

# VILLAGE OF NORTH BAY - ORDINANCES

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The July 2025 update publication codifies the following two ordinances that passed and took effect on the dates noted below.

- [Ordinance 2024-1](#) An ordinance to repeal and recreate Section 8.16 title “FLOODPLAIN OVERLAY DISTRICTS” of the Village of North Bay Code of Ordinances – Effective at 3:50 PM on Tuesday, March 19th, 2024.
  - [Section 8.16 FLOODPLAIN OVERLAY DISTRICTS](#)
- [Ordinance #2023-1](#) Vacation Rental Establishments – Effective at 7:20 PM on Tuesday, August 29th, 2023

# Chapter 1

## VILLAGE BOARD MEETINGS

Last ordinance update: Ch1-BD MTGS FINAL 9-10-2018

<b>1.01 MEETING TIME AND DATE.</b>	<b>1</b>
<b>1.02 ORDER OF BUSINESS.</b>	<b>2</b>
<b>1.03 PRESIDING OFFICER.</b>	<b>2</b>
<b>1.04 COMMITTEES.</b>	<b>2</b>
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### 1.01 MEETING TIME AND DATE.

- (1) Regular Meetings. Regular meetings of the Village Board shall be held on the second Monday of each calendar month at 7:00 p.m. The November and December board meetings may be convened at an earlier date to meet with state budgetary guidelines. Any regular meeting falling on a legal holiday or an unsuitable date shall be held on a date agreed to by the Board. Such date will be arranged by the Clerk and communicated to said Board telephonically or electronically, and posted as required by state law, as may be amended from time to time. (Ord. 2018-02 on 8-10-18)
- (2) Special Meetings. Special meetings of the Board may be called by the Village President or by two Trustees by filing a written request with the Clerk at least twenty-four hours prior to the time specified for such meeting. The Clerk shall immediately notify each Trustee of the time and purpose of such meeting. The notice shall be delivered to each Trustee personally, including telephonically or electronically, and posted as required by law, as may be amended from time to time. Special meetings may be held without personal service of notice when all members of the Board are present, or consent in writing to the holding of the meeting. (Ord. 2018-02 on 8-10-18)
- (3) Place of Meetings. All meetings of the Board, including special and adjourned meetings, shall be held in the Village Hall.
- (4) Quorum. A majority of the members elected shall constitute a quorum. A call of the house may be ordered by majority vote if two Trustees are present.

## **1.02 ORDER OF BUSINESS.**

The business of the Village Board shall be conducted in such manner and such order as the Board may, from time to time, determine. One possible format is as follows: (Ord. 2012-03 on 08-13-12)

- (1) Call to order by presiding officer
- (2) Roll call. (If a quorum is not present, the meeting shall thereupon adjourn, which may be to a specified date.)
- (3) Public comment
- (4) Reading, correction and approval of minutes of previous meeting
- (5) Committee reports, if necessary
- (6) Reports of Village officers
- (7) Accounts payable
- (8) Unfinished business from previous meeting
- (9) New business
- (10) Adjournment.

## **1.03 PRESIDING OFFICER.**

- (1) Control of Meeting. The Village President shall preserve order and conduct the proceedings of the meeting. A Trustee may appeal from the decision of the presiding officer. Such appeal is not debatable and must be sustained by a majority of the Trustees present, exclusive of the presiding officer.
- (2) Absence of President. During the temporary absence or disability of the president at any meeting, the President may appoint a trustee to conduct said meeting or the Board of Trustees shall elect one of its members to act as president pro tem who during the absence or disability of the president shall perform the duties of the office. (Ord. 2012-03 on 08-13-12).
- (3) Participation in Debate. The presiding officer may speak upon any question or make any motion if he vacates the chair and designates a Trustee to preside temporarily.

## **1.04 COMMITTEES.**

The Board shall establish committees for such purposes as the Board may, from time to time, determine.

## **1.05 ORDINANCES AND RESOLUTIONS.**

Ordinances, resolutions, communications and other matters submitted to the Board shall be read by title and author. No ordinance or resolution shall be considered unless presented in writing by a Trustee. Unless requested by a Trustee before final vote is taken, no ordinance or resolution need be read in full.

**1.06 GENERAL RULES.**

The deliberations of the Board shall be conducted in accordance with the parliamentary rules contained in the most current edition of "Robert's Rules of Order", (Ord. 2012-03 on 08-13-12) which is hereby incorporated in this section by reference. No ordinance, resolution or other motion shall be discussed or acted upon unless it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the same and the person seconding it.

**1.07 SUSPENSION OF RULES.**

These rules or any part thereof may be temporarily suspended in connection with any matter under consideration by a recorded vote of the Trustees present.

**1.08 ADDRESSING MEETINGS.**

No person other than a member of the Board of Trustees shall address the body at any regular or special meeting unless so recognized by the President. Public comment, as per Robert's Rules of Order, provides the forum for public comment.

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# Chapter 2

## OFFICIALS

Last ordinance update: Ch2 OFFICIALS FINAL 6.24.2022

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### 2.01 ELECTED OFFICIALS

- (1) President. The president shall be by virtue of his office a trustee and preside at all meetings of the board and have a vote as trustee, sign all ordinances, rules, bylaws, regulations, commissions, licenses and permits adopted or authorized by the board and all orders drawn on the treasury except as provided by s. 66.042 Wis. Stats. The President shall maintain peace and good order, and see that the ordinances of the village are faithfully obeyed. In all other respects the President shall by this ordinance have all the powers conferred on a village president by Wisconsin Statutes.
- (2) Trustees. There shall be an additional three (3) trustees of the Village of North Bay. One trustee shall be elected at each annual spring election for a term of two years, commencing on the third Tuesday of April in the year of their election. The election of trustees shall be staggered with one trustee to be elected every two years with the other Trustees to be elected during alternate years. The trustees shall see that the ordinances of the village are faithfully obeyed.
- (3) Clerk. In lieu of an official bond, the Village Clerk shall be covered by a dishonesty or other appropriate insurance policy obtained by the Village in an amount of at least \$250,000.00 (Amended by Ord. 2017-02 on 10-09-17). It shall be the village clerk's duty:
  - (a) To perform any duties prescribed by law relative to elections, to keep subject to inspection all election returns required to be filed in the clerk's office, and to notify persons elected or appointed to village offices.
  - (b) To transmit to the County Clerk, within 10 days after election or appointment and qualification, a certified statement of the name and term for which

elected or appointed, of the president, clerk, treasurer and assessor; and to the clerk of the circuit court immediately after their election or appointment and qualification, a like statement of time and term for which elected or appointed of every municipal judge, chief of police, marshal or constable of the village.

- (c) To attend all meetings of the village board; to record and sign the proceedings thereof and all ordinances, rules, bylaws, resolutions and regulations adopted, and to countersign and keep a record of all licenses, commissions and permits granted or authorized by them, and for such purpose to keep the following books: A minute book, in which shall be recorded in chronological order full minutes of all elections, general or special, and the statements of the inspectors thereof; full minutes of all the proceedings of the board of trustees; the titles of all ordinances, rules, regulations and bylaws, with reference to the book and page where the same may be found. An ordinance book, in which shall be recorded at length, in chronological order, all ordinances, rules, regulations and bylaws. A finance book, in which shall be kept a full and complete record of the finances of the village, showing the receipts, the date, amount and sources thereof, and the disbursements, with the date, amount and object for which paid out; and to enter in either such other matters as the board prescribes, and such other books as the board directs.
- (d) To countersign and cause to be published or posted every ordinance, by-law or resolution as required by law, and to have proper proof thereof made and filed.
- (e) To be the custodian of the corporate seal and to file as required by law and to safely keep all records, books, papers or property belonging to, filed or deposited in the clerk's office, and deliver the same to the clerk's successor when qualified; to permit any person with proper care to examine and copy any of the same, and to make and certify a copy of any thereof when required, on payment of the same fees allowed town clerks therefor.
- (f) To draw and countersign all orders on the village treasury ordered by the board and none other.
- (g) To stamp or endorse street trade permits at the request of an employer under s. 103.25(3m)(b).
- (h) In consultation with the village treasurer, complete a tax roll and transmit to the county treasurer, on blanks provided by the Department of Revenue, a statement showing the total amount of all taxes levied therein.
- (i) To perform all other duties required by law or by any ordinance or other direction of the village board.
- (j) To notify the treasurer of the county in which the village is located, by February 20, of the proportion of property tax revenue and of the credits under s. 79.10 that is to be disbursed by the taxation district treasurer to each taxing jurisdiction located in the village.

- (4) Treasurer. The village treasurer shall:
- (a) Receive all moneys belonging or accruing to the Village or directed by law to be paid to the treasurer.
  - (b) Deposit upon receipt the funds of the Village in the name of the Village in the public depository designated by the board. Failure to comply with this subsection shall be prima facie grounds for removal from office. When the money is deposited, the treasurer and bonders are not liable for the losses defined by s. 34.01(2), and the interest shall be paid into the village treasury.
  - (c) Pay money only on the written order of the president, countersigned by the clerk and specifying the number thereof, the payee and the amount of the object for which drawn.
  - (d) Keep just and accurate detailed accounts of all transactions under sub. (4), showing when, to whom and for what purpose all payments are made, in books provided by the village board and preserve all vouchers filed in the office.
  - (e) Render an account and settlement of all official transactions to the board at its last meeting prior to the annual election, and at all other times when required by the board.
  - (f) Deliver to the successor when qualified all books of account, papers and property of the office and all money on hand as treasurer.
  - (g) Perform other duties as are required by law or the village board.
  - (h) Keep but one fund in the treasury, except as otherwise provided.
  - (i) On receipt of the tax roll, and while acting as collector of taxes, exercise the same powers and perform the same duties as are by law conferred upon and required of town treasurers while acting in that capacity, and be subject to the same penalties and liabilities.
  - (j) The Village of North Bay elects not to require the Treasurer's bond provided for by 70.67(1), Wisconsin Statutes and shall be liable for default of Treasurer. Pursuant to 70.67(2), Wisconsin Statutes, the Village of North Bay shall be obligated to pay, in case the Treasurer shall fail to do so, all state and county taxes required by law to be paid by such Village Treasurer to the Racine County Treasurer. (Adopted by Ord. 2012-01 on 06/11/12).
- (5) Other Elected Officials. The following officers of the Village of North Bay shall be elected at the regular spring election in odd-numbered years for terms of two years commencing on the third Tuesday of April in the year of their election: Village President, Constable (Trustee 3), and Clerk. The following officers shall be elected at the regular spring election in even-numbered years: Treasurer and Trustees 1 and 2. (Amended by Ord. 2012-04 on 08-13-12)
- (6) Elected Officials Must Be Electors. All elected officials shall be electors of the Village.

## **2.02 APPOINTED OFFICIALS**

Recreated by Ord.2021-2 on 11-29-2021; Posted 12/13/2021 to the Village website and at Village Hall. Full chapter posted online on 6.24.2022.

Attorney, Building Inspector, Electrical Inspector, Plumbing Inspector, Emergency Government Coordinator, Assessor. The Village officials hereinafter set forth shall be appointed by the Village President, subject to confirmation by a majority vote of the members of the Board: Attorney, Building Inspector, Electrical Inspector, Plumbing Inspector, Emergency Government Coordinator, Assessor. Such positions will be filled by agreement with such service providers, on such terms as are acceptable to the Village Board.

SEVERABILITY The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

## **2.03 TRUSTEE APPOINTMENTS**

Recreated by Ord. 2012-04 on 08-13-12.

- (1) Appointment. The Village Board may appoint one or more of the Trustees to take the responsibility to oversee the areas of 1) public works and 2) water and wastewater.
- (2) Term. Trustees appointed by the Village Board to oversee public works or water and wastewater shall serve at the pleasure of the Village Board, and may be removed from such appointive posts (but not removed as a Trustee) without any cause being required.
- (3) Duties. The Trustees assigned to oversee public works or water and wastewater shall have such duties as the Board may, from time to time, determine.

## **2.04 EMERGENCY GOVERNMENT COORDINATOR**

There is hereby created the office of Emergency Government Coordinator for the Village of North Bay, who shall be appointed as provided by Section 2.02(1) of this Code. The emergency government coordinator shall coordinate all emergency government activities and shall report directly to, and follow the direction of, the Village President.

## **2.05 BOARD OF HEALTH; HEALTH OFFICER**

Deleted by Ordinance No. 2013-02 on 08-12-13. Refer to Chapter 13.

## **2.06 BOARD OF REVIEW**

The Board of Review of the Village shall be composed of the Village Board. The Board of Review shall have the duties and powers prescribed by Section 70.47 of the Wisconsin

Statutes. The Board of Review shall meet annually on the second Monday of May or as provided by applicable Wisconsin Statutes, and shall meet at the Village Hall.

## **2.07 PLANNING COMMISSION.**

- (1) How Constituted. The Village Planning Commission shall consist of seven (7) members as follows: The Village President, who shall be the presiding officer, the Village Trustees and three citizens appointed by the Village Board.
- (2) Appointment.
  - (a) Trustee Member. The Trustee members of the Commission shall, upon election as a Trustee of the Village, automatically be members of the Planning Commission.
  - (b) Citizen Members. The citizen members shall be appointed by the Village President and approved by the Village Board at the first regular meeting of the Village Board in May of odd-numbered years for a term of two years.
- (3) Powers and Duties. It shall be the function and duty of the Commission to make and adopt a master plan for the physical development of the Village including, but not limited to street, public places and areas, water ways, the general location and extent of sewer, water conduit, utilities, abandonment or changes of uses of any of the foregoing, grounds, places, spaces, buildings properties, utilities routes or terminals, location character and extent of community centers, neighboring unit, and comprehensive zoning and planning. In addition thereto, the Planning Commission shall have all the powers enumerated in Section 62.23 of the Wisconsin Statutes, and all powers granted to it in other sections of the Village Code of Ordinances.

