form that shall indicate:
- **a)** The proposed use of the land and/or structures;
- **b)** Activities to occur both inside and outside all principal and accessory structures;
- **c)** The frequency and duration of all activities; (hours of operation).
- **d)** The number of employees of any commercial or industrial enterprise;
- **e)** The estimated number of occupants of a residential use;
- **f)** The number, size and type of all vehicles associated with the use;
- **g)** Plans for compliance with the performance standards set forth in the ordinance;
- **h)** The season, days and hours of operation;
- **i)** The expected starting and completion dates of construction;

j) The proposed phasing of the project, if appropriated;

k) Other information as requested by the Village.

2) New tenants and individuals proposing a change in use are required to have prior site plan and plan of operation review and approval.

D. GENERAL ARCHITECTURAL PRINCIPLES.

1) To implement and define criteria for the purposes set forth in this ordinance, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

a) No building regulated by this section shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.

b) No building regulated by this section shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.

c) No building regulated by this section shall be permitted where any exposed façade is not constructed or faced with a finished material that is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.

d) No building or sign regulated by this section shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.

e) No building or use regulated by this section shall be permitted that would have negative impact on the maintenance, safety, or healthful conditions in the Village.

f) Buildings and uses regulated by this section shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The Plan Commission may require that drainage easements be executed.

g) Building and uses regulated by this section shall provide for adequate site construction erosion control measures. The Plan Commission may require erosion control plans and may establish time schedules for landscaping and re-vegetation of construction site.

h) Building and uses regulated by this section shall provide for safe traffic circulation and safe driveway locations.

i) Buildings and uses regulated by this section shall provide adequate parking and loading areas.

j) Buildings and uses regulated by this election shall be provided with adequate public services as approved by the appropriate utility.

k) Use of exterior lighting shall be designed in such a manner that all light rays are directed downward onto the property. No rays shall be directed towards adjacent properties. (See subsection 7)

E. DETAILED ARCHITECTURAL STANDARDS.

1) To implement the purposes set forth in this chapter, the following architectural criteria and review guidelines are established.

a) Building Facades. In the commercial districts, 50% of all building exteriors shall be brick, decorative masonry, glass panel, or other appropriate finished façade as may be approved by the Plan Commission.

b) In the flex-industrial and light industrial districts, all building exteriors facing a street or approved way shall have 25% of the street facing building elevation(s) be brick, decorative masonry, glass panel, or other appropriate finished façade material as may be approved by the Plan Commission. Such brick, masonry, glass, or other decorative facing shall extend for a distance of 20' along the sides of the structure. Material type and colors shall be noted on the plans. Material samples shall be provided when requested by the Planner or Plan Commission.

c) Overhead Doors. No overhead doors in a business or industrial district shall face a public street. The Plan Commission may permit overhead doors to face a public street when it has made a finding that there is no feasible or appropriate alternative location for such doors.

d) Heating, Air Conditioning and Ventilating Equipment. HVAC equipment and any substantial utility-type appurtenances shall be located in such a manner as to be unobtrusive and screened from view. Landscaping and or devices proposed to be used to screen equipment shall be subject to the Planning Commission's review and approval.

e) Storage of Garbage/Trash. All garbage cans, trash containers, and other storage devices situated on any lot shall be in closed containers with lids and shall be concealed or suitably screened from public view. Fencing and/or landscaping shall be used to totally obstruct vision into the storage areas.

f) Other Architectural Standards. The Plan Commission and/or Village Board may impose other architectural standards as deemed necessary and appropriate such as; modificationsto, but not limited to,: building materials, building colors , roof pitch designs and architectural breaks in walls over 75' in length. Except for flat roofs, the minimum pitch shall be 2:12. The Plan Commission and Village Board may allow a roof pitch less than 2:12 when it has made a finding that there is no practical/feasible alternative to meet the 2:12 roof pitch.

F. LANDSCAPING.

1) To ensure that new landscaping and retention of existing vegetation is an integral part of all development because it contributes to, aids in retention of and increases property values, conserves water, and improves the environmental and aesthetic character of the community, the following standards apply to all commercial, industrial, institutional, park and/ormultifamily residential sites:

a) Street trees. The applicant/developer shall provide for the planting or retention of street trees on both sides of all new roadways and, where deemed appropriate by the plan commission for aesthetic purposes, along existing roadways adjacent to the development, Such trees shall have an average trunk dimension of 2.5 inches at a point four feet above the surrounding grade. To ensure proper planting and growth, the trees shall be balled, bur lapped and staked. Such trees shall be provided at a rate of not less than one tree every 40 ft. of new roadway frontage and located within the roadright-of-way at a point 10 ft. from the right-of-way line unless otherwise required by the

plan commission. The species of trees shall be subject to Plan Commission approval. The Village of Big Bend reserves the right to retain the services of a qualified consultant to verify proper installation and health of required landscaping.

b) Parking lot landscaping. Off-street parking lots with more than 10 stalls shall have a least 10% of the interior parking area landscaped. The species and planting size of landscape materials to be contained within such interior islands are subject to Plan Commission approval.

c) Screening. The following requirements apply:

1. Every development shall provide sufficient screening to shield adjacent properties from any adverse external effects of that development and/or to shield the development from the negative impacts of adjacent uses, streets or railroads.

2. A compact landscaping hedgerow and/or landscaped undulation berm shall be located between parking areas and public roads. Hedges shall be planted at an initial height of at least two feet and shall be maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after time of planting. This landscaping buffer is intended to screen the view of parked cars and asphalt/concrete from pedestrian and motorist view.

3. Dumpsters, utility boxes and fixtures (whether ground or wall mounted), accessory energy systems and similar site appurtenances shall be located as not to be visible from the surrounding view or appropriately screened using landscape plantings and/or devices in accordance with Plan Commission approval.

2) Landscaping standards.

The following standards apply to all commercial, industrial, institutional, park and/or multifamily residential sites:

a) The undeveloped area of any commercial, industrial or multifamily residential site (exclusive of areas under roof or pavement) shall be landscaped with approved living trees, shrubs, vines, flowers, grass and groundcovers and may include water bodies, crushed rock, sand, wood chips, landscaping furniture and ornamental pieces at the discretion of and with approval from the Plan Commission.

b) At least one tree and two shrubs shall be planted for each 1,000 sq. ft. or portion thereof of the area to be landscaped. Planting size and type shall be subject to Plan Commission approval. Where substantial excess open space is set-aside on the propertyand not made a part of the immediate or current plans for the usedevelopment/redevelopment, the Planning Commission may, at its discretion, exempt some or all of that area of landscape from the required tree and shrub count calculation.

c) No tree, as measured from its center, shall be located within 5 ft. of a vehicular access way, bike trail or public sidewalk or within 10 ft. of a streetlight, stop sign, fire hydrant, street sign or directional sign.

d) All landscaping material located within a vision clearance triangle shall be 2 ft. or less in height or have a clearance of 8 ft. beneath the lowest branch or projection.

e) The site plan must indicate trees intended to be preserved with a special symbol and the preserved trees must be protected during construction through the use of fence around the drip line. If any preserved trees are lost to damage or disease within 3 years after plan approval, the owner must replace said trees with the number of trees that would otherwise have been required.

f) Every attempt shall be made by the developer/applicant to preserve existing significant trees. When it is necessary to remove significant trees, the developer shall replace 12" caliper or larger deciduous trees with 4, 3" caliper deciduous trees. Conifers 10 ft. or taller shall be replaced with 3, 6 ft.-8ft. coniferous trees.

g) All landscaping shall be installed in a sound workmanship manner and according to accepted good planting procedures. Certificates of occupancy may be withheld unless the landscaping meets the requirements provide in this section or the appropriate escrow is established in compliance with section (i)(2) below for future installation of the required landscaping.

3) Landscaping maintenance.

The property owner shall be responsible for the maintenance of all landscaping in good condition so as to present a healthy, neat and orderly appearance that shall be kept free from refuse and debris. All landscaping areas shall be provided with a readily available water supply. The property owner of an industrial, institutional, park, commercial or multifamily residential site shall promptly replace any landscaping which has died or is damaged beyond repair or has developed a substantially abnormal growth pattern. The replacement planting shall be the same size and quality as in the approved landscaping plan. The site's landscaping shall be maintained perpetually in accordance with the approved landscaping plan on file at Village of Big Bend Village Hall.

4) Berm requirements.

The construction of earth berms shall be permitted subject to the following:

a) Berms shall be constructed to a maximum slope of 3 ft. horizontal to 1 ft. vertical.

b) A cover growth of Village approved plant material shall be immediately established over the entire berm to prevent erosion or unsightly conditions,

c) In addition to cover growth of plant material, berms shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. Berm and landscape plans for commercial, industrial, institutional, park, multifamily, condominium and subdivision development shall be approved by the plan commission.

d) If the construction of a berm requires more than 250 cubic yards of fill to be brought to the site, prior approval of the berm plan by the Village Engineer shall be obtained.

e) Ground covers used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and provide reasonably complete coverage within three months after planting.

5) Pond requirements.

The construction of new ponds or enlargement of existing ponds shall be subject to the following:

a) The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth and pond overflow point for Village Engineer approval.

b) A 10 ft. wide safety shelf with a depth of at least 12" consistent with Wisconsin DNR Technical Standard 1001 (Wet Detention Pond) shall be constructed.

c) Ponds shall be set back no less than 10 ft. from the property line.

d) Pond slope shall be no steeper than 4 ft. horizontal to 1 ft. vertical.

6) Requirements for Installation of Landscaped Areas.

Installation. All landscaping material recommended by the provisions of this section shall be installed on the subject property, per the approved site plan, within 365 days of the issuance of an occupancy permit for any building on the subject property or as determined by the Plan Commission.

7) Surety.

a) If the subject property is to be occupied prior to the installation of all required landscaping material, the property owner shall file, subject to approval by the Planner, a certificate of deposit or a certified check in the amount equal to 125% of the estimate of landscaping materials and installation cost. An enforceable contract, for all landscaping work on the subject property indicated on the detailed landscaping plan required under the provisions of this section from a qualified contractor (valid for a least 365-day period), shall be used to determine the amount of surety.

b) If the required landscaping is part of a phased project approved per the requirements of this section, said amount may be split into amounts which are applicable to phases of the project.

c) Governmental units to which these bond and guarantee provisions apply, may, in lieu of said contract or instrument of guarantee, file a resolution or letter from officers authorized to act in its behalf, agreeing to comply with the provisions of this section.

G. EXTERIOR LIGHTING STANDARDS.

1) Except as may be specifically waived or modified by the Planning Commission upon finding that a unique or site specific situation warrants it, all sites, buildings and developments shall comply with the following:

a) No exterior lighting used for parking lots, recreational facilities, product display, or security shall be permitted to spill over onto operators of motor vehicles, pedestrians, anduses of land in the vicinity of light source. These requirements shall not apply to lighting placed in a public right-of-way for public safety.

b) Orientation. No exterior lighting fixture shall be oriented so that the lighting element (or a transparent shield) is visible from a property in a residential district. Light rays shall not be directed or allowed by their fixture design to cast light into street rights-of-way or upward into the atmosphere. The use of shielded luminaries, or luminaries with cutoff optics, and careful fixture placement is required so as to facilitate compliance with this section.

c) Minimum lighting standards. All areas designated on approved site plans for vehicular parking, loading, or circulation and pedestrian ways and used for any such purpose after

sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 footcandles, exclusive of any approved security lighting.

d) Intensity of illumination. The intensity of illumination measured at the property line shall not exceed 0.5 footcandle.

e) Location. Light fixtures shall not be permitted within required setbacks.

f) Flashing, flickering, and other distracting lighting. Flashing, flickering and other distracting lighting which may distract motorists are prohibited.

g) Accent & Decorative lighting. Accent and decorative lighting and low-voltage lighting (12 volts or less) is exempt from these requirements.

h) Nonconforming lighting. All lighting fixtures approved prior to the adoption of this chapter shall be treated as and regulated as legal nonconforming uses and, in applicable case, structures.

i) Flickering, flashing, rotating,… lights are not permitted.

j) Mounting Height, unless otherwise specifically waived or modified by the Planning Commission given the unique circumstances of a particular place, for post/pole mounted light fixtures shall be 28 feet maximum and for building mounted light fixtures shall be 15 feet.

H. EXTERIOR SITE USAGE.

1) Outside Storage of Materials and Equipment:

a) In all non-residential districts and applicable to all non-residential uses, outside storage of materials, equipment and supplies may be permitted subject to the following:

1. Storage area is allowed in the rear yard only as determined by the Village Plan Commission. The side yard could be used if the Plan Commission determines the rear yard is not a practical location and with screening of the side yard.

2. Storage areas shall be screened from view from of any public right-of-way.

3. Storage area shall be enclosed with a six (6) ft. high wooden fence or a chain link fences with Evergreen Plantings on the street side at the height of the fence at planting to screen/break up the view of the fence and storage from the public.

4. Storage area shall not exceed 20% of the lot area.

5. Stored items shall be accessory to the approved business operation on that site.

2) Outside Display of Merchandise:

a) In the Business and Industrial Zoning Districts the display of merchandise may be permitted subject to the following:

1. Scaled Site Plan requires approval by the Village Planning Commission.

a. Display area is allowed in any yard with layout and use detailed on a plat of survey and with approval by the Village Planning Commission.

b. Display area shall not exceed 30% of lot area.

c. Displayed items shall be in working condition and displayed in a neat and orderly condition at all times so that the display will not detract from or become a nuisance to the neighboring premise.

I. MODIFYING AND/OR TERMINATION OF SITE PLAN OR PLAN OPERATIONS.

If any item of the site plan or plan of operation does not continue in conformance with the approved plan or operation, the use and site plan approval may be modified and/or terminated by action of the Village Planning Commission and Village Board. Notwithstanding the foregoing, prior to any decision made by the Village which would result in the modification and/or termination of the use and site plan as previously approved, the property owner shall be given written notice of the proposed action to be taken by the Village prior to any final action being taken by the Village which could result in the modification or termination of the use and site plan.

16.24 PERFORMANCE STANDARDS.

A. COMPLIANCE

This ordinance permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air, and waters shall hereafter, in addition to their use, site, and sanitary regulations, comply with the following performance standards.

B. AIR POLLUTION

No person, operation, or activity shall exit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 400 Wisconsin Administrative Code.

C. FIRE AND EXPLOSIVE HAZARDS

All activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire- suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above-ground storage capacity of materials that produce flammable or explosive vapors shall comply with Chapter COMM 10 of the Wisconsin Administrative Code.

D. GLARE AND HEAT

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

E. WATER QUALITY PROTECTION

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolated, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor,, tastes, or unsightliness or be harmful to human, animal, plant, or aquatic life. In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed, or contribute toward exceeding of the

minimum standards or other standards, and the application of those standards set forth in Chapter NR-102 of the Wisconsin Administrative Code for all waters in the State.

F. NOISE

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

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

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

3) Sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this ordinance.

G. ODORS

No operation or activity shall emit any substance or combination of substances in such quantities as to create an objectionable odor as defined in Chapter NR 429.03(2) Wisconsin Administrative Code.

H. RADIOACTIVITY AND ELECTRICAL DISTURBANCES

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or may adversely affect the personal well-being of those nearby or the use of neighboring premises.

I. VIBRATION

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

Frequency(Cycles per Second)	Outside the Premises
0 to 10	.0020
10 to 20	.0010
20 to 30	.0006
30 to 40	.0004
40 & over	.0002

2) Vibrations shall be further subject to applicable Federal, State and local laws and regulations.

J. FLOOD PROOFING

1) Where flood proofing by means of elevating on fills is deemed inappropriate or impractical, and where flood proofing by means other than filling is permitted, flood proofing measures shall be in accordance with the following:

a) Flood proofing Measures shall be designed to:

1. Withstand the flood pressures, depths, velocities, uplift and impact forces, andother factors associated with the 100-year recurrence interval flood; and

2. Assure protection to an elevation at least two (2) ft. above the elevation of the 100-year recurrence interval flood; and

3. Provide anchorage of structures to foundations to resist flotation and lateral movement; and

4. Insure that the structural walls and floors are watertight and completely dry without human intervention during flooding to a point a least two (2) ft. above the elevation of the 100-year recurrence interval flood.

5. No Permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect certifying that the flood proofing measures are adequately designed to protect the structure or development to a point a least two (2) ft. above the elevation of the 100-year recurrence interval flood for the particular area.

2) Flood proofing Measures may include, but are not limited to:

a) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;

b) Addition of mass or weight to structures to prevent floatation;

c) Placement of essential utilities above the flood protection elevation;

d) Surface subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures;

e) Construction of water supply wells, and waste treatment and collection systems to prevent the infiltration of floodwaters into such systems;

f) Cutoff valves on sewer lines and elimination of gravity flow basement drains; and/or

g) The construction of permanent or moveable watertight bulkheads, erection of permanent watertight shutter and doors, and installation of wire reinforced glass block for windows.

16.25 CONDITIONAL USE PERMITS.

A. APPROVAL REQUIRED. Certain uses and situations which are of such a special nature or are so dependent upon actual contemporary circumstances as to make impractical the predetermination of permissibility or the detailing in this chapter of specific standards, regulations or conditions which would ensure the compatibility/suitability of a particular conditional use in it's proposed setting. The fact that a conditional use may be listed in this Code does not infer any right thereto. Conditional uses may be recommended for denial by the Plan Commission and/or denied by the Village Board so long as such action is not arbitrary, discriminatory or unreasonable.

1) **Application, and supporting information.**
   a) Application for a conditional use permit shall be made to the Village Planning Commission on a form furnished by the Village Clerk, along with the required nonrefundable fee, and shall include the following where pertinent and necessary for proper review by the Village Planning Commission: (15 copies of the full submittal shall be required)
   b) Names and addresses.
      1. Applicant.
      2. Owner of site.
      3. Architect, professional engineer, and contractor.
2) Plat of survey. The plat of survey and/or scaled drawing of the site must show the following information:
   a) Property location, boundaries, topography and dimensions, including building pad.
   b) Property use.
   c) Size of existing and proposed structures and any modification to existing structures.
   d) Location of any easements on the subject property.
   e) Ingress/egress points and parking lot layout.
   f) Location and use of all structures within 100 feet of the property boundaries, including floor elevations.
   g) Site plan(s).
   h) Architectural plan(s).
   i) Landscaping and lighting plan(s).
   j) Stormwater management plan(s).
3) A proposed "Plan of Operation" describing the proposed use(s), which shall include measurable facts and information for consideration by the Planning Commission, such as, but not necessarily limited to, the following:
   a) Hours and days of operation.
   b) Intensity of use(s) such as but not necessarily limited to: number of customers, employees, size of building(s)...
4) Adequacy of public services to serve the use such as but not necessarily limited to:
   a) Utilities (electric, sewer/sanitary disposal, water/well, stormwater drainage).
   b) Public safety services (police, fire, EMS).
   c) Public school capacity available.
5) Economic impacts: such as but not necessarily limited to job creation, property valuation, tax base growth, collateral economic growth stimulation,...
6) Vehicular and pedestrian traffic impacts/analysis.
7) Parking impacts/analysis such as but not necessarily limited to: off-street and on-street.
8) Physical impacts/analysis such as but not necessarily limited to: noise, vibrations, odors, air emissions, dust, light emission.
9) Visual impacts/analysis such as but not necessarily limited to: indoor use, outdoor use, view obstruction, landscaping.
10) Additional information which may be required, primarily for certain new construction projects, may include, but is not limited to:
   a) Such additional information as may be required by the Village Planner, Building Inspector, Engineer, Attorney, Village Plan Commission or Village Board in light of unique qualities or

aspects of a particular project not contemplated or addressed by the various information/analyses listed above.

11) Third Party Consultation. If necessary expertise is not available from Village staff, currently engaged Village consultants, or from appropriate and available regional, state or federal agencies, the Village may consult with a third party to effectively evaluate specific elements of a conditional use permit application for which unique expertise is considered to be needed. The Village Planner or his or her designee will recommend a consultant for consideration/approval by the Planning Commission. The applicant for the conditional use permit shall bear all reasonable costs and expenses associated with such consultation. Applicants retain the right to withdraw a pending conditional use permit application if they choose not to pay consultant fees.

12) A fee, as may be established and periodically modified, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village of Big Bend. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advicein connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.

13) Where deemed necessary in order to comply with certain Wisconsin Statutes, an application for CUG may be forwarded to the Department of Natural Resources for review/comment/approval.

14) Quality of supporting information and applicant's burden of proof:

a) The applicant must demonstrate that the application and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence.

1. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

15) Preapplication consultation. A consultation with the Village Planner prior to or during the preparation of an application for a conditional use permit is recommended.

16) Payment of Village costs incurred. Any costs incurred by the Village related to the review of the application and the preparation of conditions shall be paid for by the applicant in accord with the provisions of the Village Code. Such costs may be for legal, engineering, planning or other technical or professional services rendered in conjunction with the application.

17) Public hearing. The Village Planning Commission and Village Board shall hold a joint public hearing on a conditional use permit application, giving notice of the time, place, and the proposed use by publication of a Class 2 notice, under Ch. 985, Wis. Stats.

a) Review and action. Following a public hearing, the Village Planning Commission shallreview 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 and make it’s recommendation to the Village Board.

1. Evaluation**.** In making it’s recommendation, The Planning Commission shall evaluate the effect of the proposed use upon such things as, but not necessarily limited to:

a. The maintenance of safe and healthful conditions.

b. Existing topography, drainage, and vegetative cover.
c. The compatibility of the use with other uses on adjacent properties.
d. Existing and proposed vehicular and pedestrian traffic generation and circulation.
e. The adequacy of existing and proposed parking areas and driveway locations.
f. The adequacy of existing and proposed public utilities and other public services.
g. The compatibility of the use with the Village's Comprehensive Plan.
h. The suitability of the subject site for the type and density or intensity of the proposed use(s).
i. The creation of noise, traffic, odors or other conditions that may be detrimental to the public.

18) Approval conditions.

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

b) Any condition imposed must be related to the purpose of this article and be based on substantial evidence.

c) The requirements and conditions must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer or renewal.

d) Compliance with Zoning Code. Compliance with all other provisions of this chapter, such as, but not necessarily limited to, lot width and area, yards, height, parking, loading, traffic, highway access, landscaping and lighting, unless specifically waived or modified by the Planning Commission and Village Board and setforth in the terms of an Conditional Use Approval, shall be required for all conditional uses.

19) Action. The Commission may make their final recommendation on the application at the time of the public hearing or may continue the proceedings at its discretion or at the applicant's request. The Commission may recommend approval of the conditional use as originally proposed, may recommend approval the proposed conditional use with modifications, or may recommend denial of the proposed conditional use. The requirements and conditions described must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer or renewal. The Village Board's approval of the proposed conditional use shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed conditional use.

B. FINAL REVIEW AND APPROVAL.

Any conditions deemed necessary by the Plan Commission and Village Board or other governmental agencies may be made an integral part of the permit. These conditions shall be complied with by the applicant and any deviation or alteration of those conditions set forth in the permit shall constitute a violation of the terms of the conditional use permit. Such violation shall constitute a violation of this ordinance and will be subject to prosecution and penalties under the terms of this ordinance.

C. DETERMINATION IN WRITING.

The conditions of approval or reasons for disapproval shall be state in writing by the determining body and a copy thereof made a permanent part of the minutes of such body.

D. APPLICATION FOR CHANGE OF CONDITIONAL USE PERMIT.
If any holder of conditional use permit wishes to extend or alter the terms of such permit, they must apply for such extension or alteration through the procedure of application for conditional use permits detailed herein above, except that at the discretion of the Plan Commission and Village Board minor changes which are reasonably consistent and compatible with the approved Site Plan and Plan of Operations may be permitted without a public hearing. A minor change is one in which the proposed change does not significantly affect the overall character of the site or intensity of the use.

E. EXPIRATION OR TERMINATION OF CONDITIONAL USE STATUS. Conditional use status may expire or terminate in whole or part when, and after conducting a public hearing on the matter, the Plan Commission and Village Board determine any of the following:

1) The conditional use has not continued in conformity with the conditions of the permit.

2) A change in the character of the surrounding area or in the conditional use itself causes it to be no longer compatible within the surrounding area.

3) Any conditional use which has been discontinued or not utilized for a period of 12 consecutive or 18 cumulative months in a three (3) year prior shall be determined to be discontinued. An approved conditional use of a seasonal nature shall not be deemed discontinued during periods in which it is normally expected to be inactive (i.e., summer camps, ski areas, farmers markets, etc.) Upon a determination of discontinuance by the Village, the owner of the premises shall be notified promptly in writing and required to bring all such lands and buildings into full conformity with the regulations of the district in which such former conditional use is located, and into conformity with all other provisions of this chapter, within 90 days from the date of such determination.

16.26 WIRELESS TELECOMMUNICATION MOBILE SERVICE FACILITIES – GENERALLY

A. PURPOSE. This section is intended to regulate wireless mobile service facilities to the full extent allowed by Wis. Stats. §66.0404 and other applicable laws. Nothing herein is intended to regulate or authorize the regulation of mobile service facilities in a manner that is preempted or prohibited by Wis. Stats. §66.0404 or other applicable laws.

B. DEFINITIONS. All terms used herein shall have the meaning described in Wis. Stats. §66.0404(1) - see below:

1) **Antenna** means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

2) **Application** means an application for a permit under this section to engage in either:

a) The siting and construction of a new mobile service support structure and facilities.

b) With regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities or a class 2 collocation.

3) **Building permit** means a permit issued by Village of Big Bend that authorizes an applicant to conduct construction activity that is consistent with Village of Big Bend Code.

4) **Class 1 collocation** means the placement of a new mobile service facility on an existing support

structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

5) **Class 2 collocation** means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.
6) **Collocation** means class 1 or class 2 collocation or both.
7) **Distributed antenna system** means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.
8) **Equipment compound** means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.
9) **Existing structure** means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with Village of Big Bend.
10) **Fall zone** means the area over which a mobile support structure is designed to collapse.
11) **Mobile service** has the meaning given in 47 USC 153 (33)—see below:
    a) Mobile service. The term "mobile service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:
        1. Both one-way and two-way radio communication services,
        2. A mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and
        3. Any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.
12) **Mobile service facility** means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.
13) **Mobile service provider** means a person who provides mobile service.
14) **Mobile service support structure** means a freestanding structure that is designed to support a mobile service facility.
15) **Permit** means a permit, other than a building permit, or approval issued by a political subdivision which authorizes any of the following activities by an applicant:
    a) A class 1 collocation.
    b) A class 2 collocation.
    c) The construction of a mobile service support structure.
16) **Political subdivision** means a city, village, town, or county.
17) **Public utility** has the meaning given in Wisconsin Statutes.
18) **Search ring** means a shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

19) **Small Wireless Facility,** consistent with 47 C.F.R. § 1.6002(l), means a facility that meets each of the following conditions:
   a) The structure on which antenna facilities are mounted:
      1. Is 50 feet or less in height, or
      2. Is no more than 10 percent taller than other adjacent structures, or
      3. Is not extended to a height of more than 50 feet, or by more than 10 percent above its preexisting height, whichever is greater, as a result of the collocation of new antenna facilities;
      4. Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume;
      5. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is cumulatively no more than 28 cubic feet in volume;
      6. The facility does not require antenna structure registration;
      7. The facility is not located on Tribal lands; and
      8. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by federal law.

20) **Substantial modification** means the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:
   a) For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
   b) For structures with an overall height of more than 200 feet, increases the overall height of the structure by ten percent or more.
   c) Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
   d) Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

21) **Support structure** means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

22) **Utility pole** means a structure owned or operated by an alternative telecommunications utility, as defined in Wisconsin Statutes; public utility, as defined in Wisconsin Statutes; telecommunications utility, as defined in Wisconsin Statutes; political subdivision; or cooperative association organized under Wisconsin Statutes; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Wisconsin Statutes; for video service, as defined in Wisconsin Statutes; for electricity; or to provide light.

C. NEW TOWERS AND FACILITIES. The siting and construction of a new mobile service support structure and facilities shall be subject to the following requirements:

1) **Application process.** The applicant shall submit a written application on forms provided by the Village, which shall include all of the following information minimally as well as any other information as may be specifically requested within the application form itself.
   a) The name and business address of, and the contact individual for, the applicant.

b) The location of the proposed tower.

c) The location of the mobile service facility.

d) A construction plan which describes the tower, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.

e) An explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.

2) Determination of completeness - application. The Village Planner will determine, within the prescribed **"application(s) completeness review deadlines"** (ref Section **Sec. 16.26___.– Shot Clocks.)** whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The Village Planner must notify the applicant in writing within the prescribed **"application(s) completeness review deadlines"** if an application is found not to be complete, specifying in detail the required information that was incomplete. The applicant may resubmit as often as necessary until it is complete.

Conditional use review procedure. The wireless telecommunications mobile service facility shall be a conditional use; however, it is not subject to Section 16.25 of this Code, but instead shall be reviewedpursuant to the following procedures:

a) Public hearing. Within a reasonable time after an application and all required information has been filed, a public hearing shall be held by the plan commission pursuant to this chapter. Within 40 days after the public hearing and all investigation, the plan commission shall make a recommendation to the village board unless the time is extended by the petitioner.

b) Fee. Any petition shall be accompanied by a fee as set from time-to-time by the village board to defray the cost of notification and holding of public hearing. Costs incurred by the village in obtaining legal, planning, engineering and other technical and professional advice inconnection with the review and implementation of the conditional use shall be charged to the petitioner. Such fee shall not exceed the limits established by Wis. Stats. § 66.0404(4)(d).

c) Requirements.

1. Any new or substantially modified mobile service support structure (not including structures proposed to be placed in the right-of-way) that is proposed to be constructed on or adjacent to a parcel of land that permits single-family residential use shall be subject to an offset and setback requirement equal to the height of the support structure. The VillagePlanner may permit a reduction in this offset/setback requirement but only to the extent it is determined that such reduction will not compromise the public safety and only when the applicant demonstrates a unique or extenuating circumstance specific to the proposed structure location which prevents full compliance with this offset/setback requirement.

2. All facilities shall comply fully with all applicable state and federal codes.

3) Determination. The Village Board shall make a decision on the application within a reasonable time after receipt of the Plan Commission recommendation, provided further that the final action shall be taken within the required period of time (ref Section **Sec. 16.26_. – Shot Clocks.)** unless the time for final action by the Village is extended by mutual agreement of the Petitioner and the Village. Said decision shall be stated in writing and a copy made a permanent part of the Village records. If conditional use status is not granted, the reasons therefor will be included in such

record. A grant of conditional use status, subsequent changes or additions thereto and terminations thereof shall be recorded as follows:

a) An official record of such conditional grant shall be prepared by the Village Planner on a form prescribed therefore which shall include the description of the use for which the grant is given and all conditions attached thereto as well as a copy of the resolution of the village board approving the grant. A copy of the completed form shall be recorded at the Waukesha County Register of Deeds as a covenant on the title for the premises for which the conditional use was granted.

4) **Changes or additions.** Subsequent changes or additions to the approved plans or use shall first be submitted for approval to the plan commission and, if, in the opinion of the village Planner in his review of the revisions requested, such change or addition constitutes a substantial alteration, a public hearing before the plan commission shall be required and notice thereof be given pursuant to this chapter.

5) **Conditions.** Conditions such as landscaping, architectural design, type of construction, floodproofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yard, or parking requirements, among other issues as deemed appropriate may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter; subject to the limitations of subsection 6), Limitations upon authority, below.

6) **Limitations upon authority.** The village review and action in the matter shall be subject to the limitations imposed by Wis. Stats. § 66.0404(4). In the event the applicant believes the village has erred in it's determination, the applicant may, within 30 days of the Village Board decision on the matter, submit a written statement to that effect, including a detailed description of the specific points on which the applicant believes the Village has erred. The Village Board reserves the right to reconsider the matter, to ensure that all applicable laws are followed.

D. MODIFICATIONS. The construction of modifications to an existing mobile service support structure or mobile service facility shall be subject to the following requirements:

1) Substantial modification.

a) Application and review process. The application and review process for a substantial modification is identical to the application and review process for a new tower, as described in subsection (c), New towers and facilities, above, except that the required plans should describe the proposed modifications, rather than describe the new structure.

2) Not substantial modifications.

a) Application information and review process. The applicant shall submit a written application that describes the applicant's basis for concluding that the modification is not substantial, and all of the following information:

1. The name and business address of, and the contact individual for, the applicant.

2. The location of the affected support structure.

3. The location of the proposed facility.

b) Completeness determination. The Village Planner will determine, within the prescribed **"application(s) completeness review deadlines"** (ref Section **Sec. 16.26_. – Shot Clocks. above)** whether the application is complete. If the application includes all of the required

information, the application shall be found to be complete. The Village Planner must notify the applicant in writing within the prescribed **"application(s) completeness review deadlines"** if an application is found not to be complete, specifying in detail the required information that was incomplete. The applicant may resubmit as often as necessary until it is complete.

c) Fee. Any petition shall be accompanied by a fee as set from time-to-time by the Village Board to defray the cost of review. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review and implementation of the modifications shall be charged to the Petitioner. Such fee shall not exceed the limits established by Wis. Stats. §66.0404(4)(d).

d) Determination. The Village Planner shall make a decision on the nonsubstantial modification application within the prescribed **period of time** (ref Section **Sec. 16.26 __. – Shot Clocks. above)** unless the time is extended by mutual agreement between the Village and the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Village records. If modifications as requested are not approved by the Village Planner, the reasons therefor will be provided to the applicant in writing.

e) Limitations upon authority. The village review and action in the matter shall be subject to the limitations imposed by Wis. Stats. § 66.0404(4), and such other laws as may apply which may include 47 USCA Section 1455. In the event the applicant believes the village has exceeded its authority in this regard, the applicant shall notify the village board in writing within 30 days of the action/decision, and the village board reserves the right to reconsider the matter.

16.26.1 WIRELESS TELECOMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY

A. DEFINITIONS

For the purposes of this Section 40.427.2, the terms below shall have the following meanings:

"Planner" means the Village Planner or his/her designee.

"Application" means a formal request, including all required and requested documentation and information, submitted by an Applicant to the Village for a wireless permit.

"Applicant" means a person filing an application for placement or modification of a wireless telecommunications facility in the right-of-way.

"Base Station" means the same as in 47 C.F.R. § 1.6100(b)(1), which defines the term to mean a structure or wireless telecommunications equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. This definition does not include towers.

"FCC" means the Federal Communications Commission.

"Right-of-way" means the surface of, and the space above and below the entire width of animproved or unimproved public roadway, highway, street, bicycle lane, landscape terrace, shoulder,side slope, and public sidewalk over which the Village exercises any rights of management and control or in which the Village has an interest.

"Small Wireless Facility," consistent with 47 C.F.R. § 1.6002(l), means a facility that meets each of

the following conditions:

(1) The structure on which antenna facilities are mounted:

i. is 50 feet or less in height, or

ii. is no more than 10 percent taller than other adjacent structures, or

iii. is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height, whichever is greater, as a result of the collocation of new antenna facilities;

(2) Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is cumulatively no more than 28 cubic feet involume;

(4) The facility does not require antenna structure registration;

(5) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by federal law.

"Support Structure" means any structure capable of supporting wireless telecommunications equipment.

"Tower" means the same as in 47 C.F.R. § 1.6100(b)(9), which defines the term as any structure built for the sole or primary purpose of supporting any Federal Communication Commission (FCC) licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.

"Underground areas" means those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right of way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricityat nominal voltages more than 35,000 volts.

"Utility Pole" means a structure in the right-of-way designed to support electric, telephone, and similar utility distribution lines and associated equipment. A tower is not a utility pole.

"Wireless Infrastructure Provider" means a person that owns, controls, operates, or manages a wireless telecommunications facility or portion thereof within the right-of-way.

"Wireless Permit" or "Permit" means a permit issued pursuant to this Section and authorizing the placement or modification of a wireless telecommunications facility of a design specified in the permit at a particular location within the right-of-way, and the modification of any existing support structure to which the wireless telecommunications facility is proposed to be attached.

"Wireless Regulations" means those regulations adopted pursuant to Section 5(b)(1) to implement the provisions of this Section .

"Wireless Service Provider" means an entity that provides wireless services to end users.

"Wireless Telecommunications Equipment" means equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network.

"Wireless Telecommunications Facility" or "Facility" means a facility at a fixed location in the right-of-way consisting of a base station, antennas and other accessory equipment, and a tower and underground wiring, if any, associated with the base station.

Definitions in this Section may contain quotations or citations to 47 C.F.R. §§ 1.6100 and 1.6002. In the event that any referenced section is amended, creating a conflict between the definition as set forth in this Section and the amended language of the referenced section, the definition in the referenced section, as amended, shall control.

B. Purpose

In the exercise of its police powers, the Village has priority over all other uses of the right-of-way. The purpose of this Section is to provide the Village with a process for managing, and uniform standards for acting upon, requests for the placement of wireless telecommunications facilities within the right-of-way consistent with the Village's obligation to promote the public health, safety, and welfare; to manage the right-of-way; and to ensure that the public's use is not obstructed or incommoded by the use of the right-of-way for the placement of wireless telecommunications facilities. The Village recognizes the importance of wireless telecommunications facilities to provide high-quality communications and internet access services to residents and businesses within the Village. The Village also recognizes its obligation to comply with applicable Federal and State laws regarding the placement of wireless telecommunications facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Wis. Stat. § 182.017, and Wis. Stat. § 196.58, and this Section shall be interpreted consistent with those provisions.

C. Scope

(a) **Applicability**. Unless exempted by Section 3(b), below, every person who wishes to place a wireless telecommunications facility in the right-of-way or modify an existing wireless telecommunications facility in the right-of-way must obtain a wireless permit under this Section.

(b) **Exempt Facilities**. The provisions of this Section (other than Sections 10-14) shall not be applied to applications for the following:

(1) Installation of a small wireless facility on the strand between two utility poles, provided that the cumulative volume of all wireless facilities on the strand shall not exceed 1 cubic foot, and provided further that the installation does not require replacement of the strand, or excavation, modification, or replacement of either of the utility poles.

(2) Installation of a mobile cell facility (commonly referred to as "cell on wheels" or "cell

on truck") for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.

(3) Placement or modification of a wireless telecommunications facility on structures owned by or under the control of the Village. See Section 13 of this Section.

(4) Placement or modification of a wireless telecommunications facility by Village staff or any person performing work under contract withthe Village.

(5) Modification of an existing wireless telecommunications facility that makes no material change to the footprint of a facility or to the surface or subsurface of a public street if the activity does not disrupt or impede traffic in the traveled portion of a street, and if the work does not change the visual or audible characteristics of the wireless telecommunications facility.

D. Nondiscrimination

In establishing the rights, obligations, and conditions set forth in this Section, it is the intent of the Village to treat each applicant and right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, while taking into account the unique technologies, situation, and legal status of each applicant or request for use of the right-of-way.

E. Administration

(a) **Planner**. The Planner is responsible for administering this Section.

(b) **Powers**. As part of the administration of this Section, the Planner may:

(1) Adopt wireless regulations governing the placement and modification of wireless telecommunications facilities in addition to but consistent with the requirements of this Section including regulations governing collocation, the resolution of conflicting applications for placement of wireless telecommunications facilities, and aesthetic standards.

(2) Interpret the provisions of the Section and the wireless regulations.

(3) Develop forms and procedures for submission of applications for wireless permits consistent with this Section.

(4) Collect any fee required by this Section.

(5) Require as a condition of completeness of any application, notice to members of the public that may be affected by the placement or modification of the wireless telecommunications facility that is the subject of the wireless permit application. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations.

(6) Issue notices of incompleteness or requests for information in connection with any wireless permit application.

(7) Select and retain an independent consultant or attorney with expertise in telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.

(8) Coordinate and consult with other Village staff, committees, and governing bodies to ensure timely action on all other required permits under Section 6(b)(7) of this Section.

(9) Subject to appeal as provided in Section 8(d) of this Section, determine whether to grant, grant subject to conditions, or deny an application.

(10) Take such other steps as may be required to timely act upon wireless permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

F. Application

(a) **Format.** Unless the wireless regulations provide otherwise, the applicant must submit both a paper copy and an electronic copy (in a searchable format) of any application, as well as any amendments or supplements to the application or responses to requests for information regarding an application, to the Planner. An application is not complete until both the paper and electronic copies are received by the Planner.

(b) **Content.** In order to be considered complete, a fully executed application must be submitted using forms provided by the Village and with all required supporting materials and information included or attached thereto, and also, in addition to all other information requested, the following shall be provided:

(1) All information required pursuant to the wireless regulations.

(2) A completed application cover sheet signed by an authorized representative of the applicant, listing all standard permit conditions.

(3) The name of the applicant (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative. If the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider(s) that will be using the wireless telecommunications facility must also be provided.

(4) A statement of which shot clock or shot clocks apply to the application and the reasons the chosen shot clocks apply.

(5) A separate and complete description of each proposed wireless telecommunications facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and facilities at the site before and after installation or modification and identifying the owners of such preexisting structures and facilities; and describing the distance to the nearest residential dwelling unit. Before and after 360-degree photo simulations must be provided for each facility.