## **2.08 BOARD OF APPEALS**

There shall be a Board of Appeals whose duties are set forth in Chapter 8 of these ordinances.

The Board of Appeals shall consist of five members appointed by the Village President subject to confirmation by the Board of Trustees for terms of three years, except that of those first appointed one shall serve for one year, two for two years, and two for three years. The members of the Board shall serve under such terms and conditions as fixed by Ordinance. The Village President shall designate one of the members as chairperson. The Village President shall also appoint two alternate members. (Ord. 2012-04 on 08-13-12). Annually the Village President shall designate one of the alternate members as first alternate and the other as second alternate. A first alternate shall act, with full power, only when a member of the Board refuses to vote, because of interest or when a member is absent. The second alternate shall so act only when the first alternate refuses or is absent, or when more than one member of the Board so refuses, or is absent. The provisions of the Village Ordinances and Wisconsin Statute §62.23(7)(e) apply to all activities conducted by the Board of Appeals.

## **2.09 GENERAL REGULATIONS GOVERNING ALL VILLAGE OFFICERS**

- (1) Effect. The provisions of this section shall apply to all officers of the Village, regardless of the time of creation of the office or selection of the officer unless otherwise specifically provided by ordinance or resolution of the Village Board.

- (2) Oath of Office. Every officer of the Village, including members of the Village Board and Commissions, shall before entering upon his duties and following his election or appointment or notice thereof take the oath of office prescribed by law and file said oath in the office of the Village Clerk, except the Village Clerk, who shall file his oath in the office of the Village Treasurer. Any person re-elected or re-appointed to the same office shall take and file an official oath for each term of service
- (3) Bond. In lieu of an official bond, Village officers shall be covered by a dishonesty or other appropriate insurance policy obtained by the Village in an amount of at least \$250,000.00 (Amended by Ord. 2017-02 on 10-09-17).
- (4) Salaries. All officers of the Village shall receive quarterly salaries as may be provided by the Village Board by ordinance. No officer receiving a salary from the Village shall be entitled to retain any portion of any fees collected by him for the performance of his duties as such officer in the absence of a specific law or ordinance to that effect.
- (5) Vacancies. Vacancies in elective offices shall be filled by appointment by a majority vote of the Village Board for the remainder of the unexpired term. Vacancies in appointive offices shall be filled in the same manner as the original appointment for the residue of the unexpired term unless the term for such office is indefinite.

## **2.10 ETHICAL STANDARDS**

*Passed by Ordinance 2020-2 on 10/26/2020 and put into effect 11/6/2020*

- (1) Definitions.
  - (a) Public Officer. Any person serving in an elected or appointed office provided for in Wisconsin Statutes, and also any person who is appointed to a Village board, committee, or commission, whether paid or unpaid.
  - (b) Public Employee. Any person excluded from the definition of a public officer who is employed by the Village.
- (2) Declaration of Policy. It is declared that high ethical standards among Village public officers and public employees are essential to the conduct of good representative government and that a code of ethics for the guidance of public officers and public employees will help them avoid conflicts with improved standards of public service and will promote and strengthen the confidence of the residents of the Village in their public officers and public employees. The purpose of this Section is to establish guidelines for ethical standards of conduct for all the Village's public officers and public employees by setting forth specific acts or actions that are incompatible with the public interest and which compromise, or appear to compromise, public trust in the fairness, independence, and integrity of public officers and public employees and their official actions.
- (3) Statutory Standards of Conduct. Without limitation by enumeration, the provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made a part of this Section and shall apply to all public officers and public employees whenever applicable:
  - (a) Sec. 946.10 Bribery of Public Officers and Employees.
  - (b) Sec. 946.11 Special Privileges from Public Utilities.
  - (c) Sec. 946.12 Misconduct in Public Office.
  - (d) Sec. 946.13 Private Interest in Public Contract Prohibited.

(4) Specific Conflicts of Interests.

- (a) Use of Public Property. No public officer or public employee shall use or permit the use of Village vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as Village policy for the use of such public officer or public employee in the conduct of official business, as authorized by the Village Board or the authorized board, commission, or committee.
- (b) Conflicts of Interest: Disclosure of Interest. Except as provided herein, no public officer or public employee shall engage in any business transaction with the Village, or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties or will tend to impair his or her independence or judgment or action in the performance of his or her official duties. Any public officer or public employee who has a substantial financial interest, including employment, in any business entity entering into, proposing to enter into or moving on any transaction with the Village, or as part of his or her official duties will be making an official decision or recommendation significantly affecting a business competitor, client or regular customer, shall disclose such interest to the membership of the Village Board (or committee, board or commission thereof, as appropriate) to be recorded in the minutes of that body. Upon such disclosure, it is advised that the public officer or public employee abstain from voting on the matter and from participating in the discussion of the matter.
- (c) Representing Private Interests Before the Village Board or Village bodies. No public officer or public employee, including persons or firms engaged to provide professional services to the Village, shall represent, for compensation, private interests before the Village Board or any Village board, commission, or committee without disclosure of the private business relationship and explicit consent of the Village Board.
- (d) Disclosure of Confidential Information. No public officer or public employee shall, without proper authorization of the Village Board, disclose confidential information concerning the property, government or affairs of the Village, nor shall he or she use such information to advance the financial or other private interest of himself or herself or others.
- (e) Gifts and Favors. No public officer or public employee shall accept anything of value whether in the form of a gift, service loan or promise from any person, who, to his or her knowledge, has a direct financial interest in any transaction or official business with the Village, which may tend to impair his or her independence of judgment or action in the performance of his or her official duties. However, it is not a conflict of interest for any public officer or public employee to receive a gift of gratuity that is an unsolicited item of nominal intrinsic value, such as a meal up to Ten Dollars (\$10.00) in value.
- (f) Outside Employment. No full-time public officer or public employee of the Village shall engage in any other remunerative employment within or without the Village, provided, however, that the Village Board may approve such outside employment or activity if it finds that it does not interfere or conflict

with such ability of the public officer or public employee to perform his or her duties in an efficient and unbiased manner.

- (g) Advisory Opinion. Any questions as to the interpretation of any provisions of this Ethical Standards Chapter shall be referred to the Village Attorney for an advisory opinion.

# Chapter 3

## ELECTIONS

Last ordinance update: Ch3 Elections FINAL 2.6.2020

<b>3.01 NOMINATIONS</b>	<b>1</b>
<b>3.02 ELECTIONS</b>	<b>1</b>
<b>3.03 ELECTION OFFICIALS</b>	<b>1</b>
<b>3.04 OPENING AND CLOSING OF POLLS.</b>	<b>2</b>
<b>3.05 PLACE OF ELECTION.</b>	<b>2</b>
<b>3.06 SPLIT SHIFTS FOR VILLAGE ELECTION OFFICIALS</b>	<b>2</b>

### 3.01 NOMINATIONS

Every candidate for any elective Village office shall be nominated by caucus or by nomination of papers in accordance with the provisions of Section 8.05 of the Wisconsin Statutes.

### 3.02 ELECTIONS

All elections shall be held at the time and in the manner provided in Chapter 6 of the Wisconsin Statutes.

### 3.03 ELECTION OFFICIALS

- (1) Appointment. The Village election officials hereinafter set forth shall be appointed at the first regular meeting of the Village Board in May of odd-numbered years by the Village President, subject to confirmation by a majority of the members of the Board, in accordance with the provisions of Section 7.30 (1) and 7.32 of the Wisconsin Statutes as follows: The inspectors of election shall be qualified electors in the Village. (Amended by Ord. 2012-05 on 10-08-12)
- (2) Term. The inspectors of election shall hold office for two years from the date of appointment and until their successors are appointed as provided in Section 7.30 (6) (a) of the Wisconsin Statutes. (Amended by Ord. 2012-05 on 10-08-12).
- (3) Election of Chairman. At the first election following their appointment, the inspectors shall elect one of their number as chairman of inspectors who shall serve for the term for which he was appointed as an inspector and if any vacancy exists, for any cause, in the position of chairman of inspectors, the inspectors shall elect one of their number to serve as chairman until such vacancy is removed as provided in Section 7.30 (6) (b) of the Wisconsin Statutes.
- (4) Vacancy. If at the election there shall be a vacancy at the polls caused by the candidacy, sickness or from any other cause, of any election official required to be in attendance at a polling place, such vacancy shall be filled by temporary

appointment by the Village Clerk, which emergency appointment shall be for the day only as provided in Section 7.30 (2) (b) of the Wisconsin Statutes.

- (5) Oath. Within ten days after the mailing by the Clerk of the Village of a notice of their appointment and confirmation, the inspectors of election shall file with the Village Clerk an oath in accordance with the provisions of Section 7.30 (5) of the Wisconsin Statutes.
- (6) Compensation. A reasonable compensation shall be paid to the inspectors, which compensation shall be paid from the treasury of the Village as provided in Section 7.03 of the Wisconsin Statutes.

### **3.04 OPENING AND CLOSING OF POLLS.**

The polls at all elections held within the Village shall be opened at 7:00 o'clock in the morning and closed at 8:00 o'clock in the evening, or as provided in Section 6.78 of the Wisconsin Statutes.

### **3.05 PLACE OF ELECTION.**

All elections in the Village shall be held in the Village Hall located in the Village of North Bay.

### **3.06 SPLIT SHIFTS FOR VILLAGE ELECTION OFFICIALS**

(Created by Ordinance 2020-1 on January 23rd, 2020)

Election day poll worker chief inspector and inspector shifts shall be divided and staffed as follow:

Chief Inspector Shift 1: 7:00 AM-Noon  
Chief Inspector Shift 2: 11:30 AM-4:30 PM  
Chief Inspector Shift 3: 4:00 PM - 8:00 PM

Inspector Shift 1: 7:00 AM - 11:30 AM  
Inspector Shift 2: 11:30 AM - 4:00 PM  
Inspector Shift 3: 4:00 PM - 8:00 PM

Additionally, one or more of the scheduled Chief Inspectors shall be assigned to assist with pre-election set up and with post-election closing. Per sec. 7.30, Stats, the Village Clerk may establish different working hours for different officials assigned to the same polling place.

# Chapter 4

## CONSTABLE AND EMERGENCY GOVERNMENT

Last ordinance update: Ch4-CONSTABLE FINAL 10-09-17

4.01 CONSTABLE.	1
4.02 EMERGENCY GOVERNMENT.	1

### 4.01 CONSTABLE.

- (1) Constable's Duties. The Constable, after his or her election and before entering upon his or her duties, shall, in lieu of an official bond, be covered by a dishonesty or other appropriate insurance policy obtained by the Village in an amount of at least \$250,000.00. The Constable shall be governed and have the duties and powers prescribed for constables in villages under the Wisconsin Statutes. (Amended by Ord. 2017-02 on 10-09-17).
- (2) Enforce Ordinances. The Constable shall familiarize himself with the Ordinances of the Village and attend to the enforcement thereof by all lawful means.
- (3) Authorization to Engage Police Officers. For police protection of the Village and to assist the Constable, the Village Board of Trustees may, in its discretion, engage appropriate police agencies or officers for police service on such terms and conditions as they may agree upon.

### 4.02 EMERGENCY GOVERNMENT.

- (1) Declaration of Policy. To prepare the Village of North Bay to cope with emergencies resulting from enemy action and natural or man-made disaster, it is declared to be necessary to establish an organization for emergency government for the village by conferring upon the president of the Village of North Bay and others specified duties and powers, consistent, however, with Chapter 166 of the Wisconsin Statutes.
- (2) Definitions.
  - (a) Emergency Government. "Emergency Government" includes "civil defense" and means all measures undertaken by or on behalf of the Village:  
To prepare for and minimize the effect of enemy action and natural or man-made disaster upon the civilian population.  
To effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action or disaster.
  - (b) Civil Defense. "Civil Defense" means all measures undertaken by or on behalf of the State, the County and municipalities to prepare for and minimize the effects of enemy action upon the civilian population.