(6) A copy of the FCC license for the facility or a sworn written statement from theapplicant attesting that the facility will comply with current FCC regulations.

(7) To the extent that filing of the wireless permit application establishes a deadline for action on any other permit that may be required in connection with the wireless telecommunications facility, the wireless permit application must include complete copies of such other permit applications (including for instance but not necessarily limited to electrical permits, building permits, construction permits, traffic control permits, right-of-way permits, excavation permits and erosion control permits), with all engineering completed and with evidence of payment for all fees associated with each permit.

(8) A certification by a registered and qualified engineer that the installation can be supported by and does not exceed the tolerances of the structure on which it will be mounted and that all elements of the wireless telecommunications facility comply with applicable safety standards.

(9) Payment of all required fees. The fee for application shall be as established and periodically updated by the Village Board from time to time but in no case less than $500 for a single upfront application that may include up to 5 wireless facilities plus an additional $100 for each facility beyond 5. For applications which include placement of a new pole, the application fee shall be not less than $1000. Full payment of application fees must be rendered at the time an application is submitted.

(10) If an applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all evidence on which the applicant relies in support of that claim. Applicants are not permitted to supplement this evidence if doing so would prevent the Village from complying with any deadline for action on an application.

(11) If the application is an eligible facilities request, the application must contain information sufficient to show that the application qualifies as an eligible facilities request under 47 C.F.R. § 1.6100(b)(3), including evidence that the application relates to an existing tower or base station that has been approved by the Village. Before and after 360-degree photo simulations must be provided with detailed specifications demonstrating that the modification does not substantially change the physical dimensions of the existing approved tower or base station.

(c) **Waivers**. Requests for waivers from any requirement of this Section 6 regarding the application requirements shall be made in writing to the Village Planner. The Planner may grant arequest for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the Village will be provided with all information necessary to fully understand the nature of the construction or other activity proposed to be conducted pursuant to the wireless permit sought.

(d) **Fees**. Applicant must pay an application fee concurrent with submittal of the application, the level of such fees to be set by the Village of Big Bend Village Board from time to time.

(e) **Public Records**. Applications are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, the applicant may designate portions of the application materials that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and the Village shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records law and the Planner's determination (with guidance

of the Village Attorney) that the applicant's request for confidential or proprietary treatment of the application materials is reasonable. The Village shall not be required to incur any costs to protect the application from disclosure.

G. General Standards

1) **Generally**. Wireless telecommunications facilities shall meet the minimum requirements set forth in this Section and the wireless regulations, in addition to the requirements of any other applicable law or regulation.

2) **Regulations**. The wireless regulations and decisions on wireless permits shall, at a minimum, ensure that the requirements of this Section are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of a telecommunications or personal wireless services, or otherwise violate applicable laws or regulations.[8] If that determination is made, the requirements of this Section and the wireless regulations may be waived, but only to the extent required to avoid the prohibition.

3) Design Standards.

a. **Preferred Locations**. The following locations, in the order listed from most to least preferred, are the preferred locations for installations of wireless facilities in public rights- of-way: *(i.e. B-5 Zoning District location options must be ruled out as a prospective location for the facilities and equipment proposed by the applicant before considering prospective locations in the B-1, B-3, B-4 or IPS Districts, and etc…)*

(1) B-5 Zoning District;
(2) B-1, B-3, B-4 and IPS Zoning Districts; and
(3) Other Zoning Districts.

b. **Non-Preferred Locations**. The applicant should avoid locating facilities or equipment within residential neighborhoods, the B-2 District, designated open spaces, parks, and conservation areas. A facility may be permitted in a location other than a preferred location if the applicant provides evidence showing that:

(1) Adequate coverage can be maintained, existing services can be improved, or new services can be added only if facilities are placed in a non-preferred location; or

(2) The proposed facility will meet all applicable requirements for the non-preferred location and will complement the character of the surrounding area.

c. Avoid Significant Buildings and View Sheds. Wireless communication facilities shall not be located on historically or architecturally significant structures unless visually and architecturally integrated with the structure and shall not interfere with prominent vistas or significant public view corridors including, for instance but not necessarily limited to, the view to/around Big Bend Lake and the Big Bend River.

d. **Collocation Generally.** Subject to the provisions of this section, collocation of facilities is generally preferred over new support structures if it can be accomplished in away that better compliments the character of the surrounding area.

e. **Collocation with non-municipal facilities**. Collocation on facilities or support structures owned by parties other than the Village is subject to the following:

(1) Where an existing facility or support structure can potentially accommodate collocation of a new wireless facility, collocation will be required unless:

a. The applicant submits substantial evidence supporting the unsuitability of the collocation;

b. The owner of the existing facility or support structure is unwilling to accommodate the applicant's equipment and cannot be required to cooperate; or

c. The Village Planner determines that installing a new support structure or collocation with a Village facility is preferable to collocation with another facility or support structure.

(2) Authorization for collocation on a facility or support structure owned by a party other than the Village will be voided if the facility or support structure is destroyed, removed, relocated, or replaced, unless:

a. The owner of the collocated facility obtains a new right-of-way use permit; or

b. The facility or support structure accommodating the collocation is replaced with a facility or support structure comparable in size, mass, appearance, and placement, as determined by the Village Planner.

f. General Location Restrictions.

(1) Obstruction of Traffic.

a. Facilities and support structures, towers, and utility poles must be situated at least 1 foot back from the curb or nearest traffic lane to reduce the risk of being struck by a motor vehicle or bicycle.

b. Facilities and support structures, towers, and utility poles may not obstruct, impede, or hinder vehicular, pedestrian, or bicycle travel or public safety within the right-of-way, except during an authorized/Village approved temporary lane or sidewalk closure.

c. Within the Village's established vision clearance triangles (ref Section 40.424 of the Code), facilities and support structures, towers, and utility poles must be located in such a manner as will minimize visual obstruction for pedestrians and motorists. Any proposed installation within a vision clearance triangle that is determined by the Village to pose a safety hazard may not be approved.

d. To the extent possible, a facility, support structure, tower, or utility pole should be located and designed so as to avoid interference with right-of-way maintenance activities, such as:

(1) Grass mowing, brush collection, tree trimming, snow removal and landscaping maintenance;

(2) Trash collection;

(3) Maintenance of streets, pavement, sidewalks, and bicycle lanes; and

(4) Maintenance of other facilities in the rights-of-way.

(2) ADA. Facilities and support structures, towers, and utility poles at all times must comply with the requirements of the Americans with Disabilities Act of 1990.

(3) Facilities and support structures, towers, and utility poles must generally be located in alignment with existing trees, facilities, support structures, towers, utility poles, and streetlights.

(4) Spacing.

(a) A support structure, tower, or utility pole for a wireless facility mustbe located at least 25 feet, from centerline to centerline, of any other supportstructure, tower or utility pole in a public right-of-way unless specifically waived or modified by the Village Planner due to unique and limiting circumstances of the specific proposed location.

(b) Facilities and support structures, towers, and utility poles must be located equal distance between trees whenever possible, and no closer than 20 feet, from centerline to centerline, to a tree in order to avoid damaging a tree's critical root zone. This distance may be increased if the Village Planner determines that the critical root zone of a nearby tree is greater than 20 feet.

(5) Frontage.

(a) New facilities and support structures, towers, and utility poles should not be located along the frontage of any building deemed to be of historic significance on a federal, state, or local level.

(b) New facilities and support structures, towers, and utility poles should not be located directly in front of any existing residential, commercial, or industrial structure but rather every effort shall be made to locate these at lot corners.

(c) To the extent possible, new facilities and support structures, towers, and utility poles must be located in line with existing lot lines, but in areas where multiple structures abut each other or where no side lot setback requirement exists, structures should not be located directly in front of an entrance or window of any existing structure.

(6) Use of Lighting Elements.

(a) A combination support structure and streetlight pole should only be located where an existing pole can be removed and replaced, or at a new location where the Village has identified that a streetlight is necessary. The lighting fixtures shall be of like kind to those which the Village is using within the immediately surrounding area. Installation, maintenance, repair and replacement of such light fixtures shall be the responsibility of the permit holder.

(b) In no case shall the location/placement of a wireless facility be permitted where its location/placement adversely impacts the functionality/intended purpose of the light fixture(s) also located on that pole.

(7) Height Restrictions and Requirements.

(a) **Maximum Height of a Wireless Facility**. The height of a wireless

facility in the right-of-way may not exceed the greater of 50 feet aboveground level at the base of the structure or ten feet above the tallest existing support structure, tower, or utility pole that is in place on the effective dateof this ordinance and that is located within 500 feet of the proposed facility.

(b) M**inimum Height of Wireless Facility and** Equipment mounted to support structures must not interfere with or create a hazard to pedestrian or vehicular traffic and must be a minimum of 10 feet above any pedestrian or bicycle thoroughfare and a minimum of 16 feet above any traffic lane.

(8) Undergrounding

a. **Undergrounded Equipment.** Applicants shall underground its non-antenna equipment to the maximum extent feasible. Additional expense to install and maintain an underground equipment enclosure does not exempt an applicant from this requirement, except where the applicant demonstrates by clear and convincing evidence that this requirement will effectively prohibit the provision of personal wireless services. Nothing in this subsection is intended to require the applicant to install any electric meter required by the applicant's electrical service provider underground.

b. **Ground-Mounted Equipment**. To the extent that the equipment cannot be placed underground if required, applicants shall install ground- mounted equipment in the location so that it does not obstruct pedestrian or vehicular traffic. The Village may require landscaping or other concealment asa condition of approval to conceal ground-mounted equipment. In the event that the Village approves ground-mounted equipment, the applicant shall conform to the following requirements:

(1) **Self-Contained Cabinet or Shroud**. The equipment shroud or cabinet shall contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment shall be concealed fromview.

(2) **Concealment**. The Village may require the applicant to incorporate concealment elements into the proposed design, including but not limited to public art displayed on the cabinet, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.

(9) General Aesthetic Standards.

a. Concealment. Permits for wireless telecommunications facilities shall incorporate specific concealment elements to minimize visual impacts, and design requirements ensuring compliance with all standards for noise emissions. Unless it is determined that another design is less intrusive, or

placement is required under applicable law:

(1) Antennas located at the top of support structures shall, to the maximum extent possible, be incorporated into the structure, or placed within shrouds of a size such that the antenna appears to be part of the support structure;

(2) Antennas placed elsewhere on a support structure shall, to the maximum extent possible, be integrated into the structure, or be designed and placed to minimize visual impacts.

(3) Radio units or equipment cabinets holding radio units and mounted on a utility pole shall be placed as high as possible on a support structure, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the utility pole. Unless the radio units or equipment cabinets can be otherwise more appropriately concealed, radio units or equipment cabinets mounted below the communications space on support poles or structures shall be designed so that the largest dimension is vertical, andthe width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole or support structure on which they are placed.

(4) Wiring and cabling shall be neat and concealed within the structure or, if within the structure is not possible, then flush to the support structure in a manner that, to the greatest extent possible blends into the color/materials/design of the structure as will ensure maximum concealment of these components.

(5) No support structures, towers, or utility poles shall be permitted in the public rights-of-way, and no wireless telecommunications facilities shall be permitted above-ground, in underground areas; provided that the Village may permit placements where all elements of the wireless telecommunications facility are concealed and the facility does not appear to a casual observer to be a wireless telecommunications facility.

(10) Noise. Facilities must be constructed and operated in a manner that prevents or minimizes audible noise.

(11) Facilities must not be illuminated, except in accordance with state or federal regulations or if incorporated as part of a street light pole.

(12) Signage Prohibited.

a. Signage is not permitted except to comply with FCC or Wisconsin regulations to provide safety warnings.

b. Every facility shall at all times display a small placard that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center. This placard shall be as small as is practicable.

c. The design, materials, colors, and location of the placards shall be subject to review and approval by the Village prior to placement. If at any time a new owner or operator provider takes over operation of an existing personal wireless service facility, the new personal wireless service provider shall notify the Village of the change in operation within 30 days and the required and approved placard shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated placard shall match those of the previously approved placard.

(13) Trees.

a. Tree "topping" or the improper pruning of trees is prohibited. Any proposed pruning of trees, shrubs, or other landscaping already existing in the right-of-way must be specifically called out in the application and approved by the Village in writing prior to the start of any pruning or cutting.

4) **Other Standards**.

(a) Wireless telecommunications facilities shall be installed and modified in a manner that:

(i) Minimizes risks to public safety;

(ii) Ensures that placement of facilities on existing structures is within the tolerance of those structures;

(iii) Avoids placement of aboveground facilities in underground areas, installation of new support structures or equipment cabinets in the public right-of-way, or placement in residential areas when alternative and suitable commercial, light industrial and/or institutional areas are reasonably available;

(iv) Maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;

(v) Ensures that installations are subject to periodic review to minimize the intrusion on the right-of-way;

(vi) Ensures that the Village bears no risk or liability as a result of the installations; and

(vii) Ensures that applicant's use does not inconvenience the public, interfere with the primary uses of the right-of-way, or hinder the ability of the Village or

other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of- way.

(b) No wireless permit shall be issued unless (i) the wireless service provider applicant has immediate plans to use the proposed facility or (ii) the wireless infrastructure applicant has a contract with a wireless service provider that has immediate plans to use the proposed facility.

(c) In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic and at all times must comply with the requirements of the Americans with Disabilities Act of 1990.

5) **Standard Permit Conditions**. All wireless permits under this Section are issued subject to the following minimum conditions:

a) **Compliance**. The permit holder shall at all times maintain compliance with all applicable Federal, State, and local laws, regulations, and other rules.

b) Locates. All permit holders shall be required to have/maintain current and active membership status in the Wisconsin Diggers Hotline/Call811 underground utility locating service for the duration of the time that the permit holder has underground facilities of any sort located in the public rights-of-way throughout the Village of Big Bend.

c) **Term**. A wireless permit issued pursuant to an eligible facilities request shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. All other wireless permits shall be valid for a period of five years from the date of issuance unless revoked pursuant to Section 9(b) of this Section.

d) **Contact Information**. The permit holder shall at all times maintain with the Village accurate contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.

e) **Emergencies**. The Village shall have the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility threatens imminent harm to persons or property.

f) **Indemnities**. The permit holder, by accepting a permit under this Section, agrees to indemnify, defend, and hold harmless the Village, its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the "Indemnified Parties") from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of whatsoever kind or nature in any manner caused in whole or in part, or claimed to be caused in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of the permit holder or anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on one or more of the Indemnified Parties. The obligation to indemnify, defend, and hold

harmless the Indemnified Parties shall be applicable even if the liability results from an act or failure to act on the part of one or more of the Indemnified Parties. However, the obligation does not apply if the liability results from the willful misconduct of an Indemnified Party.

g) **Adverse Impacts on Adjacent Properties**. The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.

h) **General maintenance**. The wireless communications facility and any associated structures shall be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.

i) **Graffiti Removal**. All graffiti on facilities shall be removed at the sole expense of the permit holder within 48 hours after notification from the Village.

j) **Relocation**. At the request of the Village pursuant to Section 10 of this Section, the permit holder shall promptly and at its own expense permanently remove and relocate any wireless telecommunications facility in the right-of-way.

k) **Abandonment**. The permit holder shall promptly notify the Village whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Section 11 of this Section.

l) **Restoration**. A permit holder who removes or relocates a facility from the right-of-way must restore the right-of-way in accordance with Section 12 of this Section.

m) **Record Retention**. The permit holder shall retain full and complete copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the permit or regulatory approval. In the event the Village cannot locate any such full and complete permits or other regulatory approvals in its official records, and the permit holder fails to retain full and complete records in the permit holder's files, any ambiguities or uncertainties that would be resolved through an examination of the missing documents will be conclusively resolved against the permit holder.

n) **Radio Frequency Emissions**. Every wireless facility shall at all times comply with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.

(o) Certificate of Insurance. A certificate of insurance sufficient to demonstrate to the satisfaction of the Planner (with guidance of the Village Attorney) that the applicant has the capability to cover any liability that might arise out of the presence of the facility in the right-of-way. The Applicant shall provide evidence of liability insurance with limits of not less than $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate. Applicant shall provide evidence through a Policy Endorsement that the Village shall be considered an Additional

Insured under the General Liability Policy on a primary and non-contributory basis. An Endorsement shall also be required that provides that the Village shall receive notification of the termination or material modification of the Policy with not less than 30 days' notice except in the event of a termination due to non-payment of premium, in which case the notice shallbe provided not less than 10 days prior to the termination of the Policy. Evidence of such coverage shall be maintained throughout the duration of the permit and the Applicant's use of Village right-of-way.

H. Application Processing and Appeal

(a) **Rejection for Incompleteness**. Notices of incompleteness shall be provided in conformity with state, local, and federal law, including 47 C.F.R. § 1.6003(d), as amended.

(b) **Processing Timeline**. Wireless permit applications (including applications for other permits as provided for under Section 6(b)(7) necessary to place or modify the facility) and appeals will be processed in conformity with the shot clocks set forth in state, local, and federal law, as amended and as specifically identified by the applicant in their application/submittal.

(c) **Written Decision**. In the event that an application is denied (or approved with conditions beyond the standard permit conditions set forth in Section 7(5)), the Planner shall issue a written decision with the reasons therefor, supported by substantial evidence contained in a written record.

(d) **Appeal to Village Board**. Any person adversely affected by the decision of the Planner may appeal that decision to the Village Board which may decide the issues *de novo*, and whose written decision will be the final decision of the Village. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless telecommunications facility.

(e) **Deadline to Appeal**.

(1) Appeals that involve eligible facilities requests must be filed within three business days of the date of the written decision of the Planner.

(2) All other appeals not governed by Section 8(e)(1), above, must be filed within ten business days of the date of the written decision of the Planner, unless the Plannerextends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law.

(f) **Decision Deadline**. All appeals shall be conducted so that a timely written decision may be issued in accordance with the applicable shot clock.

I. Expiration and Revocation

(a) **Expiration**. A wireless permit issued pursuant to an eligible facilities request shall expire at the same time the permit for the underlying existing wireless telecommunications facilityexpires. All other wireless permits shall be valid for a period of five years from the date of issuance. Upon expiration of the wireless permit, the permit holder must either:

(1) Remove the wireless telecommunications facility; or,

(2) Submit an application to renew the permit at least 90 days prior to its expiration. The facility must remain in place until the renewal application is acted on by the Village and any appeals from the Village's decision are exhausted.

(b) **Revocation for Breach**. A wireless permit may be revoked for failure to comply with the conditions of the permit or applicable federal, state, or local laws, rules, or regulations. Upon revocation, the wireless telecommunications facility must be removed within 30 days of receipt of written notice from the Village. All costs incurred by the Village in connection with the revocation, removal, and right-of-way restoration shall be paid by the permit holder.

(c) **Failure to Obtain Permit**. Unless exempted from permitting by Section 3(b) of this Section, a wireless telecommunications facility installed without a wireless permit must be removed within 30 days of receipt of written notice from the Village All costs incurred by the Village in connection with the notice, removal, and right-of-way restoration shall be paid by entities who own or control any part of the wireless telecommunications facility.

J. <u>Relocation</u>

Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate any of its wireless telecommunications facilities in the right-of-way whenever the Village requests such removal and relocation. To the extent practicable, the Village will endeavor to maximize the period of advance notice for relocation to the permit holder. The Village may make such a request to prevent the facility from interfering with a present or future Village use of the right-of-way; a public improvement undertaken by the Village; an economic development project in which the Village has an interest or investment; when the public health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right- of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has been vacated in favor of a non-governmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.

K. Abandonment

(a) **Cessation of Use**. In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the Village and do one of the following:

(1) Provide information satisfactory to the Planner that the permit holder's obligations for its facilities under this Section have been lawfully assumed by another permit holder.

(2) Submit to the Planner a proposal and instruments for dedication of the facilities to the Village. If a permit holder proceeds under this Section 11(a)(2), the Village may, at its option:

(A) Accept the dedication for all or a portion of the facilities;

(B) Require the permit holder, at its own expense, to remove the facilities and perform the required restoration under Section 12; or

(C) Require the permit holder to post a bond or provide payment sufficient to reimburse the Village for reasonably anticipated costs to be incurred in removing the facilities and undertaking restoration under Section 12.

(3) Remove its facilities from the right-of-way within one year of the date the facility went out of use and perform the required restoration underSection 12, unless the Planner waives this requirement or provides a later deadline.

(b) **Abandoned Facilities**. Facilities of a permit holder who fails to comply withSection 11(a) above and which, for one year, remain unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the Village may, at its option:

(1) abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;

(2) take possession of the facilities; and/or

(3) require removal of the facilities by the permit holder or the permit holder's successor in interest.

L. Restoration

In the event that a permit holder removes or is required to remove a wireless telecommunications facility from the right-of-way under this Section (or relocate it pursuant to Section 10), the permit holder must, leave the site in a safe and accessible condition immediately upon such removal and, within 30 days, permanently restore the

right-of-way to its prior condition in accordance with Village specifications. However, a support structure owned by another entity authorized to maintain that support structure in the right-of-way need not be removed but must instead be restored to its prior condition. If the permit holder fails to make the immediate and/or permanent restorationsrequired by this Section 12 (see above), the Village at its option may do such work. In that event, the permit holder shall reimburse the Village, within 30 days of billing therefor, the cost of restoring the right-of-way. In the event circumstances beyond the permit holders control may prevent timely, permanent restoration of the right-of-way, the Village Plannermay, upon written request of the permit holder within 20 days of the facility removal, grant an extension to deadline for permanent restoration.

M. Placement on Village Owned or Controlled Structures

The Village may negotiate agreements for placement of wireless telecommunications facilities on Village owned or controlled structures in the right-of-way. The agreement shall specify, among any other terms the Village may require to be negotiated or specified, the compensation to the Village for use of the structures. The person or entity seeking the agreement shall reimburse the Village for all costs the Village incurred in connection with its review of and action upon the request for an agreement. The Village requires that, upon approval to locate any facilities or equipment upon any Village owned structure in the right-of-way, it shall become that permit holder's responsibility to maintain, repair, replace, remove, reinstall such structure permanently thereafter as needed and at the permit holders sole expense.

N. Severability

If any section, subsection, clause, phrase, or portion of this Section is for any reason held to be illegal or otherwise invalid by any court or administrative agency of competent jurisdiction, such illegal or invalid portion shall be severable and shall not affect or impair any remaining portion of this Section, which shall remain in full force and effect. Any permit(s) issued based on any rules or orders that are later held to be unlawful, may be terminated at the sole discretion of the Village of Big Bend Village Board.

16.26.2 SMALL WIRELESS TELECOMMUNICATION FACILITIES ON PRIVATE PROPERTY. - SPECIFICALLY.

(a) Small wireless facility shall have the meaning as setforth in Section 40.427.1 above.

(b) Small wireless facilities proposed to be located on private property in the Village of Big Bend shall be subject to all of the same requirements as setforth in Section 40.427.2 above except to the extent any such requirement is determined by the Village Planner to be uniquely applicable to the location of the facility in the public right-of-way.

(c) All new small wireless facilities poles or posts and related equipment shall be fabricated using all metal materials and shall be powder coated in a bronze, brown, silver or black matte paint finish. Alternate colors and/or materials, proposed in order to better coordinate with the surrounding views, buildings or environment may be considered/approved by review/action of the Village Planner. To the extent there may be existing, approved poles/equipment on the

private property, such as for lighting and utility services, the new wireless facilities poles, posts and related equipment may, at the discretion of the Village Planner, be required to match the existing not only as to color and finish but also as to style/design.

(d) Height. The height of small wireless facilities on private property shall be regulated as follows:

- Shall not exceed 50 feet in height, or
- Shall not be more than 10 percent taller than other adjacent structures, or
- Shall not be extended to a height of more than 50 feet, or by more than 10 percent above its preexisting height, whichever is greater, as a result of the collocation of new antenna facilities.

16.27 ANNEXATIONS.

All territory annexed to the Village subsequent to the effective date of this chapter shall, except as provided below, be automatically placed in the Agricultural District (A-1) if more than ten (10) acres in size and in the Rural-Density Single Family District (R-1) if ten (10) or less acres in size unless an other District shall be recommended by the Planning Commission at the time of their recommendation about the annexation to the Village Board. Initial zoning of annexed properties shall remain in effect until such time as a rezoning is initiated or petitioned for in accordance with Section 16.45 of this Ordinance, reviewed and recommended by the Plan Commission and adopted by the Village Board.

16.28 ESTABLISHMENT OF OFFICIAL ZONING MAP.

A. DISTRICTS MAPPED.

The Village of Big Bend is hereby divided into zoning districts as shown upon a map designated as the Official Zoning Map of the Village of Big Bend which is made part of this ordinance (including all the notations, references and other information shown thereon) and shall be as much a part of this ordinance as if the matters and information set forth by said map were all fully described herein.

B. MAP CHANGES.

The Official Zoning Map shall be kept current at all times. A zoning district boundary change resulting from amendment to the district boundaries shall be shown on a detailed excerpt map showing the exact area of change which, by reference, shall be a part of the official amendatory ordinance and kept as a supplementary file record to the official map. The Official Zoning Map shall be amended only after Village Board approval.

C. REPLACEMENT OF OFFICIAL ZONING MAP.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Village Board may by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map, may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof.

D. DETERMINATION OF BOUNDARIES.

District boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of such boundary lines, the Plan Commission shall interpret the map according to the reasonable intent of this ordinance.

1) The district boundaries in all districts, except the C-1 Conservancy District shall be construed to follow corporate limits; lot or property lines; centerlines of streets, highways, alleys, easements and railroad rights-of-way and all such lines extended.

2) Boundaries of the C-1 Conservancy District are based on the DNR mapping of all streams, intermittent streams of the Village and the Wisconsin Wetland Inventory Maps for Waukesha County as updated in 2015, and stamped "FINAL" and including but are not limited to all wetlands shown on that map. Boundaries of Conservancy Districts that include wetlands shall be field staked by the Southeastern Wisconsin Regional Planning Commission (SEWRPC), or an otherwise approved delineator authorized by SEWRPC, and placed on a survey map by a registered land surveyor. The Plan Commission shall review and approve the mapping of wetland delineations.

16.29 REGULATIONS MADE APPLICABLE TO EACH DISTRICT.

A. The regulations as set forth in this ordinance are made specifically applicable to eachindividual district as hereinafter set forth and as summarized in the Individual District Regulation Summary.

1) BASIC DISTRICTS. All property in the Village has been placed in one of the individual basic zoning districts created to establish the general pattern of intended land use/development within each district and consistent with the Village of Big Bend's more broadly stated purpose, goals and objectives in general.

16.30 A-1 AGRICULTURAL DISTRICT.

A. PURPOSE. This district is intended to provide for agricultural and related uses (including single family detached residential) in rural areas.

B. PERMITTED USES.

1) Single family residential dwellings.

2) The practice of farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products, and including specifically such similar agricultural pursuits as bee and chicken keeping for instance, in accordance with Chapter 12 of this Ordinance, as well as silviculture, dairy farming, and grazing.

3) Keeping of horses owned/for private use only by the property owner/property occupant at a rate not to exceed 1 horse for the first 3 acres of land and one additional horse for each additional acre thereafter.

C. PERMITTED ACCESSORY USES/STRUCTURES.

1) Machine shed for the maintenance and repair of the farm machinery, equipment and vehicles used on the premises and owned/operated by the farm owner/occupant .

2) Home occupations and professional offices in accordance with Section 16.10(5) of this Ordinance.

3) Accessory structures in accordance with Section 16.14 of this Ordinance.

4) Private nonilluminated outdoor recreation facilities intended for the use/enjoyment of the persons residing on the premises.

5) Roadside stands for the sale of only those products grown or raised on the premises, and only when operated by the resident farmer, and subject to the following:

a) Off-street parking for a minimum of four (4) vehicles shall be provided.

b) No stand shall be permitted in a location where it would create a traffic hazard of nuisance; and where permitted, driveways shall be so located as to minimize possible interference with normal flow of highway traffic.

c) No such stand shall be closer than 30 ft. to the right-of-way line or closer than 20 ft. to any other lot line.

d) A sign advertising the roadside stand is permitted but shall be limited to a single display not exceed 20 sq. ft. in total area, 10 feet in height and setback from the road right-of-way not less than 5 feet. This sign may not be illuminated.

6) Stables, barns, poultry houses, greenhouses, sheds, and similar structures, provided that no building housing domestic livestock, horses, bees, poultry or similar shall be located closer than 75 ft. to any lot line.

D. CONDITIONAL USES (all in accordance with the specific provisions of Sections 16.25 and 16.26 of this Ordinance).

1) Accessory dwelling units-family only.

2) Bed and breakfast establishments,

3) Commercial kennels,

4) Grain drying operations,

5) Fish or bait ponds,

6) Wholesale greenhouses and nursery.

E. AREA REQUIREMENTS.

1) Lot size.

a) Minimum area ten (10) acres.

b) Minimum lot width 250 feet.

2) Building location. *Except as may otherwise be provided for (more or less restrictively) in this Ordinance.

a) Setback – minimum 50 ft.

b) Offset – minimum 20 ft.

3) Building size.

a) Minimum residence living area of 1,600 sq.ft. on the first floor and minimum 1,800 sq. ft. total.

b) Maximum cumulative floor area ratio of all buildings on the site – 10%

4) Building height.

a) Principal structures – 35 ft. maximum building height.

b) Residential accessory structures – 18 ft. maximum building height.

c) Agricultural use building – 60 ft. maximum building height.

16.31 AO – AGRICULTURAL OVERLAY DISTRICT

A. PURPOSE. The OA agricultural overlay district is intended to provide for, maintain, preserve, and enhance agricultural lands. The purpose of this district are to:

1) Protect and encourage the continuation/future resumption of existing farm operations.

2) Minimize conflicts between farm and non-farm uses.

B. PERMITTED USES.

1) Any use permitted by right in the underlying base district.

2) Any use permitted in the A-1 Agricultural District.

C. PERMITTED ACCESSORY USES/STRUCTURES.

1) Any accessory use/structure permitted in the underlying base district.

2) Any accessory use/structure permitted in the A-1 Agricultural District.

D. CONDITIONAL USES.

1) Any conditional use permitted in the underlying base district.

2) Any conditional use permitted in the A-1 Agricultural District.

E. LOT SIZE**.**

1) The minimum lot size shall be not less than ten acres for agricultural uses in the AO district. The minimum lot size for property used only as single family detached residential shall be in accordance with the underlying base district.

F. BUILDING HEIGHT.

1) The height of any new dwelling unit and/or related residential type accessory structures shall be in accordance with the limits of the underlying base district.

2) The height of farm structures shall be in accordance with the limits of the A-1 Zoning District.

G. MINIMUM LOT WIDTH.

1) The minimum lot width shall be not less than 250 feet for agricultural uses on 10 acre + sized lots used in any part for agricultural purposes in the AO district.

2) The minimum lot width for property used exclusively as single family detached residential shall be in accordance with the underlying base district.

H. BUILDING SIZE (RESIDENCES).

1) Parcels smaller than 10 acres, in accordance with the building size requirements of the underlying district.

2) Parcels larger than 10 acres, 1,600 sq.ft. minimum on the first floor and minimum 1,800 sq. ft. total.

3) Maximum cumulative floor area ratio of all buildings on the site shall be 10% for parcels used in any part for agricultural purposes.

I. MINIMUM BUILDING SETBACK AND OFFSET.

1) Setback and offset for any new dwelling unit and/or related residential type accessory structures shall be in accordance with the underlying base district.

2) Setback and offset for agricultural buildings and agriculturally related structures shall be in accordance with the A-1 Zoning District.

16.31.5 S-1 SHORELAND DISTRICT

A. FINDING OF FACT AND PURPOSE

1) This ordinance is adopted pursuant to the authorization in Wis. Stat. sec. 61.35 and 61.353.

2) Uncontrolled use of shorelands and pollution of the navigable waters of the Village of Big Bend would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

a) Promote the public health, safety, convenience and general welfare;

b) Limit certain land use activities detrimental to shorelands; and

c) Preserve shore cover and natural beauty by controlling the location of structures in shoreland areas and restricting the removal of natural shoreland vegetation.

B. COMPLIANCE

The use of shorelands within the shoreland area of the Village shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. All permitted development shall require, first, the issuance of a zoning approval and/or building permit unless otherwise expressly excluded by a provision of this Section.

C. MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if Wis. Stat. sec. 13.48(13) applies.

D. ABROGATION AND GREATER RESTRICTIONS

1) This ordinance supersedes all the provisions of any other applicable Village ordinance except that where another municipal ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

E. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Village of Big Bend

and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes or Wisconsin Constitution.

F. SEVERABILITY

Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

G. APPLICABILITY OF SHORELAND DISTRICT REGULATIONS

1) The Shoreland Zoning District regulations apply only to the following shorelands:

a) A shoreland that was annexed by the Village of Big Bend after May 7, 1982, and that prior to annexation was subject to a county shoreland zoning ordinance under Wis. Stat. sec. 59.692.

H. DISTRICT BOUNDARIES

1) The Shoreland District areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the Village of Big Bend that are:

a) Within 1,000 feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources Surface Water Data viewer available on the DNR website, or are shown on United States Geological Survey quadrangle maps or other zoning base maps.

b) Within 300 feet of the ordinary highwater mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.

Determinations of navigability and ordinary highwater mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Wisconsin Department of Natural Resources for a final determination of navigability or ordinary highwater mark.

c) Pursuant to Wis. Stat. sec. 61.353(7), the Shoreland Zoning District does not include lands adjacent to an artificially constructed drainage ditch, pond, or retention basin if the drainage ditch, pond or retention basin is not hydrologically connected to a natural navigable water body.

I. EFFECT OF EXISTING LAND DIVISION, SANITARY, ZONING AND OTHER REGULATIONS.

The lands within the Shoreland Zoning District are subject to all applicable provisions of the Village of Big Bend Municipal Code. Where the provisions of this ordinance are more restrictive than other regulations in the Municipal Code, the provisions of this ordinance shall apply.

J. SETBACKS FROM THE WATER.

1) Principal Building Setbacks.

a) All principal buildings shall be set back at least 50 feet from the ordinary high-water mark.

b) Adjustment of Shore Yards. A setback less than that required by subsection (10)A.1. may be allowed if all of the following apply:

1. The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building; and

2. The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.

K. VEGETATIVE BUFFER ZONE.

1) Pursuant to Wis. Stat. sec. 61.353(3), a landowner must maintain a vegetative buffer zone, as follows:

a) A person who owns shoreland property that contains vegetation must maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending 35 feet inland from the ordinary high-water mark of the navigable water, except as provided in sub. B.

b) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

2) A person who is required to maintain or establish a vegetative buffer zone under sub. A may remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no greater than 30 feet wide for every 100 feet of shoreline frontage and extends no more than 35 feet inland from the ordinary high-water mark.

L. DEFINITIONS

1) In this Section:

a) "Principal building" means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

b) "Shorelands" has the meaning given in Wis. Stat. sec. 59.692(1)(b).

c) "Shoreland setback area" has the meaning given in Wis. Stat. sec. 59.692(1)(bn).

16.32 C-1 CONSERVANCY DISTRICT.

A. PURPOSE AND INTENT.

The C-1 District, as mapped or intended to be mapped, is intended to preserve, protect, and enhance the streams, intermittent streams, and wetland areas of the Village of Big Bend. If a bonafide infield determination finds that all or a portion of a property within the C-1 District is erroneously mapped, the actual field determined boundaries shall be committed

onto a certified survey map by the owner of the property and, thereafter, shall immediately become the adopted boundaries. The regulation of the C-1 District will serve to maintain and improve water quality, both ground and surface; prevent flood damage; protect wildlife habitat; prohibit the location of structures on soils which are generally not suitable for such use; protect natural watersheds; protect existing natural woodlands; and protect the natural recreational resources of the Village of Big Bend.

B. PERMITTED USES. Sustained yield forestry provided such sustained yield forestry practices will take place on areas larger than five (5) acres in size, and a forest management plan prepared in cooperation with a state forester shall be submitted to and approved by the Village of Big Bend, and if applicable, Waukesha County and the WIDNR, prior to its implementation, grazing, harvesting of any wild crops such as marsh hay, ferns, moss, berries, tree fruits, and tree seeds, hunting and fishing unless prohibited by other Village Ordinances or laws, and non-residential buildings used solely in conjunction with the raising of waterfowl, minnows, and other similar animals or fish.

C. CONDITIONAL USES.

1) Private clubs, such as gun clubs, hunting preserves, outdoor shooting range;
2) Recreational camps and centers;
3) Indoor/outdoor recreational and athletic facilities;
4) Driving ranges, and golf courses…
provided the plan for same shall first be reviewed and approved by the Village of Big Bend, and if applicable, Waukesha County and the WIDNR.

D. ACCESSORY USES. Uses that are customary and incidental to the permitted principal use of the property provided the plan for same shall first be reviewed and approved by the Village of Big Bend, and if applicable, Waukesha County and the WIDNR.

E. PROHIBITED USES. Filling or drainage of wetlands, removal of topsoil or peat, or damming/relocating of any watercourse shall not be permitted except with the approval of the Village of Big Bend, Waukesha County and the WIDNR.

F. AREA REGULATIONS. There are no specific minimum lot size requirements although C-1 zoned lands that lie within a larger parcel or tract of land, the remainder of which is zonedin any other District shall have a minimum lot area equal to at least that which is required inthat non-conservancy district.

G. OFFSETS AND SETBACKS. All structures, site disturbance activity and/or construction activity shall maintain a minimum 10 foot offset and/or setback (more if specifically required by any other provision of this Code) from any C-1 boundary line. A lesser offset/setback, but no less than 5 feet, may be approved by the Planning Commission upon their review/consideration and with the guiding input of the Village Engineer and Village Building Inspector.

16.32.25 <u>Environmental Corridor Overlay District (ECO).</u>

A. PURPOSE AND INTENT. The ECO District, as mapped or intended to be mapped, includes non-wetland/floodplain primary or secondary environmental corridors and isolated natural resource areas as defined herein, and is intended to be used to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding twelve (12) percent, and upland wooded areas, while also affording an opportunity to use these sites for limited impact residential purposes. Where questions arise as to the exact location or boundary of an environmental corridor, the extent and location of such corridors shall be finally determined by infield investigation by the Southeastern Wisconsin Regional Planning Commission (SERWPC) Biologist (or his/her qualified/assured designee). If an in-field determination finds that all or a portion of a property within the ECO District is erroneously mapped, the field determined boundaries shall be committed onto a certified survey map by the owner of the property and shall immediately become the applicable district boundaries.

B. PERMITTED PRINCIPAL USES.

1) Agricultural or farm uses on parcels having a minimum of three (3) acres provided there shall be no more than one head of livestock or twenty (20) poultry for the first three (3) acres of land and there may be one additional head of livestock or twenty (20) additional poultry for each additional one (1) acre of land. Any person using property foragricultural uses under this provision must comply with appropriate/applicable manure disposal practices. This provision includes stables.

2) Grazing, harvesting of any wild crops such as marsh hay, ferns, moss, berries, tree fruits, and tree seeds, hunting and fishing unless prohibited by other Village Ordinances or laws, non-residential buildings used solely in conjunction with the raising of waterfowl, minnows, and other similar animals or fish.

C. PERMITTED ACCESSORY USES. None.

D. CONDITIONAL USES.

1) Private clubs, such as gun clubs, hunting preserves, outdoor shooting range;

2) recreational camps and centers;

3) indoor/outdoor recreational and athletic facilities;

4) Driving ranges and golf courses...

provided the plan for same shall first be reviewed and approved by the Village of Big Bend, and if applicable, Waukesha County and the WIDNR.

E. BUILDING LOCATION.

1) Setback. Fifty (50) feet minimum.

2) Offset. Thirty-five (35) feet minimum.

F. HEIGHT REGULATIONS.

1) Principal Building.

a) The maximum height of a residential structure shall not exceed thirty five (35) feet measured from the average finished grade at the front building line to the highest point on the roof line.

2) Accessory Building.

a) Farm. Sixty (60) feet maximum.

b) Other. Eighteen (18) feet maximum.

G. AREA REGULATIONS.

1) Floor Area.

a) Minimum required.

1. First floor. Nine hundred (900) square feet.

2. Total. Fifteen hundred (1,500) square feet.

b) Floor Area Ratio. Maximum Fifteen (15) percent.

H. LOT SIZE.

1) Lot size requirements in the ECO District shall be as follows:

a) Minimum area. The overall density of lots lying entirely within the ECO District shall be one dwelling unit per five acres of corridor, with no lot being less than two (2) acres in size. For lots which lie partially within and partially outside of the ECO District, if the lot size of the adjoining Districts would permit a minimum lot size of less than five (5) acres, the five-acre density requirement shall not apply and the lot can be the size permitted in the adjacent District, as long as any land altering activityand/or building envelopes are located outside of the ECO District and appropriately restricted as such on the face of the certified survey map, subdivision plat or other deed restrictions subject to the review and written approval of the Village Board andrecorded with the Waukesha County Register of Deeds Office.