- (3) Emergency Government Committee.
- (a) How Constituted. The Village Board shall be the Emergency Government Committee, whose Chairman shall be the President of the Village Board.
  - (b) Duties. The Emergency Government Committee shall be an advisory and planning group and shall advise the Coordinator of Emergency Government Services on all emergency government matters.
- (4) Coordinator of Emergency Government Services.
- (a) Coordinator. There is hereby created the office of Coordinator of Emergency Government Services.
  - (b) Appointment. The Coordinator shall be appointed by the Village president and confirmed by the Village Board.
  - (c) Term. The term of office of the Coordinator shall be until a successor is appointed and qualified.
  - (d) Powers and Duties. The Coordinator, subject to the control and direction of the Village Board, shall:
    - Develop and promulgate emergency government plans for the Village consistent with State and County plans;
    - Direct the emergency government program for the Village as required by the Village Board;
- (5) Utilization of Existing Services and Facilities.
- (a) Policy. In preparing and executing the Emergency Government program, the services, equipment, supplies and facilities of the existing departments and agencies are directed to cooperate, and extend such services and facilities as are required of them.
  - (b) Responsibility. In order to assure that in an emergency all the facilities of the existing Village government are expanded to the fullest to meet such emergency, department and agency heads assigned to specific responsibilities under the Village Emergency Operations Plan will fulfill emergency and non-emergency duties as prescribed in the Plan.
- (6) Penalties. Whoever intentionally fails to comply with the directives of emergency government authorities promulgated under this Ordinance during a state of emergency or during any training program or exercise may be subject to a penalty as provided in Section 19.04 of this Code

# Chapter 5

## FINANCE

Last ordinance update: CH5-FINANCES final 4.11.2022

<b>5.01 PREPARATION AND ADOPTION OF ANNUAL BUDGET.</b>	<b>1</b>
<b>5.02 CHARGE TO BENEFITING OWNERS FOR PROFESSIONAL FEES</b>	<b>2</b>

### **5.01 PREPARATION AND ADOPTION OF ANNUAL BUDGET.**

- (1) Budget. The Village shall annually adopt, appropriate, and, as necessary, modify a budget as required by Section 65.90 of the Wisconsin Statutes. (Amended by Ord. 2012-07 on 10-08-12). As such, the Village Treasurer and President shall annually prepare and submit to the Village Board a budget presenting a financial plan for conducting the affairs of the Village for the ensuing calendar year. The budget shall include the following: the expense of conducting each department and activity of the Village for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increases and decreases recommended as compared with appropriations for the current year; an itemized statement of all anticipated income of the Village from sources other than general property taxes and bond issues, with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal years; an estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary for the proposed expenditures; such other information as may be required by the Village Board.
- (2) Appropriation Ordinance: Hearing. The Village Treasurer shall submit to the Village Board, at the time the annual budget is submitted, the draft of an appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year. Upon the submission of the proposed appropriation ordinance to the Village Board, it shall be deemed to have been regularly introduced. The Village Board shall hold a public hearing on the budget and the proposed appropriation ordinance as required by law. Following the public hearing, the proposed appropriation ordinance may be changed or amended and shall take the same course in the Board of Trustees as other ordinances.
- (3) Changes in Final Budget. Upon written recommendation of the Village Treasurer, the Village Board may at any time transfer any portion of an unencumbered balance of the appropriation to any other purpose or object.
- (4) Expenditures Limited by Annual Appropriation. The fiscal year shall be from January 1 to December 31. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to re-appropriation; but appropriations may be made by the Village Board, to be paid out of the income of the current year, in furtherance of improvements or

other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

## **5.02 CHARGE TO BENEFITING OWNERS FOR PROFESSIONAL FEES**

(Created by Ordinance 2022-1 on April 11th, 2022)

- (A) Professional Fees Charged Back. The Village Treasurer shall charge property owners fees for services, pursuant to Wisconsin Statutes Section 66.0627, in the following circumstances.
1. Whenever a property owner contacts the Village Attorney, Village Engineer and/or other of the Village's professional staff, whether such professional staff is employed by the Village or independently contracted, if said contact and subsequent service results in a charge to the Village of North Bay for that professional's time and services and said service is not a service supplied to the Village of North Bay as a whole the Village Treasurer shall charge all such professional fees incurred by the Village to such property owners(s), only to the extent that the total charge to the Village of North Bay exceeds \$150.00; or
  2. Whenever the Village Board, Village Manager, Village Clerk, or other Village official contacts the Village Attorney, Village Engineer, or any of the Village's professional staff, whether such professional staff is employed by the Village or independently contracted, regarding an application received from a property owner, if said contact and subsequent service results in a charge to the Village of North Bay for that professional's time and services and said service is not a service supplied to the Village of North Bay as a whole, the Village Treasurer shall charge all such professional fees incurred by the Village to such property owners(s), only to the extent that the total charge to the Village of North Bay exceeds \$150.00; or
  3. Whenever the Village incurs professional fees in considering certified survey maps, subdivision plats, re-zoning petitions, conditional use permit petitions, site development applications, and other petitions related to the development of land in the Village, the Village Treasurer shall charge all such professional fees incurred by the Village to such property owners(s), only to the extent that the total charge to the Village of North Bay exceeds \$150.00. For purposes of this subsection, "professional fees" shall include any charges incurred by the Village in relation to such application from the Village Engineer, the Village Attorney, or any other of the Village's professional staff, whether such professional staff is employed by the Village or independently contracted.
  4. The applicant may be required to pay a deposit before any review of plans, permits, etc. anticipated to exceed \$150.00.
- (B) Property Owner Allowed Time to Pay or Appeal. The Village Treasurer shall give each property owner billed for current services, as provided for herein, notice that they shall have not less than thirty (30) days to pay. Said notice shall also state that within 15 days of the date of the notice, the property owner may request a hearing before the Village Board regarding the charge against the property. Said notice shall also include an itemized statement of the professional services fees to be charged. Thereafter, if the property owner requests a hearing within the proper time period, the matter shall proceed as described in subsection (C) below, entitled "Appeal to

Village Board". If a hearing is not requested within the required time period, if that charge remains unpaid, the Village Treasurer shall automatically charge that delinquent bill against the next applicable tax bill of the parcel as a special charge as provided by statute.

- (C) Appeal to Village Board. Upon receipt of a timely request for hearing, the Village Board shall hold a hearing regarding the property charges at its next scheduled meeting or as soon as feasible. Such hearing shall be preceded by posted public notice and reasonable notice, via first class mail, to the property owner. In the event a hearing is requested, no charges shall be placed on the tax roll unless and until such hearing has been held and a decision has been rendered by the Village Board approving the itemized professional service charges in whole or in part. Only that part of the itemized charges for special services approved by the Village Board may be placed on the tax roll after the property owner has been given 30 days to pay from the date of the Village Board hearing.
- (D) Permits for Government Organization. Whenever it is requested that the Village of North Bay grant approvals to any other municipality, agency or other governmental body and that permit process requires the assistance of contracted professional staff of the Village, those fees shall also be charged back to the municipality, agency or governmental body seeking the permit in the manner described in this Section 5.02.
- (E) Collection Options. The Village, in addition or instead of the above, may follow any other legal means to collect amounts due and owing under this section.

#### **SEVERABILITY.**

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

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# ***Chapter 6***

## ***POLICE AND FIRE PROTECTION***

Last ordinance update: CH6-Police Fire FINAL 7-16-13

### **6.01 CONTRACTS FOR POLICE AND FIRE PROTECTION.**

**1**

#### **6.01 CONTRACTS FOR POLICE AND FIRE PROTECTION.**

The President and Board of Trustees of the Village shall be empowered to provide police and fire protection for the Village by contract with any other adjoining municipality which maintains a police and/or fire department, upon such terms and conditions as they may deem just and proper, pursuant to Section 61.65 of the Wisconsin Statutes.

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# Chapter 7

## PUBLIC WORKS

Last ordinance update: CH7-PUBLIC WORKS FINAL.01.13.2020

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### 7.01 STREETS AND PUBLIC LANDS.

- (1) Alteration Prohibited. No person shall effect access, block or barricade, work in, or undertake any act to the effect the existing street, alley, alleyway, public ground or any part thereof in the Village of North Bay by any means whatsoever unless authorized by permit issued by the Director of Public Works.
- (2) Private Streets and Roadways. No Person shall effect access, block or barricade, work in, or undertake any act to effect any private street or roadway.
- (3) Penalty. The penalty for violation of any provisions of this section shall be a penalty as provided in Section 19.04 of this Code.

### 7.02 DRIVEWAYS.

- (1) Approval Required. No person shall construct or maintain any driveway which intersects any public or private road or roadway, without first obtaining a permit from the Director of Public Works.
- (2) Specifications for Driveway Construction.
  - (a) Width. No driveway shall exceed twenty-four feet in width at the outer or street edge unless special permission is obtained from the Village Board.
  - (b) Interference with Intersections Prohibited. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village Board for effective traffic control or for highway signs or signals.
  - (c) Interference with Street. No driveway apron shall extend out into the street further than the face of the curb and under no circumstances shall such

driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of the streets, side ditches or roadside areas or with any existing structure on the right of way. When required by the Director of Public Works to provide for adequate surface water drainage along the street, the property owner shall, at his own expense, provide any necessary culvert or pipe that may be necessary to permit the free flowage of surface water.

- (d) Number of Approaches Limited. No more than one driveway entrance and approach shall be constructed for any lot or premises except where deemed necessary and feasible without undue impairment of safety, convenience and utility of the street by the Director of Public Works. Any two approaches shall be at least ten feet apart.
  - (e) Permittee Liable for Damage or Injury. The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during construction or repair of driveway approaches or entrances. When a road or roadway is intersected, the new connection shall be constructed in a manner acceptable as determined by the Director of Public Works. The Director of Public Works shall consider the quality of workmanship and materials, effect on drainage, and all issues relating to health and safety in reviewing and approving such construction.
  - (f) A cash bond in the amount of \$1,500.00 shall be filed with the Village Clerk. Such cash bond shall be held by the Village to guarantee the conditions of the permit. The deposit (or such amount that was unused to correct any errors) shall be returned to the property owner upon passage of inspection. (Added by Ord. 2013-05 on 10/15/13)
- (3) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Section 19.04 of this Code.

### **7.03 STREET EXCAVATIONS AND OPENINGS.**

- (1) Permit Required. No person shall make or cause to be made any excavation or opening in any street, alley, highway or other public or private road or roadway within the Village of North Bay without first obtaining a permit therefor from the Director of Public Works.
  - (a) Issuance of this permit does not constitute authority for any interference with traffic. A minimum of one lane of traffic shall be open at all times. Whenever the contractor's operations obstruct or endanger a traffic lane and no market detour has been provided, the contractor shall furnish a flagman to direct traffic through or around the congested area. The Village shall have the right to require additional flagmen as it shall deem necessary. (Added by Ord. 2013-05 on 10-15-13)
  - (b) Any damage or maintenance due to settlement of any other causes occurring within the street right-of-way, as a result of the issuing or exercising of this permit, must be corrected by the Permittee, or his agent, successors or assigns, in the time and manner designated by the Village Director of Public

Works or an authorized representative, for a period of two (2) years from the date of the issuance of this permit.(Added by Ord. 2013-05 on 10/15/13)

- (2) Fee. The fee for a street opening permit shall be \$250.00 or as subsequently determined from time to time by the Village Board of Trustees and shall be paid to the Village Treasurer who shall issue his receipt therefor
- (3) Bond. Before a permit for excavating or opening any street or public way may be issued, the applicant must execute and deposit with the Village Clerk an indemnity bond, approved by the Village President, in the sum of not less than \$1,000,000.00 or such other amount as determined by the Village Board of Trustees from time to time conditioned that permittee will warrant, indemnify and hold harmless and defend the Village of North Bay, its officials, agents, attorneys and assigns from all liability including, but not limited to, bodily injury, personal injury, or property damages, whether occurring to public or private property, to Village officers, officials, employees, agents or private individuals as a result of any work covered under his permit, and that he will fill such excavation and opening in such a manner as to restore the street to its prior condition and in such a manner to keep and maintain the same in such condition, normal wear and tear, accepted to the satisfaction of the Director of Public Works, and that he will pay all fines imposed upon him for any violation of any rule, regulation or Ordinance governing street openings or drain laying adopted by the Village Board, and will repair any damage done to existing improvements during the progress of the excavation in accordance with the Ordinances, rules and regulations of the Village. Such bond shall also guarantee that if the Village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one year.

The amount of the bond may be increased in specific cases upon determination by the Village Board of Trustees. Upon recovery under such bond, to the extent the work continues additional bonding shall be required, so that at all times the bond shall remain in full force and in effect in the amount and with the conditions aforesaid.

An annual bond may be given under this section covering all excavation work done by the principal for one year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Village Board as necessary to adequately protect the public and the Village.

- (4) Insurance. Prior to commencement of excavation work, a permittee must furnish the Director of Public Works satisfactory written evidence that he has in force and will maintain during the life of the permit and the period of excavation, public liability insurance of not less than that required by the Village Board of Trustees.
- (5) Regulations Governing Street Openings.
  - (a) Frozen Ground. No opening in the streets for any purpose shall be permitted when the ground is frozen, except where necessary as determined by the Director of Public Works.

- (b) Removal of Paving. In opening any street or other public way, all paving or ballasting materials shall be removed with the least possible loss or injury to surfacing material and together with the excavated material from trenches shall be so placed as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.
  - (c) Protection of Public. Every person shall enclose with sufficient barriers, each opening which he may make in the streets or public ways of the Village. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by the permittee, his agents or employees. Warning lights shall be kept burning from sunset to sunrise, sufficient in number and properly spaced to give adequate warning. Except by special permission from the Director of Public Works, no trench shall be excavated more than two hundred fifty feet in advance of pipe laying nor left unfilled more than five hundred feet where pipe has been laid. All necessary precautions shall be taken to guard the public effectually from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Village in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles, or property of any kind.
  - (d) Replacing Street Surface. In opening any street, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavation material which, in the opinion of the Director of Public Works, is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed, leaving the street in perfect repair, the same to be so maintained for a period of one year. In refilling the opening, the earth must be puddled or laid in layers not more than six inches in depth and each layer rammed, tamped or flushed to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. The Village may elect to have the Village make the pavement repair for any street opening, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening.
- (6) Excavation in New Streets Limited. Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Director of Public Works shall notify in writing each person, utility, Village department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting

said street, that all such excavation work in such street must be completed within thirty days. After such permanent improvement or repaving, no permit shall be issued to open, cut or excavate said street for a period of five years after the date of improvement or repaving unless in the opinion of the Director of Public Works an emergency exists which makes it absolutely essential that the permit be issued.