I. LOT WIDTH.

1) Lot width requirements in the ECO District shall be as follows:

a) Less than five (5) acre lot: Minimum average width, one hundred seventy-five (175) feet.

b) Five (5) acre lot or more: Minimum average width, three hundred (300) feet.

J. PRESERVATION OF OPEN SPACE.

1) Requirements for the preservation of open space in the ECO District shall be as follows:

a) For lots lying entirely within an ECO District, regardless of lot size, no open space regulations shall apply. However, all land altering activities and vegetative removal including building sites and driveways (area of disturbance) shall be no more than fifteen (15) percent of five (5) acres (32,670 square feet) in the ECO District.

b) For lots which lie partially within and partially outside of the ECO District, the area of disturbances shall be limited to the area outside of the ECO District, excluding any means required to access the area outside of the ECO District (i.e. driveway access), unless otherwise expressly permitted by a building envelope shown on the certified survey map, subdivision plat or other deed restriction that has been

approved, in writing, by the Village Board, upon recommendation of the Plan Commission and recorded with the Waukesha County Register of Deeds Office.

16.32.5 FLOODPLAIN ORDINANCE

A. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS.

1) STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for village and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87,30, Stats.

2) FINDING OF FACT. Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

3) STATEMENT OF PURPOSE. This ordinance is intended to regulate floodplain development to:

a) Protect life, health and property;

b) Minimize expenditures of public funds for flood control projects;

c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;

d) Minimize business interruptions and other economic disruptions;

e) Minimize damage to public facilities in the floodplain;

f) Minimize the occurrence of future flood blight areas in the floodplain;

g) Discourage the victimization of unwary land and homebuyers;

h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside the floodplain.

4) This ordinance shall be known as the Floodplain Zoning Ordinance of the Village of Big Bend, Wisconsin

5) GENERAL PROVISIONS

a) AREAS TO BE REGULATED. This ordinance regulates all areas that would be covered by the regional flood or bases flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones,Regional Flood Elevations (RFE) may be derived from other studies, If more than one map or revision is reference the most restrictive information shall apply.

b) OFFICIAL MAPS & REVISIONS. The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below, any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of MAP Change process (see s. 8.0 Amendments) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk,

Village of Big Bend. If more than one map or revision is referenced the most restrictive information shall apply.

1. OFFICIAL MAPS: Based on the FIS:

a. Flood Insurance Rate Map (FIRM), affecting panel numbers 55133C0336G, 55133C0338G, 55133C0339G, and 55133C0452G, dated November 5, 2014; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated 55133CV001C, 55133CV002C, and 55133CV003C dated November 5, 2014.

6) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS. The regional flood plain areas are divided into three districts as follows:

a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.

b) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and siplayed as AE Zones on the FIRM.

c) The General Floodplain District (GFP) is those area that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

7) LOCATING FLOODPLAIN BOUNDARIES. Discrepancies between boundaries o the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 amendments. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and

(b) below. Where the flood profiles are based on established base flood elevations froma FIRM, FEMA must approve any map amendment or revision pursuant to s. 8.0 Amendments.

a) If flood profiles exist, the map scale and profile elevations shall determine thedistrict boundary. The regional or base flood elevations shall govern if there are any discrepancies.

b) Where flood profiles do not exist for projects, and location of the boundary shall be determined by the map scale

8) REMOVAL OF LANDS FROM FLOODPLAIN. Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0 Amendments.

9) COMPLIANCE. Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state,and federal regulations.

10) MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance an obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges aby the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

11) ABROGATION AND GREATER RESTRICTIONS.

a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.592 or 59.694 for counties, s. 562.23 for cities; s.61.35 for villages; or s. 87.30 Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions but not otherwise.

b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of the ordinance shall prevail.

12) INTERPRETATION. In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the WisconsinStatutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect of the date of the most recent text amendment to this ordinance.

13) WARNING AND DISCLAIMER OF LIABILITY. The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur of the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on thepart of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance of the ordinance.

14) SEVERABILITY. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

15) ANNEXED AREAS FOR CITIES AND VILLAGES. The Waukesha County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis, Adm., Code and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the Village Clerk. All plates or maps of annexation shall show the regional flood elevation and floodway location.

B. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS. The Community shall review all permit applications to determine whether proposed building site will be

reasonable safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 7.1(2). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminated flood damages.

1) HYDRAULIC AND HYDROLOGIC ANALYSES.
   a) No floodplain development shall:
      1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
      2. Cause any increase in the regional flood height due to floodplain storage area lost.
   b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height based on the officially adopted FIRM or other adopted map, unless the provisions of s, 8.0 Amendments are met.

2) WATERCOURSE ALTERATIONS. No land use permit to alter or relocate a watercourse ina mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 2.1 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

   As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 8.0 Amendments, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through LOMC process.

3) CHAPTER 30, 31, WIS. STATS, DEVELOPMENT. Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made accordingto s. 8.0 Amendments.

4) PUBLIC OR PRIVATE CAMPGROUNDS. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

a) The campground is approved by the Department of Health Services.

b) A land use permit for the campground is issued by the zoning administrator.

c) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants.

d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.

e) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated – by the officials identified in sub, (4) – to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations.

f) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

g) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.

h) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;

i) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

j) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0, 4.0, or 5.0 for the floodplain district in which the structure is located;

k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

l) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage, systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation~~,~~.

C. FLOODWAY DISTRICT (FW)

1) APPLICABILITY. This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s.5.4.

2) PERMITTED USES. The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

a) They are not prohibited by any other ordinance;

b) They meet the standards in s. 3.3 and 3,4; and

c) All permits or certificates have been issued according to s.7.1.

1. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

2. Nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips.

3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s.3.3(4).

4. Uses or structures accessory to open space uses, or classified as historic structures that comply with ss.3.3 and 3.4.

5. Extraction of sand, gravel or other materials that comply with s.3.3(4).

6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmissionlines, and pipelines that comply with chs. 30 and 31, Stats.

7. Public utilities, streets and bridges that comply with s.3.3(3).

3) STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY.

a) GENERAL

1. Any development in the floodway shall comply with s.2.0 and have a low flood damage potential.

2. Applicants shall provide the following data to determine the effects of the proposal according to s.2.1 and 7.1(2)(c):

a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

b. An analysis calculating the effects of this proposal on regional fold height.

c. The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (2) above.

b) STRUCTURES. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the flowing criteria:

1. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage.

2. Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade, The openings shall be equipped with screens,, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. Must be anchored to resist flotation, collapse, and lateral movement;

4. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and

5. It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

c) PUBLIC UTILITIES, STREETS, AND BRIDGES. Public utilities, streets and bridges may be allowed by permit, if:

1. Adequate floodproofing measures are provided to the flood protection elevations; and

2. Construction meets the development standards of s.21.

d) FILLS OR DEPOSITION OF MATERIALS. Fills or deposition of materials may be allowed by permit, if:

1. The requirements of s.2.1 are met;

2. No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s.404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met.

3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

4. The fill is not classified as a solid or hazardous material.

e) PROHIBITED USES All uses not listed as permitted uses in s.3.2 are prohibited, including the following uses:

1. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

2. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life.

3. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

4. Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;

5. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinance and chs. NR 811and NR 812, Wis. Adm. Code;

6. Any solid or hazardous waste disposal sites;

7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 100.15(3)(b), Wis. Adm. Code; and

8. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

D. FLOODFRINGE DISTRICT (FF)

1) APPLICABILITY. This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.4.

2) PERMITTED USES. Any structure, land use, or development is allowed in the Floodfringe District if the standards in s.4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s.7.1 have beenissued.

3) STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE. S.2.1 shall apply in additionto the following requirements according to the use requested. Any existing structure inthe floodfringe must meet the requirements of s.6.0 nonconforming Uses;

a) RESIDENTIAL USES. Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of s.6.0 Nonconfoming Uses;

1. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s 4.3(1)(b) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.

2. The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided subd (4).

4. In developments where existing street or sewer line elevations make compliance with subd. (3) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevations, if:

a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

b. The municipality has a DNR-approved emergency evacuation plan.

b) ACCESSORY STRUCTURES OR USES. Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

c) COMMERCIAL USES. Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

d) MANUFACTURING AND INDUSTRIAL USES. Any commercial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s.7.5. Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

e) STORAGE OF MATERIALS. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s.7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

f) PUBLIC UTILITIES, STREETS AND BRIDGES. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

1. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s.7.5,

2. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to with stand flood forces to the regional flood elevation.

g) SEWAGE SYSTEMS. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 7.5(3), to the flood protection elevation and meet the provisions of all local ordinances and ch., SPS 383, Wis. Adm. Code.

h) WELLS. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s, 7.5(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

i) SOLID WASTE DISPOSAL SITES. Disposal of solid or hazardous waste is prohibited in floodfringe areas.

j) DEPOSITION OF MATERIALS. Any deposited material must meet all the provisions of this ordinance.

k) MANUFACTURED HOMES.

1. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access andescape routes, with local emergency management authorities.

2. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

a. have the lowest floor elevated to the flood protection elevation; and

b. be anchored so they do not float, collapse or move laterally during a flood

c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s.4.3(1).

l) MOBILE RECREATIONAL VEHICLES. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall met the elevation and anchoring requirements in s. 4.3(11)(b) and (c). Amobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

E. GENERAL FLOODPLAIN DISTRICT (GFP)

1) APPLICABILITY. The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

2) PERMITTED USES. Pursuant to s.5.4 it shall be determined whether the proposed use is located within the floodway or floodfringe.

a) Those uses permitted in the Floodway (s.3.2) and Floodfringe (s.4.2) Districts are allowed within the General Floodplain District, according to the standards of s.5.3 provided that all permits or certificates required under s.7.1 have been issued.

3) STANDARDS FOR DEVELOPMENT IN GENERAL FLOODPLAIN DISTRICT. S. 3.0 applies to floodway areas, s.4.0 applies to floodfringe areas. The rest of this ordinance applies to either district.

a) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

1. at or above the flood protection elevation; or

2. two (2) feet above the highest adjacent grade around the structure; or

3. the depth as shown on the FIRM

4) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS. Upon receiving an application for development within the general floodplain district, the zoning administrator shall.

a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.

b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.

1. A hydrologic and Hydraulic Study as specified in s. 7.1(2)(c).

2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.

3. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

5) NONCONFORMING USES.

a) GENERAL

1. APPLICABILITY. If these standards conform with s,. 59,69(10), Stats., for counties or s, 62.23(7)(h), Stats., for cities and village, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions.

a. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alternation, addition

modification structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use, Maintenance is not considered a modification this includes painting decorating paneling and other nonstructural components and the maintenance repair or replacement of existing private sewage or water supply systems or connections to public utilities, Any costs associated with the repair of a damaged structure are not considered maintenance. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of thestructure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

b. If an nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property and any structure or building thereon, shall conform to the applicable requirements of this ordinance;

c. The municipality shall keep a record which lists all nonconforming uses and nonconforming structure's total current value those modifications represent;

d. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowedunless the entire structure is permanently changed to a conforming structurewith a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisionsof this paragraph;

e. No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1).

f. If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1).

g. Except as provided in subd. (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and structure

meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

h. For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

b) RESIDENTIAL STRUCTURES

1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 7.5(2).

2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

3. Shall be constructed with electrical, heating, ventilation plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.

5. In AO Zones with no elevations specified, shall have the lowest floor, including basements, meet the standards in s 5.3(1)

6. In AO Zones shall have adequate drainage paths around structures on slopes to guide floodwaters around and away for structure.

c) NONRESIDENTIAL STRUCTURES

1. Shall meet the requirements of s. 6.1(2)(h)1a-f.

2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s, 7.5(1) or (2).

3. In AO Zones with no elevations specified shall have the lowest floor, including basement, meet the standards in s.5.3(1).

d) A NONCONFORMING HISTORIC STRUCTURE may by altered if the alteration will not preclude the structure's continued designation as a historic structure and alteration will comply with s, 3.3(1), flood resistant materials are used, and construction practices and flood proofing methods that comply with s,. 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1(2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

F. FLOODWAY DISTRICT.

1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

a) Has been granted a permit or variance which meets all ordinance requirements;

b) Meets the requirements of s. 6.1;

c) Shall not increase the obstruction to flood flows or regional flood height;

d) Any addition to the existing structure shall be floodproofed, pursuant to s.7.5, by means other than the use of fill, to the flood protection elevation; and

e) If any part of the foundation below the flood protection elevation is enclosed the flowing standards shall apply.

1. The enclosed area shall be designed by a registered architect or engineer toallow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

4. The use must be limited to parking, building access or limited storage.

2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency tocorrect a hazard to public health, shall be allowed in the Floodway District, Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and ch. SPS 383m Wis. Adm. Code.

3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and chs, NR 811 and NR 812, Wis. Adm. Code.

G. FLOODFRINGE DISTRICT.

1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of s, 4.3 except where s. 6.3(2) is applicable.

2) Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential the Board of Adjustment/Appeals, using the procedures established in s,. 7.3, may grant a variance from those provisions of subd, (1) for modifications or additions using the criteria listed below. Modifications or additions

which are protected to elevations lower than the flood protection elevation may be permitted if:

a) No floor is allowed below the regional flood elevation for residential or commercial structures;

b) Human lives are not endangered;

c) Public facilities, such as water or sewer, shall not be installed;

d) Flood depths shall not exceed two feet;

e) Flood velocities shall not exceed two feet per second; and

f) The structure shall not be used for storage of materials as described in s, 4.3(5).

3) All new private sewage disposal systems, or addition to replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, 7.5(3) and ch. SPS 383m Wis.. Adm. Code.

4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance s. 7.5(3) and ch. NR 811 and NR 812, Wis, Adm. Code.

H. ADMINISTRATION. Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

I. ZONING ADMINISTRATOR.

1) DUTIES AND POWERS. The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on a permit applications.

b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.

c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

d) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;

2. Documentation of certified lowest floor and regional flood elevations;

3. Floodproofing certificates.

4. Water surface profiles, floodplain

5. All substantial damage assessment reports for floodplain structures.

6. List of nonconforming structures and uses.

e) Submit copies of the following items to the Department Regional office;

1. Within 10 days of the decision a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

2. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.

3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

1. Submit copies of amendments to the FEMA Regional office.

J. LAND USE PERMIT. A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated, Application to the zoning administrator shall include:

K. GENERAL INFORMATION

1) Name and address of the applicant, property owner and contractor;

2) Legal description, proposed use, and whether it is new construction or a modification;

L. SITE DEVELOPMENT PLAN. A site plan drawn to scale shall be submitted with the permit application form and shall contain;

1) Location, dimensions, area and elevation of the lot;

2) Location of the ordinary highwater mark of any abutting navigable waterways.

3) Location of any structures with distances measured from the lot lines and street center lines.

4) Location of any existing or prosed on-site sewage systems or private water supply system;

5) Location and elevation of existing or future assess roads;

6) Location of floodplain and floodway limits as determined from the official floodplain zoning maps.

7) The elevation of the lowest floor of proposed buildings and any fill using the vertical Datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

8) Data sufficient to determine the regional flood elevation in NGVD or NAVD at thelocation of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and

9) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s, 3.3(1).

M. HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

1) Zone A floodplains:

a) Hydrology

1. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis; Determination of Regional Flood Discharge.

b) Hydraulic modeling, The regional flood elevation shall be based on the standards in ch, NR 116.07(4), Wis. Admin, Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:

1. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
2. Channel sections must be surveyed.
3. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
4. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
5. The most current version of HEC_RAS shall be used.
6. A survey of bridge and culvert openings and the top of road is required at each structure.
7. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
8. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
9. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in-to existing studies, The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet,

c) Mapping. A work map of the reach studied shall be provided showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

1. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
2. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must be added to the base model to show the difference between existing and proposed conditions,. The study must ensure that all coefficients remain the same as in existing model, unless adequate justification based on standard accepted engineering practices is provided.

2) Zone AE Floodplains

a) Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis; Determination of Regional Flood Discharge.

b) Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, hydraulic Analysis: Determination of Regional Flood Elevation and following:

1. Duplicated Effective Model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate this FIS profiles and the elevations shown in the Floodway Data Table in FIS report to within 0.1 foot.

2. Corrected Effective Model. The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.

3. Existing (Pre-Project Conditions) Model. The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project Model or to establish more up-to-date models on which the base the Revised (Post-Project) Model.

4. Revised (Post-Project Conditions) Model. The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

5. All change to the Duplicate Effective Model and subsequent models must be supported by certified topographic information bridge plans construction plans and survey notes.

6. Change to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models. Upstream and downstream of the revised reach as required. The Effective Model shall no be truncated.

c) Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

1. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

2. Certified topographic map of suitable scale, contour interval and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

3. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

4. If an annotated FIRM and/or FBFM and digital mapping data (GI or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plan Coordinate System in accordance with FEMA mapping specifications.

5. The revised floodplain boundaries shall tie into the effective floodplain boundaries.

6. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

7. Both the current and proposed floodways shall be shown on the map,

8. The stream centerline, or profile baseline used to measure stream distance in the model shall be visible on the map.

3) EXPIRATION. All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

4) CERTIFICATE OF COMPLIANCE. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance.

b) Application of such certificate shall be concurrent with the application for a permit;

c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed.

d) The applicant shall submit a certification signed by a registered professional engineer architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 7.5 are met.

5) OTHER PERMITS. Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S,. Army Corps of Engineers under s, 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

N. ZONING AGENCY

1) The Village Plan Commission shall:

a) Oversee the functions of the office of the zoning administrator; and

b) Review and advise the governing body on all proposed amendments to this ordinance, maps and text.

2) The Village Plan Commission shall not:

a) Grant variance to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or

b) Amend the text or zoning maps in place of official action by the governing body.

O. BOARD OF ADJUSTMENT/APPEALS. The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

1) POWER AND DUTIES. The Board of Adjustment/Appeals shall:

a) Appeals-Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

b) Boundary Disputes-hearing and decide disputes concerning the district boundaries shown on the official floodplain zoning map: and

c) Variances-Hear and decide, upon appeal, variances from the ordinance standards.

2) APPEALS TO THE BOARD

a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by an decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless other wise provided by the rules of the board, by filing with official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice – The board shall:

a. Fix a reasonable time for the hearing,

b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and

2. Hearing-Any party may appear in person or by agent. The board shall:

a. Resolve boundary disputes according to s. 7.3(3);

b. Decide variance applications according to s. 7.3(4); and

c. Decide appeals of permit denials according to s.7.4

3) DECISION: The final decision regarding the appeal or variance application shall:

a) Be made within a reasonable time.

b) Be sent to the Department Regional office within 10 days of the decision;

c) Be a written determination signed by the chairman or secretary of the Board;

d) State the specific facts which are the basis for the Board's decision;

e) Either affirm, reverse, vary or modify the order, requirement , decision or determination appealed in whole or in part dismiss the appeal for the lack of jurisdiction or grant or deny the variance application; and

f) Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings,

4) BOUNDARY DISPUTES. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;

b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board, and;

c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s 8.0 amendments.

5) VARIANCE

a) The board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance will cause unnecessary hardship;

2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

3. The variance is not contrary to the public interest; and

4. The variance is consistent with the purpose of this ordinance in s.1.3.

b) In addition to the criteria in subd. a, to qualify for a variance under FEMA regulations, the following criteria must be met.

1. The variance shall not cause any increase in the regional flood elevation;

2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and

3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

4. A variance shall not:

a. Grant, extend or increase any use prohibited in the zoning district;

b. Be granted for a hardship based solely on an economic gain or loss;

c. Be granted for a hardship which is self-created.

d. Damage the rights or property values of other persons in the area;

e. Allow actions without the amendments to this ordinance or map(s) required in s. 8.0 Amendments; and

f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

g. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to $25.00 per $100.00 coverage. A copy shall be maintained with the variance record.

6) TO REVIEW APPEALS OF PERMIT DENIALS

a) The Zoning Agency (s.7.2) or Board shall review all data related to the appeal. This may include:

1. Permit application data listed in s.7.1(2);

2. Floodway/floodfringe determination data in s.5.4;

3. Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator; and

4. Other data submitted with the application, or submitted to the Board with the appeal.

b) For appeals of all denied permits the Board shall:

1. Follow the procedures of s.7.3;

2. Consider zoning agency recommendations; and

3. Either uphold the denial or grant the appeal.

c) For appeals concerning increases in regional flood elevation the Board shall:

1. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the fold profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s.8.0 Amendments; and

2. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

P. FLOODPROOFING STANDARDS FOR NONCOMFORMING STRUCTURES OR USES.

1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

a) Certified by a registered professional engineer or architect; or

b) Meets or exceeds the flowing standards:

1. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. the bottom of all openings shall be no higher than one foot above grade; and

3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3) Floodproofing measures shall be designed, as appropriate, to:

a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

b) Protect structures to the flood protection elevation;

c) Anchor structures to foundations to resist flotation and lateral movement;

d) Minimize or eliminate infiltration of flood waters; and

e) Minimize or eliminate discharges into flood waters.

Q. PUBLIC INFORMATION

1) Place marks on structures to show the depth of inundation during the regional flood.

2) All maps, engineering data and regulations shall be available and widely distributed.

3) Real estate transfers should show what floodplain district any real property is in.

R. AMENDMENTS. Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s.8.1.

1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s.8.1. Any such alterations must be reviewed and approved by FEMA and the DNR.

2) In A Zones increases equal to or greater than 1.0 foot may only be permitted in the applicant receives a Conditional Letter of Map Revisions form FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s.8.1.

S. GENERAL. The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s.8.2 below. Actions which require an amendment to the ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

3) Any changes to any other officially adopted floodplain maps listed in 1.5(2)(b);

4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;

5) Correction of discrepancies between the water surface profiles and floodplain maps;

6) Any upgrade to a floodplain zoning ordinance text required by s.NR 116.05, Wis. Adm. Code, or otherwise required by law, or for the changes by the municipality; and

7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

T. PROCEDURES. Ordinance amendments may be made upon petition of any party according to the provisions of s.62.23, Stats., for cities and villages, or 59.69, Stats., for counties. The petitions shall include all data required by ss.5.4 and 7.1(2). The land Use Permit shall not be issued until a Letter of Map Revisions issued by FEMA for the proposed changes.

1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s.62.23, Stats., for cities and villages or s.59.69, Stats., for counties.

2) No amendments shall become effective until reviewed and approved by the Department.

3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal

arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

U. ENFORCEMENT AND PENALTIES. Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than $10.00 (end dollars) and not more than $250.00 (Two hundred fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s.87.30, Stats.

V. DEFINITIONS. Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The work "may" is permissive, "shall" is mandatory and is not discretionary.

1) A ZONES- Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

2) AH ZONE-See "AREA OF SHALLOW FLOODING"

3) AO ZONE- See 'AREA OF SHALLOW FLOODING"

4) 4ACCESSORY STRUCTURE OR USE- A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

5) ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

6) AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual change of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

7) BASE FLOOD – Means the flood having a one percent change of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

8) BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

9) BUILDING – See STRUCTURE.

10) BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s.30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

11) CAMPGROUNDS – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

12) CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck, or tent that is fully licensed, if required, and ready for highway use.

13) CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

14) CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

15) CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a building generally less than five feet in height, used for access to plumbing and electrical utilities.

16) DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

17) DEPARTMENT – The Wisconsin Department of Natural Resources.

18) DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings. Structures or accessory structures; the construction of addition or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and installation, repair or removal of public or private sewage disposal systems or water supply facilities.

19) DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

20) ENCROACHMENT – Any fill, structure, use or development in the floodway.

21) FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.

22) FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency,

23) FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions: The overflow or rise of inland waters; The rapid accumulation of runoff of surface waters from any source The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or The sudden increase caused by an unusually high water level in a natural body of water,

accompanied by a severe storm, or by an unanticipated force of nature, such as aseiche, or by some similarly unusual event.

24) FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

25) FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

26) FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

27) FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rage Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.

28) FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe., and may include other designated floodplain areas for regulatory purposes.

29) FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

30) FLOODPLAIN MANAGEMENT – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

31) FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

32) FLOODPROOFING - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of building subject to flooding, for the purpose of reducing or eliminating flood damage.

33) FLOOD PROTECTION ELEVATION - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD)

34) FLOOD PROTECTION ELEVATION – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

35) FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

36) FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factor that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action,

obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

37) HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.

38) HEARING NOTICE – Publication or posting meeting the requirements of Ch.985, Stats. for appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice,published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

39) HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from the flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

40) HIGH ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

41) HISTORIC STRUCTURE – Any structure that is either:

a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or Individually listed on a local inventory of historic places in communities with historic preservation programs that have beencertified either by a approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

42) INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

43) LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

44) LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

45) LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, unable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3

46) MAINTENANCE – The act or process of restoring to original soundness, including redecorating, refinishing, non- structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

47) MANUFACTURED HOME – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle".

48) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

49) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. A minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

50) MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring if concrete pads.

51) MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use apermanent dwelling, but as temporary living quarters for recreational, camping, travelor seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of ":mobile recreational vehicles"

52) MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information that the used in the current effective model.

53) MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

54) MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

55) MODEL, EXISTING (PRE-PROJECT) – A modification of Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

56) MODEL, REVISED (POST-PROJECT) – a MODIFICATION OF THE Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective model to reflect revised or post-project conditions.

57) MUNICIPALITY or MUNICIPAL – The country, city or village governmental unites enacting, administering and enforcing the zoning ordinance.

58) NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustments.

59) NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.

60) NEW CONSTRUCTION – For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining floodinsurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974,whichever is later, and includes any subsequent improvements to such structures.

61) NONCONFORMING STRUCTURE- an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of the ordinance for the area of the floodplain which it occupies. (for example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower thanthe flood protection elevation, the structure is nonconforming.)

62) NONCONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (such as a residence in the floodway).

63) OBSTRUCTION TO FLOW – An7 development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

64) OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s.1.5(2), which has been approved by the Department and FEMA.

65) OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.

66) ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark suchas by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

67) PERSON – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

68) PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

69) PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

70) REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

71) REGIONAL FLOOD – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

72) START OF CONSTRUCTION – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring for slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessorybuildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alterations, the actual part of the building, whether or not that alteration affects the external dimensions of the building.

73) STRUCTURE – Any manmade object with form shape and utility, either permanently or temporarily attached to, place upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

74) SUBDIVISION – Has the meaning given in s. 236.02(12). Wis. Stats.

75) SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

76) SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, and repairs are considered substantial improvement regardless of the work preformed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the buildingofficial and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

77) UNNECESSARY HARDSHIP – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing area, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light to the purposes of the ordinance.

78) VARIANCE – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

79) VIOLATION – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

80) WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.

81) WATER SURFACE PROFILE – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

82) WELL – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

16.34 R-1 RESIDENTIAL DISTRICT – RURAL DENSITY SINGLE FAMILY.

A. PURPOSE. This district is intended to provide for single family detached residential development of a semi-rural nature on a large lot, low density basis.

B. PERMITTED USES.

1) Single-family residential dwellings.

C. PERMITTED ACCESSORY USES/STRUCTURES.

1) Home occupations and professional offices in accordance with Section 16.10(5) of this Ordinance.

2) Accessory structures in accordance with Section 16.14 of this Ordinance.

3) Private non-illuminated outdoor recreation facilities intended for the use/enjoyment of the persons residing on the premises.

D. CONDITIONAL USES.

1) Accessory dwelling units-family only.

E. AREA REQUIREMENTS

1) Lot Size

a) Minimum area of 2 acres

b) Minimum lot width of 200 ft.

2) Density

a) Maximum of one dwelling unit per 2 acres

3) Open space

a) 60,000 sq. ft. per dwelling unit minimum

4) Building Location
   a) Setback minimum of 35 ft.
   b) Offsets – minimum of 20 ft. from side and rear lot lines
5) Building Size
   a) Minimum living area of 1,600 sq. ft. first floor and a total minimum living area of 1,800 sq. ft.
6) Maximum floor area ratio of 25%
7) Building Height
   a) Principal structure – 35 ft. maximum building height
   b) Accessory structure – 18 ft. maximum building height

16.35 R-2 RESIDENTIAL DISTRICT – LOW DENSITY SINGLE FAMILY.

A. PURPOSE. This district is intended to provide for detached single family residential development of semi-rural nature, but at slightly higher density and permitting slightly smaller houses than the R-1 District.

B. PERMITTED USES.
1) Single-family residential dwellings.

C. PERMITTED ACCESSORY USES/STRUCTURES.
1) Home occupations and professional offices in accordance with Section 16.10(5) of this Ordinance.
2) Accessory structures in accordance with Section 16.14 of this Ordinance.
3) Private nonilluminated outdoor recreation facilities intended for the use/enjoyment of the persons residing on the premises.

D. CONDITIONAL USES.
1) Accessory dwelling units-family only.

E. AREA REQUIREMENTS.
1) Lot size
   a) Minimum area of one (1) acre
   b) Minimum lot width of 150 ft.
2) Density
   a) Maximum of 1 dwelling unit per acre
3) Open Space
   a) Minimum open space of 30,000 sq. ft. per dwelling unit.
4) Building Location
   a) Setback minimum of 35 ft.
   b) Offsets – minimum of 20 ft. from side and rear lot lines.
5) Building Size

a) Minimum living area of 1,200 sq. ft. first floor and a total minimum living area of 1,600 sq. ft.

6) Maximum floor area ratio of 25%.

7) Building Height

a) Principal structure-35 ft. maximum building height.

b) Accessory structure-18 ft. maximum building height.

16.36 R-3 RESIDENTIAL DISTRICT – MEDIUM DENSITY SINGLE FAMILY.

A. PURPOSE. This district is intended to provide for detached single family residential development of slightly higher density and permitting smaller lots than the R-2 District.

B. PERMITTED USES.

1) Single-family dwellings.

C. PERMITTED ACCESSORY USES/STRUCTURES.

1) Home occupations and professional offices in accordance with Section 16.10(5) of this Ordinance.

2) Accessory structures in accordance with Section 16.14 of this Ordinance.

3) Private non-illuminated outdoor recreation facilities intended for the use/enjoyment of the persons residing on the premises.

D. CONDITIONAL USES.

1) Accessory dwelling units-family only.

E. AREA REQUIREMENTS.

1) Lot size.

a) Minimum area of 20,000 sq. ft.

b) Minimum lot width of 120 ft.

2) Density

a) Maximum of one dwelling unit per 20,000 sq. ft.

3) Open space

a) Minimum of 12,000 sq. ft. per dwelling unit.

4) Building location

a) Setback minimum of 35 ft.

b) Offsets minimum of 20 ft. from side and rear lot lines.

5) Building size.

a) Minimum living area of 1,200 sq. ft. first floor and a total minimum living area of 1,600 sq. ft.

6) Maximum floor area ratio of 25%.

7) Building height.

a) Principal structure-35 ft. maximum building height.

b) Accessory structure-18 ft. maximum building height.

16.36.75 R-P RESIDENTIAL PLEX DISTRICT

A. PURPOSE. This attached plex residential district is intended to provide for low/medium density attached residential development.

B. PERMITTED USES/STRUCTURES.

1) All permitted uses/structures located in the R-P District are required to secure the approval of the Planning Commission as to a "Building, Site & Operating Plan".

2) Buildings containing 2 to 4 residential dwelling units per each building and provided no less than 2 attached, enclosed parking stalls plus 1 paved, unenclosed parking spaces shall be provided for each dwelling unit.

C. PERMITTED ACCESSORY USES.

1) Accessory structures in accordance with Section 16.14 of this Ordinance.

2) Private non-illuminated outdoor recreation facilities intended for the use/enjoyment of the persons residing on the premises.

D. CONDITIONAL USES.

1) Home occupations and professional offices in accordance with Section 16.10(5) of this Ordinance.

E. AREA REQUIREMENTS.

1) Lot size.
- **a)** Minimum area of at least 15,000 square feet per dwelling unit.
- **b)** Minimum lot width of 200 ft.

2) Density
- **a)** Maximum of one (1) dwelling unit per 15,000 sq. ft..*
- **b)** Maximum of one (1) plex residential building per lot.

3) Open Space
- **a)** Minimum of 20,000 sq. ft. per building.

4) Building Location
- **a)** Setback minimum of 35 ft.
- **b)** Offsets minimum of 20 ft. from side and rear lot lines.

5) Building Size
- **a)** Minimum living area of 1,000 sq. ft. / dwelling unit.

6) Maximum floor area ratio 25%.

7) Building height.
- **a)** Principal structure-35 ft. maximum building height.
- **b)** Accessory structure-18 ft. maximum building height.

* Applicant shall provide the Planning Commission with satisfactory evidence that onsite sanitary waste disposal and potable water systems sufficient to serve the proposed unit count can be properly placed on the lot in accordance with all applicable codes/rules.

16.36.80 R-M RESIDENTIAL MULTI-FAMILY DISTRICT

A. PURPOSE. This multi-family residential district is intended to provide for medium/high density attached residential development.

B. PERMITTED USES.

1) All permitted uses/structures located in the R-M District are required to secure the recommendation of the Planning Commission and approval of the Village Board of a "Building, Site & Operating Plan" prior to the start of any construction and/or occupancy.

2) Buildings containing up to 16 residential dwelling units per each building and provided no less than 2 attached, enclosed parking stalls and 1.25 paved, unenclosed parking spaces shall be provided for each dwelling unit.

C. PERMITTED ACCESSORY USES/STRUCTURES.

1) Accessory structures in accordance with Section 16.14 of this Ordinance.

2) Private non-illuminated outdoor recreation facilities intended for the use/enjoyment of the persons residing on the premises.

D. CONDITIONAL USES.

1) All conditional uses/structures located in the R-M District are required to secure the recommendation of the Planning Commission and approval of the Village Board of a "Building, Site & Operating Plan" prior to the start of any construction and/or occupancy.

2) Home occupations and professional offices in accordance with Section 16.10(5) of this Ordinance.

E. AREA REQUIREMENTS.

1) Lot size.
- **a)** Minimum area of one (1) acre *
- **b)** Minimum lot width of 200 ft.

2) Density
- **a)** Maximum of one (1) dwelling unit per 10,000 sq. ft. *

3) Minimum open space of 15,000 sq. ft. per building.

4) Building location
- **a)** Setback minimum of 35 ft.
- **b)** Offsets minimum of 20 ft. from side and rear lot lines.

5) Building Size
- **a)** Minimum living area of 900 sq. ft. / dwelling unit.

6) Maximum floor area ratio 25%.
7) Building height.
a) Principal structure-35 ft. maximum building height.
b) Accessory structure-18 ft. maximum building height.

* Applicant shall provide the Planning Commission with satisfactory evidence that onsite sanitary waste disposal and potable water systems sufficient to serve the proposed unit count can be properly placed on the lot in accordance with all applicable codes/rules.

16.38 B-1 DOWNTOWN BUSINESS DISTRICT.

A. PURPOSE. This district is intended to provide for the development, on smaller sized lots, of individual or small groups of retail, customer service, professional offices and business establishments serving primarily the convenience of the local neighborhood, the character, appearance, and operation of which usesmust be compatible with the character of the existing uses and structures in the surrounding area regarding such matters as, for instance, but not necessarily limited to, building scale, building design, building materials & colors, open space & landscaping, hours of operation, levels of noise, dust, odor, illumination/glare, and/or traffic generation. There shall be a satisfactory relationship between the intensity of the use and the available transportation/circulation system and other such public facilities needed to service the use/development. The overall potential contribution of the proposed use shall be favorable to the welfare of the community.

B. PERMITTED USES.
1) The following uses may be permitted subject to prior review and approval by the Village Plan Commission of a "Building, Site & Operating Plan":
a) Banking and financial institutions;
b) Service establishments such as barber shops, beauty salons, computer service/repair;
c) Dental, chiropractic and medical clinics limited in their capacity to offer the services of 5 or fewer licensed medical practitioners operating simultaneously and not including any inpatient care;
d) Business and professional offices such as real estate, travel agent, legal or accounting;
e) Convenience stores/marts;
f) Retail shops such as art/jewelry, carry-out bakery (not including wholesale) and candy store.

C. PERMITTED ACCESSORY USES/STRUCTURES.
1) Accessory uses and structures in accordance with Sections 16.14 and 16.23 of this Ordinance.
2) Incidental, accessory residential use may be permitted but only in conjunction with, and subordinate to, a permitted principal use.

D. CONDITIONAL USES.

1) Food and beverage oriented coffee shops/cafes and restaurants without drive-thru service;

2) Taverns;

3) Any permitted nonresidential use with operating/open hours that include the period of time between 11 p.m. and 5 a.m..

E. AREA REQUIREMENTS.

1) Lot size

a) Minimum area of 20,000 sq. ft.

b) Minimum lot width of 150 ft.

2) Building location

a) Setback minimum of 35 feet

b) Offsets minimum of 15 ft. from side and rear lot lines unless adjacent to a property zoned or used for residential purposes, in which case the offset to that/those property lines shall be 20 feet.

3) Maximum floor area ratio of 50%

4) Building height.

a) Principal structure-35 ft. maximum building height.

b) Accessory structure-18 ft. maximum building height.

5) Open Space ratio.

a) A minimum of 5 percent of the developed site shall be retained as open space. Open space configuration and distribution shall be subject to specific planning commission approval.

16.39 B-2 LOCAL SERVICE CENTER DISTRICT.

A. PURPOSE. This district is intended to provide for the development, also on smaller sized lots, of individual or small groups of retail, customer service, professional offices and business establishments serving, primarily, the Village-wide convenience. The character, appearance, and operation of uses in this District must be compatible with the character of the existing uses and structures in the surrounding area regarding such matters as, for instance, but not necessarily limited to, building scale, building design, building materials & colors, open space & landscaping, hours of operation, levels of noise, dust, odor, illumination/glare, and/or traffic generation. There shall be a satisfactory relationship between the intensity of the use and the available transportation/circulation system and other such public facilities needed to service the use/development. The overall potential contribution of the proposed use shall be favorable to the welfare of the community.

B. PERMITTED USES.

1) The following subject to approval by the Plan Commission of building and site plans and plan of operations:

a) Any use permitted in the B-1 District;
b) Antique shops;
c) Commercial art/design studios;
d) Funeral homes;
e) Shopping center.

C. PERMITTED ACCESSORY USES.
1) Accessory uses and structures in accordance with Sections 16.14 and 16.23 of this Ordinance.

D. CONDITIONAL USES.
1) Any conditional use permitted in the B-1 District;
2) Fuel stations not including carwash;
3) Day care centers;
4) Mini-storage facilities;
5) Any permitted nonresidential use with operating/open hours that include the period of time between 11 p.m. and 5 a.m.;
6) Veterinarian clinics;
7) New and used automobile sales establishments;
8) Dry cleaning and laundromat establishments.

E. AREA REQUIREMENTS.
1) Lot size
a) Minimum area of 25,000 sq. ft.
b) Minimum lot width of 150 ft.
2) Building location
a) Setback minimum of 35 ft. from front lot line.
b) Offsets minimum of 15 ft. from side and rear lot lines. Twenty (20) feet shall be required if the adjoin land use is, or if the adjoin land is zoned for residential use.
3) Maximum floor area ratio of 50%.
4) Building height
a) Principal structure-35 ft. maximum building height.
b) Accessory structure-18 ft. maximum building height.
5) Open Space ratio.
a) A minimum of 5 percent of the developed site shall be retained as open space. Open space configuration and distribution shall be subject to specific planning commission approval.

16.40 B-3 GENERAL BUSINESS DISTRICT.

A. PURPOSE. This district is intended to provide for the development of individual or small groups of retail, customer service, professional offices and business establishments serving a larger trade area than the B-2 District. The character, appearance, and operation of uses

in this District must be compatible with the character of the existing uses and structures in the surrounding area regarding such matters as, for instance, but not necessarily limited to, building scale, building design, building materials & colors, open space & landscaping, hours of operation, levels of noise, dust, odor, illumination/glare, and/or traffic generation. There shall be a satisfactory relationship between the intensity of the use and the available transportation/circulation system and other such public facilities needed to service the use/development. The overall potential contribution of the proposed use shall be favorable to the welfare of the community.

B. PERMITTED USES.

1) The following subject to approval by the Plan Commission of building and site plans and plan of operations:

a) Any use permitted in the B-1 and B-2 Districts;
b) Building and supply stores;
c) Department stores;
d) Garden centers/garden specialty shops;
e) Automobile service such as engine service/repair;
f) Tire sales/service but not including auto body service;
g) Food and beverage oriented coffee shops/cafes and restaurants without drive-thru service;
h) Contractors business offices with incidental, accessory indoor showroom sales/display area and not including any outdoor business activity or the outdoor parking or storage of any business related vehicles, equipment or supplies at the site;
i) Theaters.

C. PERMITTED ACCESSORY USES.

1) Accessory uses and structures in accordance with Sections 16.14 and 16.23 of this Ordinance.

D. CONDITIONAL USES.

1) Any conditional use permitted in the B-1 and B-2 Districts;
2) Fuel stations including carwash;
3) General warehousing;
4) Hotels and motels;
5) Banquet halls;
6) Indoor and/or outdoor recreational facilities;
7) Any permitted nonresidential use with operating/open hours that include the period of time between 11 p.m. and 5 a.m.;
8) Food and beverage oriented coffee shops/cafes and restaurants with drive-thru service;
9) Auto body service.