- (7) Emergency Excavations Authorized. In the event of an emergency any person owning or controlling any sewer, water main, conduit or utility in or under any street and his agents or employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit; provided that such person shall apply for an excavation permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining an excavation permit hereunder.
- (8) Village Work Excluded. The provisions of this section shall not apply to excavation work under the direction of the Director of Public Works by employees or contractors performing work under contract with the Village necessitating opening or excavations in Village streets.
- (9) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Section 19.04 of this Code.

#### **7.04 ENCROACHMENTS ON PUBLIC PROPERTY.**

(Added by Ord. 2012-02 on 08-13-12)

- (1) Policy: It is the policy of the Village of North Bay that no person shall make unauthorized use of public lands. Any encroachment on, to under, or over, or modification of Village owned, managed, maintained or leased lands including park, natural area or open space property, public buildings or rights-of-way will be deemed trespassing regardless of when the property was initially encroached upon. The violator(s) of such encroachment shall be notified and directed to remove any and all encroachments to the land not previously approved in writing by the Village, to restore the land to its original condition.

It is the policy of the Village of North Bay to resolve all encroachments in a fair and equitable manner, in the manner most beneficial, and to work with and assist encroaching parties to remove the encroachment(s).

- (2) Definitions:

Easements - A limited right to make use of a property owned by another, such as a right-of-way across the property.

Encroachment - An incursion onto public lands including, but not limited to, clearing, grading, gardening, landscaping, installing structures, constructing, storing, placing, dumping, maintaining, cutting, overhanging, excavating, parking, diverting, destabilizing, draining onto, defacing, damaging, mutilating, removing, and limiting access onto.

Encroachment Violation Notice - A letter prepared by the Public Works Trustee and addressed to the property owner who encroaches upon public lands or public right-of-way that defines the encroachment and stipulates the conditions and requirements for removing the encroachment.

Lien Against Property - A claim or charge made against property.

Public Lands - Property owned by the Village of North Bay and property in which North Bay has an easement or interest. Examples include parks, natural areas, fire, village hall, sidewalks and roadways, to the full extent of the public right-of-way, whether improved or unimproved.

Unauthorized Use - A use not permitted by the Village of North Bay.

(3) Procedure:

(a) Identification of Encroachments:

1. Upon discovery that an unauthorized encroachment has occurred, Village staff shall attempt to contact, in person, the property owner encroaching upon public property, identify the encroachment and work with that owner to have the encroachment removed and the area restored.
2. If the encroachment is not successfully removed, Village staff shall review the encroachment with the Village Attorney before recommending an appropriate action to the Village President or his/her designee.
3. Removal of Encroachment Notification. If it is determined that an encroachment requires removal and restoration, the encroaching party shall be mailed an Encroachment Violation Notice that identifies and directs removal and restoration of the unauthorized encroachment within thirty (30) days, unless circumstances warrant a more immediate removal or restoration.

(b) Failure to Comply:

1. If the encroaching party fails to comply with the written notice, the Village may remove the unauthorized encroachment and restore the property to its original condition. The cost of such action may be charged to the encroaching party.

(4) Appeals: Individuals may appeal an Encroachment Violation Notice to the Village Board, who will issue a written decision based on the Village file and the contents of the appeal. Any appeal must be received within thirty (30) days of receipt of the Encroachment Violation Notice. Encroaching party(s) may, at their own expense, have legal representation at any appeal hearing.

(5) Boundary Disputes. In the event that the property boundary is disputed, the property owner may, at the owner's expense, commission a boundary survey by

a licensed and qualified surveyor. If there is a bona fide dispute as to the boundary, the Village shall wait a reasonable time for the survey to be completed.

- (6) Costs to Resolve, Remove or Correct. Costs to resolve or correct unauthorized encroachments will be charged to the party encroaching upon public lands. Such costs may include, but are not limited to, boundary surveys, construction permit fees, engineering or architectural fees, contracts, Village staff time, demolition, lien applications, removal, restoration, maintenance costs, legal fees and accrued interest if payment is not received within (30) days of invoicing. Such costs shall be levied and collected as a special charge against the encroaching property, as provided in 66.0627. Wisconsin Statutes.
- (7) Damages and Value of Use. In addition to the costs to resolve or correct the encroachment, the encroaching party shall be liable for any damage to Village property and shall be liable for the value of the use of the Village property encroached upon, at the rate of one percent (1%) per month of the fair market value of the encroached property or fifty (\$50) per month, whichever is greater.
- (8) Public Property Use Permit. When not prohibited by grant funding conditions tied to acquisition, restrictive covenants or applicable law, rules and regulations, and upon a finding that the Village has no foreseeable use or need for the property encroached upon, the encroaching party, or other interested applicants, may make application for a revocable permit to use and occupy the public property. The application for the permit must be made to the Village President or his/her designee, legally describing the property to be used and the purpose of such use. The minimum permit requirements will be determined by the Village Board on a case-by-case basis. The permit shall contain such conditions, including reasonable time limits, as the Board deems appropriate.
- (9) Nuisance. Any encroachment on Village property is hereby declared a nuisance, which can be abated by court order, or under Village of North Bay Ordinances, Chapter 19, Section 19.04.
- (10) Infraction and Penalty. After receipt of an Encroachment Violation Notice, one who continues, intensifies, or expands such encroachment shall be issued a Notice of Infraction. In addition to, or in lieu of, any other remedies available under this section, any violation of this section may be enforced pursuant to the general penalty section of VNB Code of Ordinances, Chapter 19, Section 19.04.
- (11) Street Privilege Permit. (Added by Ord. 2013-5 on 10-15-13)
  - (a) When Required. Permits for the use of the streets, alleys or other public ways or places of the Village may be granted to applicants by the Director of Public Works for the purpose of building or remodeling any structure or of encumbering the street, alley or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this subsection and has obtained a building permit if required by Section 10.01 of this Code.
  - (b) Bond. No street privilege permit shall be issued until the applicant shall execute and file with the Village Clerk a bond in an amount determined by

the Director of Public Works, conditioned that the applicant will indemnify and save harmless the Village of North Bay from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys or public property of the Village resulting from such building or remodeling or demolition.

- (c) Fee. The fee for a street privilege permit shall be \$65.00.
- (d) Conditions of Occupancy. The permission to occupy or obstruct the streets, alleys or public grounds is intended only for use in connection with the actual erection, alteration, repair or removal of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Director of Public Works for violation thereof;

Such temporary obstruction shall cover not more than one-third in width of any street or alley;

Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions;

No building or structure shall be allowed to remain over night on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant;

Upon termination of the work necessitating such obstruction, all parts of the streets, alleys or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.

- (e) Termination. All street privilege permits shall automatically terminate at the end of three months from the date of issuance unless an earlier termination date is specified thereon at the direction of the Director of Public Works.

## **7.05 TREE TRIMMING AND ENCROACHMENT.**

- (1) Hazardous and Infected Trees. Any tree or part thereof, whether alive or dead, which the Director of Public Works or the contractor engaged by the Village as provided in subsection (1) of this section, shall find to be hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the Village, or to be injurious to sewers or other public improvements, whether growing upon private premises, shall be treated, pruned, removed or trimmed by the owner of the property upon which such tree or part thereof is located. The Director of Public Works shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four hours

nor more than fourteen days, as determined by the Director of Public Works on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to treat, prune, remove or trim said tree within the time limited, the Director of Public Works shall cause the tree to be treated, pruned, removed or trimmed and shall report the full cost thereof to the Village Clerk who shall thereupon enter such cost as a special charge against the property.

- (2) Cottonwood and Box Elder Trees Prohibited. No person shall plant or maintain within the Village of North Bay any female tree of the species *Populus Deltoides*, commonly called the "Cottonwood", or any tree commonly called the seed-bearing Box Elder or *Acer Negundo*, which may now, or hereafter become infested with Box Elder bugs, and such trees are hereby declared a nuisance. Any person having any such trees on his premises shall cause the same to be removed. If any owner shall fail to remove any such tree within thirty days after receiving written notice from the Director of Public Works, the Director shall cause the removal of such tree and report the full cost thereof to the Village Clerk who shall place such charge upon the next tax roll as a special charge against the premises.
- (3) Planting of Certain Trees Restricted. No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, Willow or any fruit or nut tree in or upon any public street, parkway, boulevard or other public place within the Village of North Bay unless he shall first secure written permission from the Director of Public Works, who shall not approve any such planting if, in his opinion, said tree will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public or the operation of any sewer or water system. The Director of Public Works shall cause the removal of any tree planted in violation of this subsection.

#### **7.06 SEWER USE.**

(Added by Ord. 2016-04 on 10-10-16)

- (1) Adoption; Incorporation of City of Racine Sewer Use Ordinance. Wastewater services are provided to the Village of North Bay by the City of Racine. The sections and subsections of the City of Racine ("city") ordinances set forth below relating to "Utilities", and any amendments thereto, are hereby adopted, and may be enforced by the Village. References in such provisions to the "wastewater utility" or the "utility", or to the "general manager" or the "manager", or to the "board of standards" or to the "board", or to the "wastewater commission" or the "commission" or to the "common council" or to the "council", or to the "city" are, for purposes of this section, references instead to the Village Board or its designee(s), to the maximum extent permitted under applicable law. Nothing herein shall be interpreted or construed as indicating that the Village is a party to the 2002 Racine Area Intergovernmental Sanitary Sewer Service, Revenue-Sharing, Cooperation and Settlement Agreement.

- (2) Sewer Use Ordinance Sections Adopted By Reference. The following sections of the City of Racine Municipal Code, as may be amended from time to time, are adopted by the Village and may be enforced by the Village within its jurisdiction:
- (a) Wastewater policy; purposes (Sec. 98-3 of the Racine Municipal Code).
  - (b) Definitions (Sec. 98-4 of the Racine Municipal Code).
  - (c) Approval of sewer plans; construction of projects (Sec. 98-114 of the Racine Municipal Code).
  - (d) Right of inspection and survey; action for injunctive relief for violation of restrictions on use of system.(Sec. 98-115 of the Racine Municipal Code).
  - (e) Definitions (Sec. 98-124 of the Racine Municipal Code)
  - (f) Discharge of unpolluted waters (Sec. 98-125 of the Racine Municipal Code)
  - (g) Storm sewers (Sec. 98-126 of the Racine Municipal Code)
  - (h) Prohibited waste discharges (Sec. 98-127 of the Racine Municipal Code)
  - (i) Wastewater discharges controlled (Sec. 98-128 of the Racine Municipal Code)
  - (j) Discharge of sewage by agreement (Sec. 98-129 of the Racine Municipal Code)
  - (k) Preliminary treatment facilities (Sec. 98-130 of the Racine Municipal Code)
  - (l) Control manhole (Sec. 98-131 of the Racine Municipal Code)
  - (m)Measurements and tests (Sec. 98-132 of the Racine Municipal Code)
  - (n) Board of Standards; appeals (Sec. 98-133 of the Racine Municipal Code)
  - (o) New connections prohibited (Sec. 98-134 of the Racine Municipal Code)
  - (p) WPDES permit (Sec. 98-135 of the Racine Municipal Code)
  - (q) DNR NR 101 requirements (Sec. 98-135 of the Racine Municipal Code)
  - (r) Authority to inspect (Sec. 98-137 of the Racine Municipal Code)
  - (s) Board of Standards: Appeals and Decision of Board (Sec. 98-143(4) and (5) of the Racine Municipal Code)
  - (t) Pretreatment regulations – general provisions (Sec. 98-150 of the Racine Municipal Code)
  - (u) General sewer use requirements (Sec. 98-151 of the Racine Municipal Code)
  - (v) Pretreatment of wastewater (Sec. 98-152 of the Racine Municipal Code)
  - (w) Administration (Sec. 98-153 of the Racine Municipal Code)
  - (x) Fees (Sec. 98-154 of the Racine Municipal Code)
  - (y) Enforcement (Sec. 98-155 of the Racine Municipal Code)
  - (z) Penalty; Costs and Actions (sec. 98-156 of the Racine Municipal Code)
- (3) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Section 19.04 of this Code.

## **7.07 LOCATION OF PUBLIC UTILITY EQUIPMENT AND WIRELESS FACILITIES IN PUBLIC LANDS AND RIGHTS-OF-WAY.**

(Added by Ord. 2019-01 on 03-11-19, Amended by Ordinance 2019-3 on 11-23-2019)

- (1) Definitions. For the purposes of this Section, the terms below shall have the following meanings<sup>1</sup>

“Administrator” means the Village President or his or her designee.

“Application” means a formal request, including all required and requested documentation and information, submitted by an applicant to the Village for a permit under this Section.

“Applicant” means a person filing an application for placement or modification of public utility equipment or the 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.

“Eligible Facilities Request” means the same as in 47 C.F.R. § 1.6100(b)(3), which defines the term to mean any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

“FCC” means the Federal Communications Commission.

“Public Lands” means any Village-owned land other than right-of-way.

“Public Utility” has the meaning provided in Wis. Stats. 196.01(5).

“Right-of-way” means the surface of, and the space above and below the entire width of an improved 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.

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<sup>1</sup> 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.

“Shot clock” means any controlling time limit for the review of and action on the placement of wireless telecommunications facilities in local right-of-way that is imposed by federal or state law.

“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 in volume;
4. The facility does not require antenna structure registration;
5. The facility is not located on Tribal lands; and
6. 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 electricity at nominal voltages more than 35,000 volts.