E. AREA REQUIREMENTS.

1) Lot size.

a) Minimum area of one (1) acre if serviced by sanitary sewer.
b) Minimum area of two (2) acres if using private on-site sanitary/waste system.
c) Minimum lot width of 150 feet if lot size is less than 2 acres.
d) Minimum lot width of 200 feet if the lot size is 2 acres or more.

2) Building location.
a) Setback minimum of 35 ft. from front lot line
b) Offset minimum of 20 ft. from side and rear lot lines except when abutting a property zoned and/or used for residential purposes in which case the offset shall be 35 feet. The Planning Commission may permit a reduction in this 35 foot requirement (bit in no case to less than 20 feet) to the extent it has determined that the adverse effects of conflicting land use types has been otherwise mitigated by the developer through the use of substantial fencing, landscaping,… and similar.

3) Maximum floor area ratio 50%.

4) Building height.
a) Principal structure-35 ft. maximum building height.
b) Accessory structure-not to exceed the height of the principal building .

5) Open Space ratio.
a) A minimum of 20 percent of the developed site shall be retained as open space.
b) Open space configuration and distribution shall be subject to specific planning commission approval.

16.41 B-4 HIGHWAY BUSINESS/INDUSTRIAL FLEXDISTRICT.

A. PURPOSE. This district is intended to provide for the orderly and attractive grouping at appropriate locations along and in close proximity to principal highway routes of those office, business, light industrial and customer service uses which are logically related to and dependent upon highway traffic and/or which are typically intended to serve the needs of the regional trade area. There shall be a satisfactory relationship between the intensity of the use and the available transportation/circulation system and other such public facilities needed to support the use/development. The cumulative potential contribution of the proposed use shall be favorable to the welfare of the community.

B. PERMITTED USES.

1) The following subject to approval by the Plan Commission of building and site plans and plan of operations.
a) Any use permitted in the B-1 through B-3 Zoning Districts;
b) Professional buildings/centers offering dental and medical services on an outpatient basis;
c) Distribution centers;
d) Light manufacturing/fabrication/production business uses with or without incidental accessory warehousing and distribution facilities and where no outside storage of materials, equipment or supplies and no outdoor business activity is required.

C. PERMITTED ACCESSORY USES.

1) Accessory uses and structures in accordance with Sections 16.14 and 16.23 of this Ordinance.

D. CONDITIONAL USES.

1) Any Conditional Use permitted in the B-1 – B-3 Zoning Districts;
2) Equipment sales/rental establishments;
3) Light manufacturing/fabrication/production business uses with or without incidental accessory warehousing and distribution facilities and where incidental, accessory outside storage of materials, equipment or supplies and/or outdoor business activity is required;
4) Kennels;
5) Animal hospitals;
6) Trade contractors business offices with or without incidental, accessory indoor and/or outdoor showroom sales/display area and/or including the parking or storage of any business related vehicles, equipment or supplies at the site;
7) Any permitted nonresidential use with operating/open hours that include the period of time between 11 p.m. and 5 a.m..

E. AREA REQUIREMENTS.

1) Lot size.
  a) Minimum area of one (1) acre if serviced by sanitary sewer.
  b) Minimum area of two (2) acres if using private on-site sanitary/waste system.
  c) Minimum lot width of 150 feet if lot size is less than 2 acres.
  d) Minimum lot width of 200 feet if the lot size is 2 acres or more.
2) Building location.
  a) Setback minimum of 35 ft. from front lot line.
  b) Offset minimum of 20 ft. from side and rear lot lines except when abutting a property zoned and/or used for residential purposes in which case the offset shall be 35 feet. The Planning Commission may permit a reduction in this 35 foot requirement (but in no case to less than 20 feet) to the extent it has determined that the adverse effects of conflicting land use types has been otherwise mitigated by the developer through the use of substantial fencing, landscaping,… and similar.
3) Maximum floor area ratio 50%.
4) Open Space ratio.
  a) A minimum of 20 percent of the development site shall be retained as open space.
  b) Open space configuration and distribution shall be subject to specific planning commission approval.
5) Building height.
  a) Principal structure-35 ft. maximum building height.
  b) Accessory structure-not to exceed the height of the principal building.

16.42 I-1 LIGHT INDUSTRIAL DISTRICT.

A. PURPOSE. This district is intended to provide for the orderly and attractive grouping of light industrial operations which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reason of noise, dust, smoke, odor, traffic, glare, physical appearance or other similarfactor.

B. PERMITTED USES.

1) The following are permitted uses subject to Plan Commission approval of the building and site plans and the plan of operations:

2) Light manufacturing;

3) Fabrication;

4) Wholesaling;

5) Processing;

6) Distribution;

7) Printing and publication;

8) Adult oriented establishments;

9) Research and development;

10) Trade and contractors offices with accessory shop and/or fully screened or enclosed materials, vehicle and equipment storage space.

C. PERMITTED ACCESSORY USES.

1) Accessory uses and structures in accordance with Sections 16.14 and 16.23 of this Ordinance.

D. CONDITIONAL USES.

1) Transportation terminals;

2) Auto body repair;

3) Any permitted nonresidential use with operating/open hours that include the period of time between 7 p.m. and 5 a.m..

E. GENERAL REQUIREMENTS.

1) The village recognizes that many of the I-1 zoned lands in the village were developed prior to the enactment of this Code and, thus, that the inflexible application of some of the standards set forth herein may hinder development in this zoning district which could lead to economic stagnation and the possibility of blight. Therefore, in analyzing change of use, occupancy, remodeling, additions, site modifications, … in the I-1 district, which changes will enhance existing site and structure conditions which were put in place prior to the enactment of this Code, the planning commission may allow deviations from the maximum building size, maximum floor area ratio, minimum open space ratio, building setback and building offset requirements if it finds that the deviation will not adversely impact public health, safety or welfare and when it concludes that the proposed remodeling or addition will foster development and redevelopment of buildings that predate the enactment of this Code. Prior to exercising

such discretion, the plan commission shall make a specific finding that the proposed development or redevelopment is also consistent with the general intensity, architectural character and scale of surrounding uses.

2) Further, to the extent any building, site or use implemented in the I-1 District prior tothe enactment of the most recent comprehensive update to this Code, which site, building or use does not fully comply with the current Building and Site design standards and performance standards as setforth in Sections 16.23 and 16.24 of this Chapter respectively, the Planning Commission may require, as a condition of any change of use, occupancy, remodeling, additions, site modifications, … that some or all of these exceptions be brought into full compliance with the current Code standards.

F. AREA REQUIREMENTS.

1) Lot size.
- **a)** Minimum area of two (2) acres.
- **b)** Minimum lot width of 200 ft.

2) Building location.
- **a)** Setback minimum of 50 ft. from front lot line.
- **b)** Offset minimum of 15 ft. from side and rear lot lines except when abutting a property zoned and/or used for residential purposes in which case the offset shall be 35 feet. The Planning Commission may permit a reduction in this 35 foot requirement (but in no case to less than 20 feet) to the extent it has determined that the adverse effects of conflicting land use types has been otherwise mitigated by the developer through the use of substantial fencing, landscaping,… and similar.

3) Maximum floor area ratio of 50%.

4) Open Space ratio.
- **a)** A minimum of 15 percent of the development site shall be retained as open space.
- **b)** Open space configuration and distribution shall be subject to specific planning commission approval.

5) Building height.
- **a)** Principal structure-35 ft. maximum building height.
- **b)** Accessory structure-not to exceed the building height of the principal structure.

16.44 LIMITED USE OVERLAY (LTD) DISTRICT

A. PURPOSE. The LTD district is intended to permit the conduct of certain limited business uses upon parcels within a residentially or agriculturally zoned area, upon which a single family or two family residence is already in use, or is proposed to be constructed concurrently withthe business use, and is owned and occupied by the same person(s) as will own and operate the business use. Such uses shall be subject to regulatory standards as the PlanningCommission may determine to be necessary to ensure compatibility with surrounding areas.

B. GENERAL REQUIREMENTS

1) The character, appearance, and operation of such use must be compatible with the character of the existing uses and structures of the surrounding area in regards to, for instance, but not necessarily limited to, building scale, design, materials & colors, open space & landscaping, hours of operation, levels of noise, dust, odor, illumination/glare, and/or traffic generation.

2) All business, servicing, processing or storage, except for off-street parking or loading, shall be conducted within completely enclosed buildings unless otherwise specifically approved by the Planning Commission.

3) All building expansions, new building construction, site changes and/or use changes shall be reviewed and approved by the Village Planning Commission prior toimplementation in accordance with this chapter.

4) No land shall be used or structure erected where the use or structure will result in a significant and unduly burdensome traffic impact, groundwater impact, capital facility impact, and/or 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 with particular concern for the immediately surrounding area. The Planning Commission, in applying the provisions of this section shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have the opportunity to present evidence contesting such unsuitability or propose adequate mitigation, if they so desire. Thereafter, the Planning Commission may affirm, modify or withdraw its determination of unsuitability.

C. PERMITTED USES. Any permitted uses allowed in the underlying base zoning district.

D. ACCESSORY USES.

1) Any accessory uses allowed in the underlying base zoning district.

2) Any use customarily accessory to the uses permitted hereunder by conditional approval, and then only when approved by the Planning Commission and Village Board in the context of the comprehensive conditional use review for the site.

E. CONDITIONAL USES. All Conditional Uses shall be subject to business, site and operational plan approval by Planning Commission including such details as, but not necessarily limited to, landscaping, architecture, lighting, screening devices (i.e. dumpster, utility meters, hvac,…). Reference Section 16.23 of this Chapter for a more complete detail of the submittal requirements.

1) Contractor shop/office such as, but not necessarily limited to, landscaping, electrical, plumbing, computer care and service and veterinary clinic, for instance.

2) Personal care services such as, but not necessarily limited to, barber, beautician, nail care, and similar

F. PROHIBITED USES.

1) Including but not necessarily limited to:
2) Adult entertainment;
3) Salvage and storage yards;
4) Uses that involve hazardous materials;
5) Retail sales of any products or supplies;
6) Tattoo and body piercing.

G. AREA REQUIREMENTS.

1) Lot size
  a) Minimum of three (3) acres.
  b) Minimum lot width of 250 ft.
2) Floor area ratio
  a) Not to exceed 25% floor area ratio.
3) Building height.
  a) Principal structure(s) – 35 ft. maximum building height.
  b) Accessory structure(s)- 18 ft. maximum building height.
4) Building location.
  a) Setback is minimum of 75 ft.
  b) Offset is minimum 40 ft. from side and rear lot lines.
5) Building separation.
  a) If the residential use and business use structures are not attached, then they shall be situated at least 30 ft. apart from one other.
6) Open space ratio
  a) Minimum 50%
  b) The open space configuration and distribution shall be subject to specific Planning Commission review and approval.
7) Parking setback/offset
  a) No driveway or parking area associated with a business use (excluding the portion of driveway required for road access) shall be located closer than 25 ft. to a road right-of-way, side or rear lot lines.

H. SIGNAGE. One freestanding sign up to 25 sq. ft. in area, not exceeding ten (10) ft. in height and setback no less than 15 ft. from road right-of-way may be permitted on a lot for purposes of identifying the permitted business operation conducted thereon. Landscaping plans and lighting plans (if there is to be any such lighting) for the sign shall be subject to specific Planning Commission review and approval prior to placement of the sign.

I. DAY/HOURS OF BUSINESS OPERATION. Subject to specific Planning Commission approval.

16.45 INSTITUTIONAL AND PUBLIC SERVICE (IPS) OVERLAY DISTRICT.

A. PURPOSE. The institutional and public service overlay district is intended to provide, where appropriate, specifically defined areas (including among/within unrelated base zoning districts) where public, quasi-public or institutional uses such as listed below, and expected to be permanent, may be permitted. Such uses shall be subject to regulatory standards as necessary to ensure compatibility with surrounding areas.

B. GENERAL REQUIREMENTS.

1) The character, appearance, and operation such use must be compatible with the character of the existing uses and structures of the surrounding area in regards to, for instance, but not necessarily limited to, building scale, design, materials & colors, open space & landscaping, hours of operation, levels of noise, dust, odor, illumination/glare, and/or traffic generation.

2) All business, servicing, processing or storage, except for off-street parking or loading, shall be conducted within completely enclosed building unless otherwise specifically approved by the Planning Commission.

3) All building expansions, site changes and/or use changes shall be shall be reviewed and approved by the Village Planning Commission prior to implementation in accordance with this chapter.

4) No land shall be used or structure erected where the use or structure will result in a significant and unduly burdensome traffic impact, groundwater impact, capital facility impact, and/or 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 with particular concern for the immediately surrounding area. The Planning Commission, in applying provisions of this section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land or location specifically is not suitable for certain uses. The applicant shall have the opportunity to present evidence contesting such unsuitability or propose adequate mitigation, if theyso desire. Thereafter, the Planning Commission may affirm, modify or withdraw its determination of unsuitability.

C. PERMITTED USES.

1) Any permitted uses allowed in the underlying base zoning district.

D. ACCESSORY USES.

1) Any accessory uses allowed in the underlying base zoning district.

2) Any use customarily accessory to the uses permitted hereunder by conditional approval, and then only when approved by the Planning Commission and Village Board in the context of the comprehensive conditional use review for the site.

E. CONDITIONAL USES. All conditional uses shall be subject to business, site and operational plan approval by the Planning Commission and Village Board including such details as, but

not necessarily limited to, landscaping, architecture, lighting, screening devices (i.e. dumpster).

1) Public or private schools, colleges and universities.
2) Mausoleums.
3) Public parks, including indoor and/or outdoor active and/or passive recreational activities and opportunities such as, but not necessarily limited to playground, swimming pool, pond, fishing, trails for non-motorized vehicles and pedestrian hiking, game fields such as soccer, baseball, football, archery range, , skiing, tennis, camping, golf, open space, and nature center.
4) Churches, temples and other places of religious worship with seating in the nave (or equivalent) for 500 or fewer people.
5) Libraries.
6) Funeral homes.
7) Hospitals, nursing and rest homes, and housing for the elderly.
8) Cemeteries.
9) Public administrative offices and public service buildings including, for instance, fire and police stations.
10) Water wells, storage tanks and towers.

F. PROHIBITED USES. Including but not necessarily limited to sanitary landfills.

G. AREA REQUIREMENTS.

1) Lot size minimum area per underlying base zoning district.
2) Building size/floor area ratio is per underlying base zoning district.
3) Building height is per underlying base zoning district.
4) Building location is per underlying base zoning district.
5) Lot width is per underlying base zoning district.

H. SIGNAGE. Subject to the requirements of Section 16.18 above.

I. DAYS/HOURS OF BUSINESS OPERATION. Subject to specific Planning Commission approval.

16.45.5 PLANNED UNIT DEVELOPMENT OVERLAY (PUD) DISTRICT

A. PURPOSE; AUTHORITY; CONTROL.

1) The planned unit development (PUD) overlay district is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicular traffic; to provide attractive recreation and open spaces as integral parts ofthe developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD planned unit development overlay district under this division will

allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements as set forth in the underlying base zoning district.

2) The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership may be permitted by the Village of Big Bend upon specific petition, with such development encompassing one or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this division have been met.

3) The minimum required development lot size for PUD shall be 2 acres.

B. DENSITY REQUIREMENTS.

1) The minimum required lot area of the underlying base use district in the PUD district may be modified. However, in no case shall the average density in the district exceed 125% of the number of dwelling units that would have been permitted if the PUD planned unit development overlay district regulations had not been utilized except as follows:

a) The village may waive the maximum residential density requirements for redevelopment projects. In this instance, redevelopment projects are defined as construction activity where more than 50 percent of the existing improvement value of a property is razed or removed and replaced with new construction. Village approval of residential density waivers shall not be viewed as a vested right and shall be based on a case-by-case assessment of each development proposal and the public interest served by the proposal.

C. LOT SIZES AND WIDTH.

1) Individual lot sizes and widths in the PUD district shall be as required by the underlying base use district except as may be specifically modified by the Village which shall recite in writing, it's specific rationale for any reductions thereto.

D. SETBACKS AND YARDS.

1) Setbacks and yards in the PUD district shall be subject to the standards provided in the underlying base districts; however said standards may be modified at the discretion of the Village when it finds that such modification will not adversely impact public health, safety and welfare. Prior to exercising this discretion, the village shall make a specific finding that the modification is consistent with the general character, size and proportion of existing homes or buildings in the surrounding area, and that, considering the type and intensity of the proposed use, that the deviation from the underlying base district standards will not adversely impact surrounding properties.

E. OTHER REQUIREMENTS.

1) The Village, at it's sole discretion, may waive or modify such other Code requirements as it may deem appropriate given the unique and particular circumstances of an individual project proposal, when it finds that such modification will enhance the overall coordination and efficiency of the proposed development and will not adversely impact public health, safety and welfare. Prior to exercising this discretion, the Village shall make a specific finding that the modification is consistent with the general character, size and proportion of existing buildings in the neighborhood, and that, considering the type and intensity of the proposed use, that the deviation from the underlying base district standards will not adversely impact surrounding properties.

F. PROCEDURE.

1) Procedure for PUD district approval shall include:

a) *Pre-petition conference.* Prior to official submittal of the PUD petition for approval of the designation of a planned unit development overlay district, the owner or his agent making such petition shall meet with the Village of Big Bend staff to discuss the scope and proposed nature of the contemplated development.

b) *The petition.* Following the pre-petition conference, the owner or his agent may file a petition with the planning commission for an amendment to the village's zoning district map designating and adding a planned unit development overlay district to the underlying base use zoning district thereby permitting the application of the provisions of this section to the designated area. Such petition shall be accompanied by the appropriate fee as well as the following information:

1. A statement which sets forth the relationship of the proposed PUD district to the village's adopted comprehensive plan or any adopted component thereof and the general character of and the uses to be included in the proposed planned unit development overlay district, including the following information:

2. Total area to be included in the PUD district, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.

3. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.

4. Any proposed departures from the standards of development as set forth in the village zoning regulations, land division ordinance, sign ordinance, other village regulations or administrative rules or other universal guidelines.

5. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.

c) A general development plan that shall include, the following:

1. A legal description of the boundaries of lands included in the proposed PUD district.

2. The location of public and private roads, driveways and parking facilities.

3. The size, arrangement and location of any individual building sites and proposed building groups on each individual lot.
4. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
5. The type, size and location of all structures.
6. General landscaping treatment.
7. Architectural plans, elevations and perspective drawings and sketches illustrating the exterior design and character of proposed structures.
8. The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
9. The existing and proposed location of all private utilities or other easements.
10. Characteristics of soils related to contemplated specific uses.
11. Existing topography on-site with contours at no greater than two foot intervals National Geodetic Vertical Elevation.
12. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
13. The location of existing driveway openings adjacent to, and across the street from, the proposed PUD.
14. If the development is to be staged, a staging plan.
15. Environmental areas and including floodplains. (i.e., FW, FFO, FC, C-1, C-2).

d) Land divisions.

1. Any proposed division of land which is part of the proposed PUD district stall be subject to the land division regulations of the Village.

e) Referral to plan commission.

1. The petition for a PUD district shall be referred to the plan commission for its review and recommendation. The plan commission may add any additional conditions or restrictions they deem necessary or appropriate to promote the spirit and intent of this section.

f) Public hearing.

1. The Village Planning Commission and Village Board shall, before determiningthe disposition of the petition, hold a joint public hearing pursuant to the provisions of section ___ of this Code. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested zoning change.

g) Basis for approval.

1. The Village of Big Bend plan commission in making its recommendations and the village board in making its determinations, shall consider:
   a. Whether the petitions for the proposed PUD district have indicated that they intend to begin the physical development of the designated PUD district within 12 months following the approval of the petition for a PUD district andthat the development will be carried out according to a reasonable construction schedule satisfactory to the village.

b. Whether the proposed PUD district is consistent in all respects to the purpose of this division and to the spirit and intent of this chapter; is in conformity with the comprehensive plan or component plans thereof for community development; would not be contrary to the general welfare and economic prosperity of the village or of the immediate neighborhood; and, that the benefits and improved design of the resultant development justifies the establishments of a PUD district.

c. The plan commission and the village board shall not give their respective recommendations or approvals unless it is found that:

i. The proposed site shall be provided with adequate drainage facilities for surface waters and stormwaters.

ii. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.

iii. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas by the proposed development.

iv. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances and administrative regulations of the village.

v. Adequate water and sewage disposal facilities shall be provided.

vi. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservations and maintenance or by dedication to the public.

h) Changes or additions.

1. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Village of Big Bend planning commission and if in the opinion of the village planning commission, such change or addition constitutes a substantial alteration of the original plan, a joint public hearing with the Village Board shall be required and notice be given pursuant to the provisions of section __.

a) Termination.