“Utility Pole” means a structure in the right-of-way designed to support electric, telephone, and similar public 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” generally, means a permit required by this Section and, specifically with respect to wireless telecommunications facilities, a permit 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 and Utility Equipment Regulations” means any regulations adopted by the Village pursuant to subsection (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/Facilities” generally means the proposed public utility equipment to be located and, specifically with respect to wireless telecommunications equipment, a wireless communications 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.

- (2) 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 public utility equipment and 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 incomed by the use of the right-of-way for the placement of public utility equipment or wireless telecommunications facilities. The Village recognizes the importance of

public utility service, and 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.

(3) Scope.

(a) **Applicability.** Unless exempted by subsection (3)(b), below, every person who, after the effective date of this Section, wishes to place public utility equipment or a wireless telecommunications facility in the right-of-way or other public lands or to modify existing public utility equipment or an existing wireless telecommunications facility in the right-of-way or other public lands must obtain a permit under this Section.

(b) **Exempt Facilities.** The provisions of this Section shall not be applied to applications for the following:

1. Installation of a small wireless facility on the strand between two existing 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 public utility equipment or wireless telecommunications facility by Village staff or any person performing work under contract with the Village.
4. Modification of existing public utility equipment or 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 public utility equipment or the wireless telecommunications facility.

(4) 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.

(5) Administration.

(a) Administrator. The Administrator is responsible for administering this Section.

(b) Powers. As part of the administration of this Section, the Administrator may:

1. Adopt, with the approval of the Village Board, wireless and utility equipment 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 any wireless and utility equipment regulations.
3. Develop and, if developed, require the exclusive use of forms and procedures for submission of applications for 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 public utility equipment or a wireless telecommunications facility that is the subject of the permit application.
6. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations.
7. Issue notices of incompleteness or requests for information in connection with any permit application.
8. Select and retain an independent consultant or attorney with expertise in public utilities and/or telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.
9. Coordinate and consult with other Village staff, committees, and governing bodies to ensure timely action on all other required permits under subsection (6)(b)8 of this Section.
10. Subject to appeal as provided in subsection (8)(d) of this Section, determine whether to grant, grant subject to conditions, or deny an application.
11. Take such other steps as may be required to timely act upon permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(6) Application.

- (a) Format. Unless the wireless and utility equipment regulations or approved forms or procedures 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 Administrator. An application is not complete un
- (b) Content. In order to be considered complete, an application must contain:
1. All information required pursuant to applicable wireless and utility equipment regulations and/or approved forms or procedures.
  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 the proposed facility, including 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. Proof that the applicant has mailed to the owners of all property within 300 feet of the proposed facility a notice that the applicant is submitting an application to the Village for placement or modification of a facility in the right-of-way, which notice must include (i) the proposed location of the facility, (ii) a description and scale image of the proposed facility, and (iii) an email address and phone number for a representative of the applicant who will be available to answer questions from members of the public about the proposed project.
  7. With respect to a wireless telecommunications facility, a copy of the FCC license for the facility or a sworn written statement from the applicant attesting that the facility will comply with current FCC regulations.

8. To the extent that filing of the permit application establishes a deadline for action on any other permit that may be required in connection with the facility, the application must include complete copies of applications for every required permit (including without limitation electrical permits, building permits, traffic control permits, and excavation permits), with all engineering completed.
  9. 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 public utility equipment or the wireless telecommunications facility comply with applicable safety standards.
  10. Payment of all required fees.
  11. 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.
  12. If the application is an "eligible facilities request" under 47 C.F.R. § 1.6100(b)(3), the application must contain information sufficient to show that the application qualifies as an eligible facilities request, 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 subsection (6) shall be made in writing to the Administrator. The Administrator may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the Village will be provided with all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the wireless permit sought.
- (d) Fees. Applicant must provide an application fee and shall be required to pay all costs reasonably incurred in reviewing the application, including costs incurred in retaining outside consultants. Other than an application to construct a new or replacement utility pole, the application fee shall be \$500 for up to the first five distinct facilities covered by the application, plus \$100 per each additional facility. The application fee for a new or replacement utility pole shall be \$1,000, which fee includes the cost of the facility to be installed on the new or replacement utility pole. The annual right-of-way/public lands access fee shall be \$20 per distinct permitted facility. The annual fee for any location on a Village-owned pole shall be as negotiated by the Village and the applicant. Fees shall be reviewed

periodically and raised or lowered based on the costs the Village expects to incur, as permitted by state law. (Amended by Ordinance 2019.3 on 11.25.2019)

- (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 Administrator's determination 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.

(7) General Standards.

- (a) Generally. Public utility equipment and wireless telecommunications facilities shall meet the minimum requirements set forth in this Section and any wireless and utility equipment regulations, in addition to the requirements of any other applicable law or regulation.
- (b) Regulations. Any wireless and utility equipment regulations and decisions on 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. If that determination is made, the requirements of this Section and the wireless and utility equipment regulations may be waived, but only to the extent required to avoid the prohibition.
- (c) Standards.
  - 1. Public utility equipment and wireless telecommunications facilities shall be installed and modified in a manner to:
    - a. Minimize risks to public safety. Facilities shall be located at least 5 feet from the nearest edge of the road or at the outer limit of the right-of-way, if less than 5 feet;
    - b. Ensure that placement of facilities on existing towers or utility poles is within the tolerance of those structures. New towers or utility poles may not exceed the greater of 40 feet above grade, or the maximum height of the tallest structure then existing in the Village, and any protrusion therefrom shall be a minimum of 10 feet above grade or such greater height as is necessary to render safe nearby vehicle, bicycle or pedestrian traffic;

- c. To the maximum extent consistent with the proper operation of the proposed public utility equipment or wireless communications facilities, new facilities, or at a minimum the ground-mounted/equipment cabinet portions thereof, shall be located underground. Those portions of equipment or facilities that cannot be located underground and still function for the intended purpose shall be placed in self-contained and weather-resistant enclosures, shall be colored or powder-coated in muted Earth tones and/or consistent with nearby coloring, and may, at the reasonable discretion of the Village Board, be required to be screened by appropriate landscaping, which shall be maintained by the applicant;
- d. To the maximum extent practicable, new public utility equipment and/or wireless communications facilities shall be located on existing towers or utility poles, unless the Village Board determines in advance, and for specific reasons stated, that the installation of new towers or utility poles would be preferable to the addition of such facilities to existing structures. All new towers and utility poles shall be the same height as, and shall be aligned with, existing structures along the same right-of-way, and may be located no closer than 125 feet from the nearest facility;
- e. Maintain, to the maximum extent possible, the integrity and character of the neighborhoods and corridors in which the facilities are located, and shall minimize visual impact. New public utility equipment or wireless communication facilities may not be placed in any location that would interrupt the public vista of Lake Michigan;
- f. Ensure that installations are subject to periodic review to minimize the intrusion on the right-of-way;
- g. Ensure that the Village bears no risk or liability as a result of the installations; and
- h. Ensure 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.
  - 1. No permit shall be issued unless (i) the public utility operator or wireless service provider applicant has immediate plans to use the proposed facility or (ii) the applicant has a contract with a public utility or wireless

service provider that has immediate plans to use the proposed facility.

2. 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.

(d) Standard Permit Conditions. All permits under this Section are issued subject to the following minimum conditions:

1. Compliance. The permit holder shall at all times maintain compliance with all applicable Federal, State, and local laws, regulations, and other rules.
2. 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 permits shall be valid for a period of five years from the date of issuance unless revoked pursuant to subsection (9)(b) of this Section.
3. Contact Information. The permit holder shall at all times maintain with the Village accurate contact information for the permit holder and all public utility or 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.
4. 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.
5. 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.
6. 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.

7. General maintenance. The public utility equipment and/or 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.
8. 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.
9. Relocation. At the request of the Village pursuant to subsection 10 of this Section, the permit holder shall promptly, and at its own expense, permanently remove and relocate any facility in the right-of-way.
10. 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 subsection 11 of this Section.
11. Restoration. A permit holder who removes or relocates a facility from the right-of-way must restore the right-of-way in accordance with subsection 12 of this Section.
12. 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.
13. 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.
14. Certificate of Insurance. A certificate of insurance, indicating the Village has been named as an additional insured thereto, sufficient to demonstrate to the satisfaction of the Administrator 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.

(8) Application Processing and Appeal.

- (a) Rejection for Incompleteness. Notices of incompleteness shall be provided in conformity with state, local, and federal law, including, with respect to wireless communication facilities, 47 C.F.R. § 1.6003(d), as amended. Unless a shorter response time is required by federal, state, or local law, or

as may otherwise be agreed to by the applicant and the village, an application covered by Wis. Stat. § 66.0414 shall be deemed complete unless the Village gives the applicant a notice of incompleteness within 10 days of submittal. (Amended by 2019-3 on 11-25-2019)

- (b) Processing Timeline. Wireless permit applications (including applications for other permits under Section 6(b)(8) 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. All other permit applications shall be processed within a reasonable time or as otherwise required by state or local law. Unless a shorter response time is required by federal, state, or local law, or as may otherwise be agreed to by the applicant and the village, an application covered by Wis. Stat. § 66.0414 for a collocation on an existing utility pole shall be deemed approved unless acted upon by the Village within 60 days of the application being deemed complete, and an application involving the construction of a new or replacement utility pole shall be deemed complete unless acted upon by the Village within 90 days of the application being deemed complete. (Amended by 2019-3 on 11-25-2019)
  - (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(d)), the Administrator 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 Administrator 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 infrastructure provider applicant must be taken jointly with the public utility or the wireless service provider that intends to use the facility.
  - (e) Deadline to Appeal.
    - 1. Appeals that involve “eligible facilities requests” must be filed within three business days of the written decision of the Administrator.
    - 2. All other appeals not governed by subsection (8)(e)1, above, must be filed within ten business days of the written decision of the Administrator, unless the Administrator extends 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.
- (9) 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 facility expires. All other permits shall be valid

for a period of five years from the date of issuance. Upon expiration of the permit, the permit holder must either:

1. Remove the 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 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 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 subsection (3)(b) of this Section, a facility installed without a 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 facility. Notwithstanding the above, if a facility that was installed prior to Village approval is subsequently applied for and approved, such facility shall be subject to double applicable the permit application fee(s).
- (10) **Relocation.** 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 facilities in the right-of-way whenever the Village requests such removal and relocation. 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.
- (11) **Abandonment.**
- (a) **Cessation 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 Administrator that the permit holder's obligations for its facilities under this Section have been lawfully assumed by another permit holder.

2. Submit to the Administrator a proposal and instruments for dedication of the facilities to the Village. If a permit holder proceeds under this subsection (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 subsection 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 12.
  3. Remove its facilities from the right-of-way within one year and perform the required restoration under subsection 12, unless the Administrator waives this requirement or provides a later deadline.
- (b) **Abandoned Facilities.** Facilities of a permit holder who fails to comply with subsection (11)(a) 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, dispose of them as the Village sees fit, and retain any proceeds from such disposal to defray the Village's costs under this Section; and/or
  3. require removal of the facilities by the permit holder or the permit holder's successor in interest.
- (12) **Restoration.** In the event that a permit holder removes or is required to remove a facility from the right-of-way under this Section (or to relocate it pursuant to subsection (10)), the permit holder must 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 restorations required by this subsection 12, the Village at its option may do such work. In that event, the permit holder shall pay to the Village, within 30 days of billing therefor, the cost of restoring the right-of-way.
- (13) **Placement on Village-Owned or Village-Controlled Structures.** The Village may negotiate agreements for placement of public utility equipment or wireless telecommunications facilities on Village-owned or -controlled structures, including those on public lands or in the public right-of-way. The agreement shall specify 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 incurs in connection with its review of and action upon the request for an agreement.

- (14) 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.

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# Chapter 8

## PLANNING AND ZONING

Last ordinance update: Ordinance 2024-1 passed on March 11th, 2024 and took effect on March 19th, 2024.

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***8.01 PURPOSE***

*Repealed and recreated by Ordinance 2022-2 on 5.23.2022*

The purpose of this Ordinance is to promote the public health, safety and general welfare of the community and these regulations are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other dangers; to prevent overcrowding of lands; to avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; to insure proper legal description and proper monumenting of land subdivided. The historic Village of North Bay

is an eclectic confluence of architectural styles deployed over several decades. Houses were designed to complement the rolling landscape, lake views, original trees, and existing homes creating the “North Bay aesthetic”. This unique mosaic of contemporary, traditional and revival architecture that characterizes North Bay has attracted home buyers from across the country. It is a source of pride to residents and is a key component of maintaining our unique completely exclusive residential community which is the only complete residential community in Racine County. These regulations are made with reasonable consideration, among other things, of the character of the Village with a view of conserving if not increasing the value of the buildings placed upon land, providing the best possible environment for human habitation and for encouraging the most appropriate use of land throughout the Village.

## **8.02 GENERAL ADMINISTRATION**

- (1) The primary administration of this section is hereby vested in the Village Board, Village Planning Commission, Board of Appeals and Zoning Administrator, all as described in the Village of North Bay Code of Ordinances. This includes, but is not limited to, the procedures and substantive standards with respect to the following administrative functions:
  - (a) Issuance of occupancy certificate
  - (b) Variances
  - (c) Appeals
  - (d) Amendments
  - (e) Conditional Uses
  - (f) Fees
  - (g) Penalties
- (2) Zoning Administrator. The Village President shall be the Village Zoning Administrator. The Village Zoning Administrator, and/or his designee, shall have duties that include, but which are not limited to, the following:
  - (a) Issue all certificates of occupancy, and make and maintain records thereof;
  - (b) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this chapter;
  - (c) Issue violation notices as may be necessary to obtain compliance with the terms of this Chapter and/or other provisions of the Village of North Bay Code of Ordinances;
  - (d) Require all construction of work of any type be stopped when such work is not in compliance with this Chapter and/or the Village of North Bay Code of Ordinances; and revoke any permit which was unlawfully issued;
  - (e) Review and approve or deny all applications for approval of nonlisted uses;
  - (f) Deliver to the Village Clerk for safekeeping, all permanent and current records of this Chapter, including, but not limited to, all maps, amendments, conditional uses, variances, appeals, and applications thereof;
  - (g) Assist in providing public information relative to this Chapter;

- (h) Forward to the Village Clerk all applications for conditional uses and for amendments to this Chapter that are initially filed with the office of the Zoning Administrator;
  - (i) Forward to the Board of Appeals applications for appeals, variances, or other matter on which the Board of Appeals is required to pass under this Chapter;
  - (j) Forward to the applicable Village board, commission, and/or committee copies of all applications for variances, conditional uses, and amendments affecting property designated as a landmark;
  - (k) Enforce all orders of the Board of Appeals;
  - (l) Initiate, direct, and review, from time to time, a study of the provisions of this Chapter, and make a report of his recommendations to the Village Planning Commission not less frequently than once a year; and
  - (m) Undertake any other matters pertaining to this Chapter and/or as may, from time to time, be delegated to the Village Zoning Administrator by the Village Board.
- (3) Village Planning Commission
- (a) Creation and Rules. The Village Planning Commission, as established under the provisions of Wisconsin Statutes 61.35 and §62.23(1), is the plan commission referred to in this Chapter. The Village President, or his designee, shall be the Chairman of the Village Planning Commission.
  - (b) Jurisdiction. The Planning Commission shall discharge the following duties under this Chapter:
    - (i) Review and report on all matters referred to it by the Village Board pursuant to Wis. Stats. §62.23(5).
    - (ii) Review all applications for conditional uses, hold hearings thereon, and recommend action to the Village Board, as prescribed in Article III of this Chapter, pertaining to conditional uses.
    - (iii) Undertake any other duties as may, from time to time, be delegated to the Village Planning Commission by the Village Board or by state statute.
- (4) Board of Appeals
- (a) Creation and Membership. The Board of Appeals shall consist of five members appointed by the Village President, subject to the confirmation of the Village Board of Trustees. Vacancies to fill the unexpired terms of the members whose terms become vacant shall be made in accordance with the provisions of Wis. Stats. 62.37(7)(e)2. The Village President shall also appoint, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the Village President shall designate one of the alternate members as first alternate and the other as second alternate. The 1<sup>st</sup> alternate shall act, with full power, only when a member of the board refuses to vote

because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board so refuses or is absent.

- (b) Jurisdiction. The Board of Appeals shall have the powers granted in Wis. Stats. §62.23(7)(e)7, including, but not limited to:
  - (i) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator under this Chapter.
  - (ii) To hear and pass upon applications for special exceptions or variances from the terms of this Chapter.
  - (iii) To hear and decide all matters referred to it or upon which it is required to pass under this Chapter.
- (c) Meetings and Rules. The Board of Appeals may adopt rules and regulations for its own government, not inconsistent with law or with the provisions of this Chapter and of any other ordinance of the Village. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence, the acting Chairman may administer oaths and compel the attendance of witnesses.
- (d) Hearings; Records; Quorum; Actions. Hearings of the Board of Appeals shall be public. The Board shall designate the Village Clerk or some other suitable person to act as its Secretary. The Secretary shall keep minutes of its proceedings, showing the action of the Board and vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of examinations and other office actions, all of which shall be immediately filed in the office of the Board and shall be public record. The presence of three members of the Board, including alternates as necessary, shall constitute a quorum. If a quorum is present, the Board of Appeals may take action by a majority vote of the members present. The Board shall act by resolution. See 8.13.
- (e) Assistance from Other Officers or Departments. The Board of Appeals may call on other Village Officials for assistance in the performance of its duties and it shall be the duty of each office to render such assistance to the Board as it may reasonably require.
- (f) Powers of Review. Upon request properly made for review, the Board of Appeals shall review any order requiring decision or determination made by the Zoning Administrator or Building Inspector pursuant to provisions of this Chapter. In addition thereto, the Board shall have the authority to hear and decide all matters referred to by the Planning Commission, Zoning Administrator, Building Inspector for the

Village Board. If in the opinion of the Village President or Village Board it believes the Board of Appeals should review and make a determination on a matter of public concern, the matter may be referred directly to the Board of Appeals without prior decision for a determination.

- (g) Determinations. The concurring vote of three members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass, or to effect any variation in this Chapter. The grounds of every such determination shall be stated.
- (h) Finality of Decision. All decisions and findings of the Board of Appeals on any application for a variance, after a public hearing, shall, in all instances, be the final administrative decision and shall be subject to judicial review. No application for a variance which has been denied by the Board may be resubmitted for a period of one year from the date of the order of denial, except under extraordinary circumstances or on the grounds of new evidence discoverable after the hearing or proof of substantially changed conditions found to be valid by the Board. (Code 1973, §16.03.030; Ord. No. 2-92, pt. 1, 2-19-92. Cross reference-Boards, Committees, Commissions. §2-166. State law reference-Board of Appeals, Wis. Stats. §62.23(7)(e).

### **8.03 AUTHORITY**

This Ordinance is adopted by virtue of authority provided under Sections 61.35 and 62.23 and Chapter 236 of the Wisconsin Statutes.

### **8.04 JURISDICTION**

Jurisdiction of this Ordinance shall include all lands within the corporate limits of the Village of North Bay.

### **8.05 INTERPRETATION AND CONSTRUCTION**

- (1) Existing Restrictions. It is not intended by this Ordinance to repeal, abrogate or interfere with any existing easements, covenants or agreements, however, where this Ordinance imposes a greater restriction on the use of buildings or premises than are required by easements, covenants or agreements, the provisions of this Ordinance shall govern.
- (2) Minimum Requirement. 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 and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (3) Construction. In the construction of this Chapter the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise. In further

amplification and for clarity of interpretation of the context, the following definitions of word use shall apply:

- (a) Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular.
- (b) The word “shall” is mandatory and not discretionary.
- (c) The word “may” is permissive.
- (d) The word “lot” shall include the words “piece”, “parcel”, and “plots”; and the word “building” includes all other structures of every kind regardless of similarity to buildings; and the phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, and “occupied for”.
- (e) All “measured distances” shall be to the nearest foot. If a fraction is one-half or less, the full number next below shall be taken.

#### **8.06 DEFINITIONS**

The following words, terms and phrases, when used in this Chapter and/or in other provisions of the Village of North Bay Code of Ordinances, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning.

- (1) Accessory building, structures or use means a building, structure or use which is:
  - (a) Conducted or located on the same zoning lot as the principal building or use served, except as may be specifically provided elsewhere in this Chapter;
  - (b) Clearly incidental to, subordinate in purpose to, and serves the principal use.
  - (c) “Accessory building” shall specifically include, without limitation due to enumeration, all storage sheds, gardening sheds, gazebos and greenhouses, but shall not include garages, which are regulated separately under Section 8.07(3) of this Chapter. (Amended by Ordinance 2015-02 on 06-08-15).
- (2) Advertising device means any advertising sign, billboard, statuary or poster panel which directs attention to a business, commodity, or service offered at any premises in the Village.
- (3) Basement means any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- (4) Boathouse means a structure used for the storage of watercraft and associated materials which has one or more walls or sides.
- (5) Building means any structure built, used, designed, or intended for the support shelter, protection, or enclosure of persons, animals, chattels, or property of any kind, and which is permanently affixed to the land, stream or lake bed.
- (6) Building, detached means a building surrounded by open space on the same lot.
- (7) Building height means the vertical distance from the grade of the street (as measured from the highest point at the centerline of that portion of

the street that fronts the lot) to the highest point of any part of the building located on the lot. (Amended by Ordinance No. 2007-01 on 06/11/07)

- (8) Certificate, occupancy means the written approval of the Zoning Administrator that authorizes a person or persons to occupy or use as premises, as established in section 114-96. The occupancy certificate may consist of a standardized independent form bearing the signature of the Zoning Administrator or it may be represented as part of the building permit.
- (9) Class 2 public notice means newspaper publication and/or posting satisfying the requirements of Wis. Stats. Chapter 985 and as otherwise allowed by law.  
(Amended by Ordinance 2016-01 on 07-11-16).
- (10) Club or lodge, private (nonprofit) means a nonprofit association of persons, who are bona fide members paying dues, which owns, hires, or leases a building, or portion, thereof; the use of such premises being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a board of directors, executive committee or similar body chosen by the members. It shall be permissible to serve food, meals and beverages on such premises.
- (11) Community living arrangement means any facility, licensed, or operating or permitted under the authority of the State Department of Social Services, where five or more unrelated persons reside, in which care, treatment, or services above the level of room and board, but less than skilled nursing care, is provided to persons residing in the facility. Such care, treatment, or services are provided as a primary function of such facility. Nursing homes, general hospitals, special hospitals, prisons, jails, pre-release centers, detention centers and foster homes for four or fewer children are not community living arrangements for purposes of this Chapter.
- (11.5) *Created by Ordinance 2022-2 on 5.23.2022*  
"Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.
- (12) Convalescent or nursing home means a private home for the care of the aged or infirm, or a place of rest for those suffering from bodily disorders. Such home does not contain equipment for surgical care or for the treatment of disease or injury.
- (13) Cross Creek Territory means those parcels lying along both sides of a thirty foot easement known as Cross Creek Road between North Main and Erie Street and adjacent to the north boundary of the Village, all as shown on current Village maps, shall not be further subdivided except as described in Section 8.06 of this Code without the approval of the Village Planning Commission. Any such permitted subdivision shall be upon terms, requirements and conditions as to lot size, road and easement dedication and other items as the Village Planning Commission shall designate.

- (14) Daycare center, group means any establishment licensed by the State which provides supplemental parental care and supervision and/or educational instruction to nine or more children under seven years of age during the whole or any portion of the day.
- (15) Daycare home, family means any establishment licensed by the State which provides supplemental parental care and supervision and/or educational instruction for four to eight children under the age of seven years of age during the whole or any portion of the day in the provider's home.
- (16) Development means 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 substantial improvements to buildings, structures or accessory structures; the placement of buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.
- (17) Drainage system means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (18) Dwelling means a building, or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, multiple-family dwellings and apartment hotels, but not including hotels or motels.
- (19) Dwelling, multiple-family means a building, or portion thereof, containing three or more dwelling units.
- (20) Dwelling, single-family means a building containing one dwelling unit only.
- (21) Dwelling, two-family means a building containing two dwelling units.
- (22) Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used, or intended to be used, for living, sleeping, cooking and eating.
- (23) Environmental control facility means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or reduced by other pollution control facilities.
- (24) Existing Subdivision. Those parcels of land within the Village which are included in a presently platted and recorded subdivision.
- (25) Family means an individual or two or more persons related by blood, marriage, or legal adoption living together as a single housekeeping unit within a dwelling unit, including foster children, domestic servants, and not more than three guests or roomers. The word "family" shall

- include not more than four unrelated persons living together as a single housekeeping unit.
- (26) Fence. A fence is an artificial structure of posts and boards, wire, pickets, panels, rails or similar materials that is used as an enclosure of land. For purposes of this Chapter, a fence shall not include vegetation, nor shall it include a retaining wall that retains or supports earth. Additionally, a fence shall not include a temporary snow fence that is installed and removed within the months of November through April, nor shall it include any temporary fence required by law, nor shall it include an “invisible fence” which is comprised entirely of buried wiring and which is designed to contain pets. (Added by Ordinance 2013-04 on 10/15/13)
- (27) Flea market means a use occupying a building, structure or vacant lot whereby the owner or his agent sells, leases, or makes available space to transient merchants who vend, sell or dispose of, or offer to vend, sell or dispose of, new or used goods, wares or merchandise daily or at less frequent intervals; such term does not include arts and craft fairs, bazaars, festivals, or similar activities held by nonprofit organizations, neighborhood garage or rummage sales, or any farmer or truck gardener selling or disposing of products of the farm or garden occupied or cultivated by him.
- (28) Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas caused by:
- (a) The overflow or rise of inland waters;
  - (b) The rapid accumulation or runoff of surface waters from any source;
  - (c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan;
  - (d) The sudden increase caused by an unusually high water level in a natural body of water, accomplished by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (29) Flood profile means a graph or a longitudinal profile showing the relationship of the water surface elevation on a flood event to locations along a stream or river.
- (30) Flood protection elevation shall correspond to a point two feet of freeboard above the water surface profile associated with the regional flood and the official floodway lines.
- (31) Frontage means the length of all the property fronting on one side of a street between the two nearest intersecting streets, measured along the line of the street, or if dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- (32) Garage means a detached garage and/or an attached garage used for housing the motor vehicles of the occupants of the premises. (Amended by Ordinance No. 2007-02 on 10/3/07)
- (33) Garage, storage. (Deleted by Ordinance No. 2007-02 on 10/3/07)