2. If a building permit is not issued within one year of receiving the PUD zoning,the PUD and underlying district zoning for the property shall be automatically discontinued and replaced with the zoning designation that existed prior to the PUD rezoning.

ADMINISTRATION AND ENFORCEMENT

16.46 ADMINISTRATIVE AND ENFORCEMENT OFFICER.

A. BUILDING INSPECTOR DESIGNATED: The Building Inspector is hereby designated as the administrative and enforcement officer for the provisions of this ordinance. For such duties he may be provided with the assistance of the Village Clerk, Village Planner and such additional persons as the Village Board may direct.

1) DUTIES: In the enforcement of said ordinance, the Building Inspector shall perform the following duties:

a) Issue the necessary building permits and occupancy and zoning use permits required by the provisions of this ordinance and provided its provisions and those of the building code have been complied with.

b) Keep an accurate record of all permits, numbered in the order of issuance, in a record book for this purpose.

c) In case of any finding of a violation of a provision of this ordinance, notify in writing, the actual violator where known, the owner of the property on which the violation has taken place, and the Planning Commission and Village Board, indicating the nature of the violation and the action necessary to correct it.

d) Carry out such additional responsibilities as are hereinafter set forth by the provisions of this ordinance.

2) AUTHORITY: In the enforcement of said ordinance, the Building Inspector shall have the power and authority for the following:

a) At any reasonable time and for any proper purpose to enter upon any public or private premises and make inspection thereof.

b) Upon reasonable cause or question as to proper compliance, to revoke any building or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, razing, alteration or use which is in violation of the provisions of this ordinance, such revocation to be in effect until reinstated by the Building Inspector or the Board of Appeals; or take any other action as directed by the Village Board to insure compliance with or to prevent violation of its provisions.

c) In the name of the Village and with authorization from the Village Board commence any legal proceedings necessary to enforce the provisions of this ordinance or the building code including the collection of forfeitures provided for herein.

16.47 IDENTIFICATION OF OFFICIAL ORDINANCE AND MAP.

The text of the official zoning regulations and the corresponding official zoning district map shall be kept on file in the office of the Village Clerk and any other copies thereof shall be purely informational and shall not have the status of law. Said text and map shall be identified by the signature of the Village President, attested to by the Village Clerk and bearing the seal of the Village under the following words; "This is to certify that this is the Official Zoning (Ordinance)(Map) referred to in Section 16.47 of the Village Zoning Ordinance, Village of Big Bend, Waukesha County, State of Wisconsin,: together with the date of the adoption of this ordinance and related map.

16.48 CHANGES AND AMENDMENTS.

A. AUTHORITY: Pursuant to the provisions of Section 62.23(7) of the Wisconsin Statutes the Village Board may, after first submitting the proposal to the Plan Commission for report and recommendation and after notice of the public hearing as hereinafter provided, amend the regulations of this ordinance or change the zoning district boundaries.

B. PROCEDURE:

1) Initiation: A proposal to amend the text or change the district mapping of this ordinance may be initiated by the Village Board on its own motion, by recommendation of the Plan Commission, or by petition of one or more property owners.

2) Filing of Petition: A petition for change or amendment submitted by a private property owner shall be prepared on forms provided by the Village for the purpose and filed with the Village Clerk and shall be accompanied by a fee as determined by a Village board motion to defray the cost of giving notice, investigation and other administrative processing.

3) Data Required: In addition to all information required on the petition form, the petitioner shall supply 15 copies including the petition of the following:

a) A plat of survey drawn to scale no smaller than 100 ft. to the inch for tracts of less than ten (10) acres and no small than 200 ft. to the inch for tracts of ten (10) acres or more, showing the land in questions, its location, the length and direction of each boundary thereof, the location and the existing use of all buildings on such land and the principal use of all properties within 300 ft. of such land.

b) Any further information which may be required by the Village Planner or the Plan Commission to facilitate the making of a comprehensive report to the Village Board.

c) Public Hearing: Upon receipt of application, data and fees, the Village Clerk and the Village Planner shall establish a date for a joint public hearing. The Plan Commission shall conduct a study and investigation, and hold a joint public hearing with the Village Board, and forward its recommendation to the Village Board as promptly as possible.

4) Action:

a) As soon as possible after such public hearing and recommendation from the Plan Commission, The Village Board shall act to approve, conditionally approve, or disapprove the proposed change or amendment.

b) The Village Board shall not take action without having first heard the recommendation of the Plan Commission.

c) Should the Board not concur in the recommendation of the Plan Commission, it shall re-refer the matter to the Commission for reconsideration before taking final action.

d) An approved change shall be by appropriate ordinance, and necessary changes in the Office Zoning Map or text shall be made promptly.

e) Protest: In case of protest against a change duly signed and acknowledged by the owners of 20% or more either of the area of land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent and extending 100 ft. therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100 ft. from the street frontage of such opposite land, such

change shall require a favorable vote of ¾ or the members of the Village Board voting on the proposed change.

16.49 VILLAGE PLAN COMMISSION.

A. ESTABLISHMENT:

1) The Village Board shall create a "Village Plan Commission" consist of seven (7) members. The seven members shall include the Village President as its presiding officer, a Village Board member, and five (5) citizens. In lieu of the Village President presiding over the Commission, members of the Plan Commission shall elect its presiding officer for that meeting. Citizen members shall be persons of recognized experience and qualifications. The Village Board may by ordinance provide that the members of the Commission shall be as provided thereunder.

a) The Village Board member of the Commission shall be elected by a majority vote of the Village Board, upon the creation of the Commission, and during each May thereafter.

b) The five (5) citizen members shall be appointed by the President, and approved by a majority vote of the Village Board present, upon the creation of the Commission, to hold office for a term of three (3) years, except for the initial appointments wherein two (2) members shall be appointed for one (1) year, two (2) members for two (2) years and one (1) member for three (3) years. Respectively, from the succeeding first day of May, and thereafter annually during May. Such terms of the members, as they expire, may be appointed and approved by a majority vote of the Village Board present, for a new term for three (3) years. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

2) The Village Plan Commission shall have power and authority to employ experts and staff and to pay for their services and such other expenses as may be necessary and property, not exceeding in all, the appropriation that may be made for such Commission by the legislative body, or placed at its disposal through gift, and subject to any ordinance or resolution enacted by the governing body.

B. FUNCTIONS:

The Village Plan Commission shall be empowered with the functions, duties, and powers as contained in Sections 61.35 and 62.23 of Wisconsin Statutes which specifically relate to cities, but are also construed to mean Villages.

16.50 PUBLIC HEARINGS.

A. REQUIRED: In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by the provisions of this ordinance in the manner hereinafter defined. The Village Clerk and Village Planner shall establish a date for a joint public hearing before Plan Commission and Village Board upon receipt of an application and required data and fees.

B. PROCEDURES.

1) Posting and Publishing:

a) Except as may be otherwise herein specifically provided, such notices shall be given not less than ten (10) days prior to date of such hearing by posting such notice in at least three (3) public places in said Village.

b) When the hearing involves a proposed change in the zoning district classification of any property or the granting of conditional use, notice shall be a Class 2 notice per Ch. 985, Wis. Stats., one of the notices may be posted in the vicinity of such proposed change or conditional use where practical and the Village Clerk shall mail notice of the public hearing to the owners of all lands within 300 ft. of any part of the land included in such change or conditional use at least ten (10) days before such public hearing.

c) The failure of such notice to reach any property owner, provided such failure be not intentional, shall not invalidate any amending ordinance, or grant of conditional use.

2) Information: Such notices shall state the time and place of such public hearing and the purpose for which the hearing is held, and shall include, in the case of map changes, a description of the area involved and in the case of text, changes a description of the proposed change, in sufficient detail for general public identification. Reference shall also be made to the fact that detailed descriptions are available for public inspection at the Clerk's office.

3) Petitions Not Involving Zoning Change:

a) Where such hearing is required by the provisions of this ordinance as a result of request for other than a zoning change or appearance before the Board ofAppeals, such request shall be presented to the Village Clerk in writing and shall be accompanied by a map or description clearly identifying the property involvedand by a fee as set by Village Board motion, payable to the Village to defray the cost of notification and holding of a public hearing.

4) Informal Hearings: Hearings not specifically required under the provisions of this ordinance may be noticed as a Class 1 notice by the body holding the hearing.

16.51 APPEAL PROVISIONS.

A. APPEAL RIGHTS: Any person aggrieved, or any officer, department, board or bureau of the Village affected by a decision of the administrative officer or of the Plan Commission may appeal such decision to a Board of Appeals as hereinafter established, provided such appeal be taken within a reasonable time but in no case later than 45 days from the date of the decision, and provided such appeal falls within the authority as set forth under the powers of the Appeal Board.

B. BOARD OF APPEALS.

1) Establishment: There shall be a Board of Appeals consisting of five (5) members appointed by the Village President, subject to confirmation by the Village Board, for terms of three (3) years, except that of those first appointed, one (1) shall serve for one (1) years, two (2) for two (2) years and two (2) for three (3) years. Vacancies shall be

filled for the unexpired terms of members whose terms become vacant. The Village President may appoint, for a term of three (3) years, an alternative member of such Board, in addition to the five (5) members above provided for, who shall act with full power only when a member of the Board refuses to vote because of conflict of interest or absence. The above provisions with regard to removal and filling of vacancies shall apply to such alternate.

2) General Rules.

- **a)** The members of the Board of Appeals shall serve at such compensation as is fixed by ordinance.
- **b)** Members shall be removable by the Village President for cause upon written charges and after public hearing.
- **c)** The Village President shall designate one of the members chairman and the Board of Appeals may designate such other officers and employ such employees as it feels necessary.
- **d)** The Board of Appeals shall adopt rules governing its procedure consistent with the terms of this ordinance.

3) Meetings: Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine, the chairman, or in this absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board 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 keep records of its examinations and other official action, all of which shall be immediately filed in the office of the Board and shall be a public record.

4) Powers:

- **a)** The Board of Appeals shall have the following powers as defined by statute:
  - **1.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance.
  - **2.** To hear and decide special exceptions to the terms of this ordinance upon which such Board is authorized to act under this ordinance.
  - **3.** To authorize, upon appeal in specific cases, such variances from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in practical difficulty or unnecessary hardship, and so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.
  - **4.** To permit, in appropriate cases, and subject to appropriate conditions and safeguards and in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.

5) Additional Requirements: In making its determination the Board shall consider whether the proposed exception, or variance would be hazardous, harmful, noxious, offensive or

a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and any impose such requirements and conditions with respect to location, construction, maintenance and operation—in addition to any which may be stipulated in this ordinance—as the Board may deem necessary for the protection of adjacent properties and the public interest and welfare.

6) Performance Standards: In order to reach a fair and objective decision the Board may utilize and give recognition to appropriate performance standards which are available in model codes or other ordinances or which have been developed by professionally recognized planning, manufacturing, health, architectural, and engineering research organizations.

7) Enforcement of Decision: In exercising the above mentioned powers, such Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, 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 effect of permitting in any district a use prohibited in that district; of rezoning; of granting a conditional use or special exception where such grant is not specifically assigned to the Board for determination under this ordinance; or of permitting, without the approval of the Plan Commission any building within the setback area as hereinafter established by the provisions of this ordinance.

8) Required Vote: The presence of three (3) members shall constitute a quorum. The concurring vote of a majority of the Board present shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation therefrom. The grounds of every such determination shall be stated.

9) Further Appeal: Any person or persons aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the municipality may appeal from a decision of the Board of Appeals within 30 days afterthe filing of the decision in the office of the Board of Appeals in the manner provided in Section 62.23(7)(e) of Wis. Stats..

a) PROCEDURE

1. Filing: A notice of appeal shall be filed with the officer from whom the appeal is taken and with the Board of Appeals, specifying the grounds thereof and accompanied by a fee set by Village Board motion to defray the cost of giving notice, investigation, and other administrative processing. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

2. Stay: An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of

Appeals or by a Court of record on the application, on notice to the officer from whom the appeal is taken and on due cause shown.

3. Hearing: Each appeal shall be heard within 40 days from the time of filing and public notice of such hearing shall be given as provided by Section 16.50 of this ordinance as well as to the parties in interest. Such notice however shall require only one publication which shall not be less than ten (10) days prior to the date of the hearing, and one posting on a public bulletin board in the Village Hall. Any party may appear in person, or by agent or by attorney representing him.
4. Decision: The Board of Appeals shall render its decision in writing within 30 days after completion of the hearing thereon.

16.52 SPECIAL EXCEPTIONS.

A. APPROVAL REQUIRED. Where a certain development or use is of such a special nature, or such a unique situation, or its effect is so dependent upon actual contemporary circumstances as to make impractical the absolute predetermination of permissibility or listing of specific standards which would be automatically applied in each case to determine permissibility, an application for a special exception regarding matters identified in subsection (2), below may be made to the Board of Appeals. In such case, the Board of Appeals may grant a special exception to one or more of the zoning code requirements identified in subsection (2), below, if after a public hearing, the Board of Appeals determines that there is or will be compliance with the standards or conditions set forth in this section. In order to approve a special exception, the Board of Appeals does notnecessarily require the demonstration of an unnecessary hardship or practical difficulty.

B. LIMITED JURISDICTION: The Board of Appeals shall have no authority to grant a special exception to any of the requirements of this zoning ordinance except as described herein or elsewhere in this Zoning Code.. The Board of Appeals authority to grant special exceptions is limited to the following issues.

1) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable street setback requirement by not more than twenty-five percent.
2) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable side yard requirement by not more than twenty-five percent.
3) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable rear yard requirement by not more than twenty-five percent.
4) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable open space requirement by not more than twenty-five percent.
5) In all districts, the Board of Appeals may by special exception reduce the otherwise applicable F.A.R. requirement by not more than twenty-five percent.

The Board of Appeals shall have such additional special exception authority as may be specifically granted to the Board of Appeals by this Zoning Code. No such authority shall be implied, but shall apply only if described in this Zoning Code by reference to the Board of Appeals by name and specifically authorizes a “special exception”.

C. PROCEDURES. The following procedure shall be followed by the Board of Appeals when considering the granting of special exceptions to the zoning code:

1) Petition Made. A petition for special exception shall be made to the Board of Appeals for consideration.

2) Filing a Petition. Such petition shall be prepared and submitted on printed forms provided for this purpose and shall be filed with the Village Clerk, who shall present it to the Board of Appeals at its next meeting.

3) Data Required. In addition to all information required on the petition form, the petitioner shall supply the following:

a) A plot map drawn to a scale of not less than 100 ft. to the inch showing the land in questions, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land and the principal use of all properties within 300 ft. of such land.

b) A detailed description of the intended development or use.

c) Any further information as required by the Village Staff or Board of Appeals to facilitate the making of an evaluation of such request, such as a site plan depicting proposed buildings, parking, traffic impact, landscaping treatment drainage, sanitary sewer, erosion control and other factors as would be pertinent including the impact of public facilities.

4) Hearing. The Board of Appeals shall hold a public hearing upon receipt of such petition. Notice of the time and place of such hearing shall be a Class 1 notice per Wis. Stats.

5) Fee. Any petition shall be accompanied by a fee as set from time to time by the Village board to defray the cost of publication, notification, holding a public hearing, administrative expenses and expenses of Board members. The petitioner shall also pay to the Village all costs incurred for legal, planning, engineering, and administrative work necessary to administer the application and oversee the development.

D. BASIS OF APPROVAL. An application for a special exception may be approved, denied, or approved with conditions. If approved, the Board of Appeals must determine that the approval, except as elsewhere herein expressly provided, shall not:

1) Be inconsistent with or contradictory to the purpose, spirit or intent of the Village ordinance;

2) Violate the spirit or general intent of this chapter.

3) Be contrary to the public health, safety, or welfare, but rather shall promote the public health, safety and welfare;

4) Be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, traffic congestion, odor or other similar factors;

5) For any other reason, cause substantial adverse effect on the property values and general desirability of the neighborhood; and

6) Be incompatible to the surrounding land uses.

E. DETERMINATION. The action of the Board of Appeals shall be stated in writing, and shall include findings of fact setting forth the basis upon which the special exception is granted,

utilizing and referring to the criteria set forth above. A copy of the Board of Appeal's action shall be made a permanent part of the Village records. If a special exception is not approved, the reasons therefore will be included in such records. If approved, such special exceptions shall not be approved except by the majority vote of the members of the Board of Appeals present and voting.

16.53 FEES.

Where no application fee is prescribed under this Ordinance or where the prescribed fee is inadequate to cover the costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of such application, said costs shall be charged to the applicant.

16.54 VIOLATIONS AND PENALTIES.

A. PENALTIES: Any person, firm, company or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance, shall be subject to a forfeiture of not less than twenty-five dollars and not to exceed the sum of ten thousand dollars for each offense, together with the costs of the action, and in default of the payment thereof, may be imprisoned in the County Jail of Waukesha County, for a period not to exceed six (6) months, or until such forfeiture and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such.

B. ENFORCEMENT BY INJUNCTION: Compliance with the provisions of this ordinance may also be enforced by injunction order at the suit of the Village or one or more owners of real estate situated within an area affected by the regulations of this ordinance.

C. DECLARED NUISANCES: Any building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this ordinance is hereby declared to be a nuisance per se, and the Village may apply to any court of competent jurisdiction to restrain or abate such nuisance.

D. CITATION: Pursuant to Section 66.0113 Wis. Stats., the Village elects to use among other options to which the Village might legally avail itself, the citation method of enforcement of ordinance other than those for which a statutory counterpart exists.

1) Form: The citation shall contain the following:

a) The name and address of the alleged violator.

b) Factual allegations describing the alleged violation.

c) The time and place of the offense.

d) The section of the ordinance violated.

e) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.

f) The time at which the alleged violator may appear in Court.

g) A statement which is essence informs the alleged violator:

h) That a cash deposit based on the schedule established by this ordinance may be made which shall be delivered or mailed to the Chief of Police prior to the time of the scheduled Court appearance.

i) That if a deposit is made, no appearance in Court is necessary unless he is subsequently summoned.

j) That if a cash deposit is made and alleged violator does not appear in Court, he will be deemed to have entered a plea of no contest, a summons will be issued commanding him to appear in Court to answer the complaint.

k) That if no cash deposit is made and the alleged violator does not appear in Court at the time specified, an action may be commenced to collect the forfeiture.

l) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under 7 above has been read. Such statement shall be sent or brought with the cash deposit.

m) Such other information as the Village deems necessary.

2) Schedule of Deposits.

a) The following schedule of forfeitures and cash deposits is established for use with citations issued under this Zoning Code of the Village of Big Bend.

1.	First Offense	$100.00 per day.
2.	Second Offense	$300 per day.
3.	Third Offense	$900 per day.
4.	Fourth or more Offense(s)	$1,000 - $10,000 per day.

b) Deposits shall be made in cash, money order or certified check to the Chief of Police who shall provide a receipt therefore.

c) Citations for fourth and all subsequent offenses shall require the defendant's appearance. An arrest warrant may be issued upon the defendant's failure to appear.

3) Issuance of Citation.

a) Law Enforcement Officer. Any member of the Police Department may issue citations authorized under this ordinance.

b) The Building Inspector, Village Planner and any other Village Inspector may issue citations with respect to those specified ordinances which they are required to enforce.

1. Procedure. Section 66.0113(3), Wis. Stats., relating to violator's options and procedure on default, is adopted and incorporated herein by reference.

4) Non-exclusivity.

a) Other Ordinance. Adoption of this ordinance does not preclude the Village Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

b) Other Remedies. The issuance of a citation hereunder shall not preclude the Village or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

5) Payment of Penalty Assessment and Costs. The penalty assessment and costs. Thepenalty assessment and costs allowed by State statutes shall be added to the deposit to be made by an alleged violator.

16.55 SEVERABILITY.

The several sections, subsections and paragraphs of this ordinance are hereby declared to be severable. If any section, subsection, paragraph, or subparagraph of this ordinance shall be declared by a decision of a Court of competent, jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the ordinance, or of the section of which the invalid portion or paragraph may be a part.

16.56 EFFECTIVE DATE.

Following preparations and publication by the Village Board, this Ordinance shall be in full force and effect in the Village of Big Bend upon the property posting and publication of the Ordinance and the official map contained therein pursuant to the provisions of Section 61.51(1)
(2) of the Wis. Stats. Wherein the said Ordinance shall be posted in at least three (3) public places within the Village and proof of such posting thereof shall be filed and recorded with the Village Clerk and the Ordinance shall take effect on the day after the proof of such posting has been filed and recorded with the Village Clerk.

16.57 ADOPTION.

Passed and approved by the Village Board of the Village of Big Bend, Waukesha County, Wisconsin, this 4th day of March, 2021.