- (34) Grade means the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
- (35) Ground floor means that level of a building located substantially at grade.
- (36) Guest, permanent means a person who occupies or has the right to occupy a hotel or motel or apartment hotel accommodation as his domicile and place of permanent residence.
- (37) Historic structure means any structure:
  - (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;
  - (b) Certified or preliminary determination 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 of the Interior to qualify as a registered historic district;
  - (c) 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;
  - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by any approved state program as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.
- (38) Home Occupation means any occupation or profession carried on by a member of the immediate family residing on the premises, in connection with which there is used no sign or display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; no stock in trade or commodities are sold; no person is employed other than a member of the immediate family residing on the premises; no mechanical or electrical equipment visible or audible from the exterior of the premises is used except such as is permissible for purely domestic or household purposes; and the occupation or profession does not involve dealing directly with consumers on the premises.
- (39) Incompatible use means a use or service which is unsuitable for direct association with certain other uses because it is contradictory, incongruous, or discordant.
- (40) Lodging room (rooming unit) means a room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room for the purposes of this chapter.
- (41) Lodginghouse (including "boardinghouse" and "roominghouse") means a residential building, or portion thereof, other than a motel, apartment hotel, or hotel containing lodging rooms which accommodate persons

- who are not members of the keeper's family. Lodging with or without meals is provided for compensation on monthly or less basis.
- (42) Lot means a parcel of land which is either a "lot of record" or a "zoning lot".
  - (43) Lot area, gross means the area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by the waters or a duly recorded lake or river.
  - (44) Lot, corner means a lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.
  - (45) Lot depth means the mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.
  - (46) Lot, interior, means a lot other than a corner or reversed corner lot.
  - (47) Lot line, front means that boundary of a lot which is along an existing or dedicated public street or, where no public street exists, is along a public way. The owner of a corner lot may select either street lot line as the front lot line. In the case of a landlocked or partially landlocked land, the front lot line shall be that lot line that faces the access of the lot.
  - (48) Lot line, rear means that boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line.
  - (49) Lot line, side means any boundary of a lot which is not a front lot line or a rear lot line.
  - (50) Lot of record means a lot which is part of a subdivision recorded in the office of the county register of deeds, but which has not been reduced from its platted size by conveyance of a part thereof; or is a parcel of land, the deed to which was recorded in the office of such register of deeds prior to May 1, 1961.
  - (51) Lot, width means the horizontal distance between the side lot lines of a lot, measured at the narrowest width within the first 30 feet or lot depth immediately in back of the front yard setback lines.
  - (52) Navigable waters means Lake Michigan.
  - (53) Nonconforming building or structure means any building or structure, lawful at the time of enactment of this chapter, which;
    - (a) Does not comply with all of the regulations of this chapter or of any amendment hereto for the zoning district in which such building or structure is located;
    - (b) Is designed or intended for a nonconforming use.
  - (54) Nonconforming use means any use of land, buildings, or structures, lawful at the time of the enactment of this chapter, which does not comply with all of the regulations of this chapter or of any amendment hereto governing use of the zoning districts in which such use is located.
  - (55) Ordinary high water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

- (56) Overnight parking, for the purpose of this chapter, shall constitute the parking of a motor vehicle, boat or trailer between the hours of 2:00 a.m. and 7:00 a.m.
- (57) Parking space means an enclosed or unenclosed surfaced area permanently reserved for the temporary storage of one automobile and appropriately connected with a street or alley by a surfaced driveway affording adequate ingress and egress. Such space shall be at least nine feet in width and 19 feet in length and shall meet all other requirements imposed by the Village.
- (58) Professional office means the office of a doctor, dentist, minister, architect, landscape architect, professional engineer, realtor, lawyer, author, musician, or other recognized professional.
- (59) Rooming unit is a term used in this chapter to regulate residential density in boarding houses, lodging houses, and rooming houses. Rooming unit is synonymous with "lodging room".
- (60) Setback indicates the maximum distance maintained between a street right-of-way and the nearest supporting member of any structure on the lot.
- (61) Shorelands means the lands within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage, or 300 feet from a river or stream or the landward side of the floodplain, whichever distance is greater.
- (62) Shore Acres Territory means those parcels south of North Bay subdivision and east of Bayside subdivision, all as shown on current Village maps, shall not be further subdivided except as described in Section 8.06 of this Code without the approval of the Village Planning Commission. Any such permitted subdivision shall be upon terms, requirements and conditions as to lot size, road and easement dedication and other items as the Village Planning Commission shall designate.
- (63) Sign means a name, identification, description, display, or illustration which is affixed to, or represented directly or indirectly upon a building, structure or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business. The term "sign" shall not include a sign located completely within an enclosed building, which sign is not visible from outside the building, unless the context shall so indicate.
- (64) Sign, advertising means a sign which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.
- (65) Sign, business means a sign which directs attention to a business or profession conducted, or to a commodity, service or entertainment sold or offered upon, the premises where such sign is located or affixed. Public service information promoting noncommercial items of general interest to the community may be included on a business sign.
- (66) Sign, political means any temporary sign which supports the candidacy of any candidate for public office or urges action on any other matter on the ballot of primary, general, or special elections.

- (67) South Creek Territory means those parcels lying between North Main and Erie Streets and adjacent to the south boundary of the Village, all as shown on current Village maps, shall not be further subdivided except as described in Section 8.06 of this Code without the approval of the Village Planning Commission. Any such permitted subdivision shall be upon terms, requirements and condition as to lot size, road and easement dedication and other items as the Village Planning Commission shall designate.
- (68) Street means a public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, lane, throughway, or however otherwise designated, but does not include driveway to buildings.
- (69) Structural alteration means any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.
- (70) Structure means anything which is placed, constructed or erected on the ground or attached to something on the ground. Structures shall include, but not be limited to, solar apparatus, windmills, satellite earth stations, and swimming pools.
- (71) Use *Repealed by Ordinance 2022-2 on May 23, 2022 , See Section 8.10 (4-15)*
- (72) Use, permitted means a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such districts.
- (73) Yard means an open space on the same zoning lot with a building or structure, unoccupied and unobstructed from its lowest level to the sky. A "yard" extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.
- (74) Yard, front means a yard extending along the full length of the front lot line between the side lot lines.
- (75) Yard, rear means a yard extending along the full length of the rear lot line between the side lot lines.
- (76) Yard, side means a yard extending along a side lot line from the front yard to the rear yard.
- (77) Zoning Administrator means the Village President.
- (78) Additional definitions. Any definitions set forth in Chapter 236 of the Wisconsin Statutes are hereby adopted in inclusion herein by reference to the same force and virtue as if set forth herein in detail.

**8.07 DISTRICT ESTABLISHMENT, USE AND REGULATION**

The Village of North Bay is hereby designated and divided into two "Residence Districts", R-1 and R-2. The R-1 district consists of all lands lying west of North Main Street and each lot lying in this district shall have a minimum of .75 acres or 32,670 square feet unless presently occupied by a residence. The R-2 district consists of all lands lying east of North Main Street and each lot lying in this

district shall have a minimum area of .5 acres or 21,780 square feet unless occupied by a residence.

- (1) Use. No building shall be erected, moved or structurally altered, and no building or premises shall be used except for one or more of the following uses:
  - (a) Permanent one-family dwellings and accessory buildings;
  - (b) Temporary sheds for construction and similar purposes;
  - (c) Municipal buildings;
  - (d) (Repealed by Ordinance 2015-02 on 06-08-15);
- (2) Regulations. No building or premises shall be used and no building or structure shall be erected, moved or altered or changed except in accordance with the requirements of this Chapter and the requirements of Chapter 10, including the procurement of a building permit.
  - (a) Advertising. No advertising sign of any character shall be permitted except for one unlighted sign not exceeding four square feet in area pertaining to the lease, hire or sale of the building or premises on which the sign is located.
  - (b) Residential Restrictions. No trailer, basement, tent, shack, garage, barn or other outbuilding, erected on the building site shall be used at any time as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. No house being built shall be used as a residence until it has been finished to the extent that the concrete floor of the basement or the concrete slab of a basementless house has been poured and all the walls of all the living quarters shall have been lathed and plastered or the finished material of other construction erected, and the rooms to be used as kitchen and bathroom shall have been finished.
  - (c) Livestock. No livestock or other animals including chickens and excepting the usual household pets shall be kept or raised within the Village.
  - (d) Poles and Wires. No telephone or electric poles or wires shall be erected or maintained in that part of the Village which is constituted of the original North Bay Subdivision, except under easements as recorded in the office of the Register of Deeds of Racine County on January 10, 1921, and January 17, 1921, Volume 180 at Page 569.
  - (e) Snowmobiles. See 16.04(24) \*
  - (f) Accessory buildings. No accessory building may be located on any lot prior to the completion of the principal dwelling on such lot. No more than one accessory building is allowed on any lot. Accessory buildings shall not have a floor area greater than 144 square feet. Accessory buildings may not be taller than twelve feet, measured from ground to the highest point of the building, and, in any event, may not be taller than the lot's principal building. Notwithstanding any other provision of this Code to the contrary, accessory buildings may be constructed

with a 5-foot side yard or rear yard setback, provided, however, that any accessory structure constructed within any public easement shall be conditioned upon the property owner executing an agreement, in a form acceptable to the Village, providing at least: (1) that the structure will be moved at the request of the Village and (2) that the Village shall have the right to remove, or, if necessary, destroy the accessory structure, without any recourse by or to the owner, if and as necessary to gain access to the easement area. Accessory buildings are allowed only in rear yards. Accessory buildings may be painted only the same color as the principal dwelling, or such other color as will tend to cause the accessory building to visually blend into the natural surroundings. In no event may an accessory building be used as a permanent or temporary dwelling, nor may an accessory building be used to store a car or truck, nor may an accessory building be used in connection with any commercial operation. A building permit is required for accessory structures. (Amended by Ordinance 2016-01 on 07-11-16).

- (g) Parking and Storage of Vehicles (*Created 11.25.2019 and went into effect 1.13.2020*) Outdoor parking of vehicles shall be limited to residents' vehicles and to those of residents' temporary guests, and shall be on an all-weather hard surface (concrete, asphalt, or the like) except that vehicles may be parked on the residence's yard for not more than four hours in order to accommodate the temporary parking of guests' vehicles when there is inadequate street parking available. Residents' recreational and utility vehicles (including, but not limited to, RVs, campers, fifth-wheel campers, trailers, boats, all-terrain vehicles, jet skis, snowmobiles, tractors, etc.) may not be stored outside, provided however, that between April 1 and October 31, one recreational or utility vehicle may be stored in the rear yard at least 15 feet from all side and rear lot lines. Notwithstanding the above, and only with the prior notification to a Village trustee or the Village police department, a camper or recreational vehicle may be temporarily parked in a residence's driveway for up to 7 days while such vehicle is being loaded or unloaded."
- (3) Detached Garages. No new detached garages shall be constructed and/or placed on any property in the Village. Existing detached garages that are/were in existence at the time of the effective date of this particular ordinance may be kept, maintained, repaired, and/or replaced by the property owner, but any such repaired or replaced garage shall (i) not exceed the presently-existing dimensions and/or have a different location or footprint than the original detached garage being so repaired or replaced, and (ii) shall first be approved by the Plan Commission and the Village Board under Section 8.10(4)(b) of the Village Code of Ordinances. Additionally, and notwithstanding the foregoing prohibition pertaining to new detached garages, any property in the Village that presently does not have any type of garage (whether

attached and/or detached) may construct a new detached garage on the property if such a detached garage is first approved by the Plan Commission and the Village Board under Section 8.10(4)(b) of the Village Code of Ordinances. (Adopted by Ordinance No. 2007-02 on 10/3/07)

(4) *Created by Ordinance 2022-2*

To maintain the North Bay aesthetic, construction following the teardown of an existing house must emulate the previous structure. Specifically, the replacement house must replicate the exterior dimensions, i.e. height, length and width, location and orientation on the lot, setbacks, and square footage of the previous house. Building materials, insulation, windows, doors, plumbing, heating, air conditioning, and electrical systems of the new structure may be updated with approval of the planning commission.

Any variance of this standard must be approved by the planning commission.

### **8.08 NONCONFORMING STRUCTURES**

Except as provided in Wis. Stats. 62.23(7)(h) and 62.23(7)(hc), as may be amended from time to time, a nonconforming structure existing at the time of the adoption of this Ordinance may be continued; however, it shall not be extended, enlarged, reconstructed or structurally altered except when required by law or order so as to more closely comply with these Ordinances. It may not thereafter revert to a less conforming structure.

\*\* Subsection 16.07(24) was renumbered as subsection 16.04(24) via Ordinance 2014-01, dated 9-8-14.

### **8.09 SUBSTANDARD LOTS**

- (1) A substandard lot is one which (a) is smaller in size than required for one family dwelling purposes by the provisions of this Chapter or any amendment to it and (b) is a legal lot or parcel of record in the office of the County Register of Deeds prior to the effective date of this Chapter or applicable amendment to it.
- (2) Substandard lots shall be required to meet the setbacks and other yard requirements of this Ordinance. A Building Permit for the improvement of a lot with lesser dimensions and requisites than those set forth in Section 8.07 and Chapter 10 of this Ordinance shall be issued only after approval of a variance by the Board of Appeals upon recommendation of the Village Plan Commission.
- (3) If both an abutting lot or lands and a substandard lot are owned by the same owner on the effective date of this Chapter, or if an abutting lot or lands and a substandard lot becomes owned by the same owner subsequent to the effective date of this Chapter, the substandard lot shall be combined with the abutting lot or lands into one parcel and shall not be sold or used without full compliance with the provisions of this Chapter. For the purposes of this section, lots and property shall be

considered in the same ownership when owned by: the same individual, trust, corporation, limited liability company, or other business entity; an individual and other abutting lots are owned by his spouse; and when any of said lots are owned by an individual and other abutting lots are owned by a corporation in which said individual is a stockholder.

**8.10 RESIDENTIAL CONSERVATION OVERLAY DISTRICT ESTABLISHMENT, USES AND STANDARDS OF REVIEW**

For the purpose of this zoning ordinance, the following special overlay district is created: Residential Conservation Overlay District.

- (1) Overlay. The Residential Conservation Overlay District is a district which overlays the North Bay general zoning districts. The requirements of the overlay district shall override and supersede the requirements of the underlying general zoning districts.
- (2) Overlay Boundaries. The overlay district boundaries are hereby established as shown on the official Village of North Bay zoning map which is on file in the Village Clerk's office and which accompanies and is a part of this ordinance. Unless otherwise noted on the zoning map, such boundaries shall be construed to follow: corporate limits, lot or property lines and center lines of streets or easements or such lines extended.
- (3) Intent. It is intended that the residential conservation overlay district will enable and permit the preservation and protection of natural environmental conditions within the Village where such preservation or protection is considered to be beneficial to the public health, safety and welfare interests, while at the same time allowing the development of single family residences and their accessory uses when such development is carried out in a manner in compliance with the provisions of this Chapter and/or the provisions of the Village of North Bay Code of Ordinances.
- (4) Uses. In the Residential Conservation Overlay District, no parcel of land shall be used for any purpose except as follows:
  - (a) Permitted Uses. The following uses shall be permitted uses within the Residential Conservation Overlay District: existing single family residence, existing accessory structures and uses. The following additional uses may be permitted upon review by the Village Planning Commission and approval by the Village Board: flood control measures, establishment and development of parks and recreation areas, landscaping or relandscaping of a single family dwelling lot, soil and water conservation practices, stream bank and lakeshore protection and water retention and/or detention ponds.\
  - (b) Conditional Uses. The following uses shall be conditional uses, allowable only after public hearing before the Village Planning Commission and approval by the Village Board: modification and/or alteration of existing, or the development of new, single family residences and their related accessory structures or uses, creation of new drainage ways, dredging,

draining, filling, flooding, excavating, ditching, dumping, tiling, mineral or soil removal or any other activity that would disturb, impede, obstruct or impair the existing lands, terrain, fauna, flora, water courses, or existing topography within the Residential Conservation Overlay District. Any such uses shall be upon such terms, requirements and conditions as the Village Board shall designate so as to preserve the natural environment, existing topography and natural beauty of the Village.

- (c) Prohibited Uses. All other uses not listed as permitted or conditional uses are prohibited within the Residential Conservation Overlay District. Additionally, all permitted uses and/or conditional uses shall only affect and/or be located entirely in and on the land owned by the property owner exercising the permitted use and/or conditional use, unless otherwise approved by the Village Board.
- (5) Conditional Use Permit. Conditional uses and their accessory uses are considered as special uses requiring review, and a public hearing before the Village Planning Commission, and approval by the Village Board. The Village Board may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing before the Village Planning Commission, provided that such conditional uses and related structures are (i) in compliance with the provisions of this Chapter and/or the provisions of the Village of North Bay Code of Ordinances, and (ii) in accordance with the purposes and intent of this Ordinance, and (iii) are found not to be hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality, shoreland cover or property values in the Village.
- (6) Application. Applications for conditional use permits shall be submitted in writing to the Zoning Administrator and shall include the following where applicable:
- (a) Names and Addresses of applicant, owner of the site, architect, professional engineer, and contractor.
  - (b) Description of the Subject Site by lot, block and recorded subdivision or metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees if any.
  - (c) Plat of Survey prepared by a registered land surveyor showing the locations, boundaries, dimensions, elevations, uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, and driveways; existing highways access restrictions; existing and proposed street, side, rear, and shore yards; the location, yard grade (elevation), and uses of any abutting lands and their structures within 40 feet of the subject site; and the location of the high-water elevation. In addition, when the subject site contains floodlands, the permit application shall show the limits

of the floodland, the lowest floor elevation (basement) of any proposed structure, the first floor elevation of the proposed structure, and the yard grade (elevation); and the first floor elevation and yard grade surrounding any abutting structure within 40 feet of the subject site.

- (d) Additional Information as may be required by the Village Clerk, Building Inspector, Zoning Administrator, the Village Planning Commission or Village Board.

(7) *Repealed and recreated by Ordinance 2022-2 on 5.23.2022*

Review and Approval. The Village Planning Commission shall review the application for a Conditional Use Permit and hold a public hearing upon class 2 notice as required by Wisconsin Statutes Section 62.23(7)(de)3 jointly with the Village Board. The Village Planning Commission shall then consider and vote to recommend the grant or denial of the Conditional Use Permit application. The recommendation shall be made based upon the applicable standards of the ordinance by substantial evidence presented at the hearing, as required by Wisconsin Statutes Section 62.23(7)(de)3. The Planning Commission shall then forward that recommendation to the Village Board. The Village Board shall make the final determination in the manner required by Wisconsin Statutes Section 62.23(7)(de)3.

- (a) Conditions such as, but not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, location, water supply and waste disposal system, street dedication, flood proofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational controls, roadway access restrictions, increased yards, stream crossings or culverts may be considered by the Village Planning Commission, along with any and all other relevant matters, when reviewing, considering, and voting upon the application for a Conditional Use Permit.

The standard conditions listed below are automatically incorporated into the terms of a Conditional Use Permit issued under this section, unless otherwise stated in the Conditional Use Permit.

1. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Village Plan Commission for determination.
2. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Racine, the

State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.

3. This conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Village Plan Commission as being in compliance with all pertinent ordinances.
4. All buildings and grounds shall be maintained in a neat, attractive and orderly way.
5. The property shall comply with all rules and regulations of the Village and the local Fire Department, including submission to routine inspections by Village and Fire Department staff
6. Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to the Village, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Village Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order, and all applicable ordinances.
7. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the subject property), structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
8. Unless this conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Village Plan Commission if the Village Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Village Plan Commission

feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.

9. Petitioner and Owner Agreement. As a condition precedent to the issuance of the conditional use permit, the owner of the Subject Property shall approve the issuance of this conditional use permit upon the terms and conditions described herein in writing, and the Petitioner is required to accept the terms and conditions of the same in its entirety in writing.
10. Professional fees. Petitioner shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this application, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.
11. Payment of charges. Any unpaid bills owed to the Village by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of billing by the Village, pursuant to section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of this approval.
12. Current Address. The Petitioner is obligated to file with the Village Clerk a current mailing address and current phone number at which the Petitioner can be reached, which must be continually updated by the Petitioner if such contact information should change, for the duration of this conditional use. If the Petitioner fails to maintain such current contact information, the Petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
13. Conditions Shown in Minutes Incorporated. All conditions of approval imposed by duly adopted motion of the Village Board in its consideration of the Petitioner's application, as noted in the Minutes of the Village Board

meeting at which approval was granted, are specifically incorporated herein by reference.

14. Should any paragraph or phrase of this conditional use permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use and the remainder shall continue in full force and effect.
  15. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Village Plan Commission.
- 
- (b) Subject to all other requirements of this Chapter, excavating and filling for the siting of a new single family residence or an addition to an existing single family residence shall be allowed provided that such activities are limited to that area actually needed to site the structure on the lot and further provided that such activities be conducted so as to prevent erosion and sedimentation and preserve the natural beauty of the Village.
  - (c) With respect to conditional uses within shorelands, the standards set forth in Section 281.31(5)(a) of the Wisconsin Statutes, in particular as they relate to the avoidance or control of pollution, shall apply. Page 8-20 Printed 2.8.2020
  - (d) Performance Standards
    1. It is the intent of this Section to describe performance standards for the regulation of uses and to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air and water shall hereafter comply with the following performance standards.
    2. Control of Odors. No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. The Plan Commission reserves the right to request an odor control plan from the applicant to identify potential odors and implement recommendations from the plan.

3. Control of Fire and Explosive Hazards
  - a. All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices as may be required by the Fire Prevention Code.
  - b. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.
  - c. The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the Village Fire Department and in accord with their requirements to minimize fire and explosive hazards.
4. Glare, Heat and External Lighting
  - a. No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line. Operations producing light, glare, or heat shall be conducted within an enclosed building.
  - b. External lighting shall be shielded so that light rays do not adversely affect adjacent uses.
5. Water Quality Standards
  - a. No activity shall locate, store, 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 runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.
  - b. No activity shall withdraw water or discharge any liquid or solid materials so as to exceed

or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.

6. Noise. No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.
7. Vibration
  - a. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
  - b. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.
8. Traffic Impact. The Plan Commission reserves the right to require a traffic impact study in order to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study. The traffic study shall be prepared by a registered professional engineer in accordance with the following standards:
  - a. Manual on Transportation Studies (Institute of Transportation Engineers (ITE))
  - b. Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
  - c. Manual on Uniform Traffic Control Devices (Federal Highway Administration)
  - d. Trip Generation Manual (Institute of Transportation Engineers)
  - e. Other local, county or state standards

- (8) *Repealed and recreated by Ordinance 2022-2 on 5.23.2022*  
 Village Board Action. Following a public hearing held jointly with the Village Planning Commission, and after careful consideration of the Village Planning Commission's recommendation, the Village Board may grant the Conditional Use Permit as applied for, grant the Conditional Use Permit with conditions deemed appropriate by the Board, or deny the permit, based upon whether the standards of the ordinance have been met as demonstrated by substantial evidence at the hearing. The requirements of Section 62.23(7)(de) Wisconsin Statutes shall apply. The provisions of any Conditional Use Permit granted by the Village Board shall comply with all of the provisions of this Chapter and the Village of North Bay Code of Ordinances.
- (9) **As-Built Survey Required.** The holder of a Conditional Use Permit for any conditional use involving soil disruption shall submit to the Building Inspector/Zoning Administrator an as-built survey of the affected property or site upon completion of construction. The Building Inspector/Zoning Administrator may waive the requirement of an as-built survey if satisfied that all terms of the Conditional Use Permit and requirements of this Ordinance have been met.

#### **8.11 VARIANCES**

- (1) **Purpose.** The Board of Appeals, after a public hearing, may vary the regulations of this Chapter in harmony with their general purpose and intent, only in the specific instances set forth in this Subsection 8.11, where such Board makes findings of fact in accordance with the standards prescribed in this Subsection 8.11, and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of this regulations of the Chapter and/or other applicable provisions of the Village of North Bay Code of Ordinances.
- (2) **Application; notice of hearing.** Application for a variance shall be filed with the Village Zoning Administrator. The application shall contain such information as is required by the Board of Appeals. Notice of hearing on such application shall be published once in a newspaper having general circulation in the Village, or posted as allowed by law, not more than Fifteen (15) days nor less than Seven (7) days before the date of hearing. Notices shall also be mailed to owners of all property within 200 feet of the subject site. The board shall reach its decision within 45 days of the date of hearing. (Code 1972, & 16.03.080(b)) (Amended by Ord. 2016-01 on 07-11-2016).
- (3) **Standards for variances**
- (a) The Board of Appeals shall not vary the regulations of this chapter unless it shall make finding based upon the evidence presented to it in each specific case that:
- (i) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere

inconvenience, if the strict letter of the regulations were to be carried out;

- (ii) The conditions upon which an application for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;
  - (iii) The purpose of the variance is not based exclusively upon a desire to increase financial gain;
  - (iv) The alleged difficulty or hardship is caused by the provisions of this Chapter and has not been created by any person(s) presently having an interest in the property;
  - (v) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
  - (vi) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or diminish or impair property values within the neighborhood.
- (b) The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section and the objectives of this chapter.
- (4) Revocation. Where a variance has been granted pursuant to the provisions of this chapter, such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Appeals.
- (5) Reserved
- (6) Scope of Appeals. An appeal may be taken to the Board of Appeals by any person, or by any office, department, board or bureau, aggrieved by a decision of the Zoning Administrator. Such appeal shall be taken not later than Ten (10) days after the decision or the action complained of, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting a record upon which the action appealed from was taken.
- (7) Findings on appeals. An appeal shall stay all enforcement proceedings of the Village in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals, after the notice of the appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and/or property, in which case the said enforcement proceedings shall

not be stayed unless otherwise directed by a court having jurisdiction in the matter.

- (8) Notice of hearing. A notice of hearing shall be published once in a newspaper of general circulation in the Village, not more than Fifteen (15) days nor less than Seven (7) days before the date of hearing. Notices shall also be mailed to owners of all property within 200 feet of the subject site. The Board of Appeals shall reach its decision within Forty-five (45) days of the date of hearing.
- (9) Disposition of appeals. The Board of Appeals may affirm or may reverse, wholly or in part, or modify, the order, requirement, decision or determination of the Zoning Administrator and, to that end, shall have all the powers of the officer from whom the appeal is taken. The Zoning Administrator shall maintain records of all actions of the board relative to the appeals.

#### **8.12 VIOLATION AND PENALTY**

- (1) Who May Act. It shall be unlawful to construct or use any structure, land or water in violation of the provisions of this Chapter and/or the Village of North Bay Code of Ordinances. In case of any such violation, the Building Inspector, Zoning Administrator, Director of Public Works, the Village Board of Trustees, the Village Planning Commission or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin the violation.
- (2) Penalty. Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 19.04 of this Code. A separate offense shall be deemed committed on each day on which violation occurs or continues.

#### **8.13 BOARD OF APPEALS**

- (1) The members of the Board of Appeals are as follows:
  - (a) Chairperson
  - (b) Vice Chairperson
  - (c) 3 Regular Members
  - (d) 2 Alternates
  - (e) The Village Clerk who shall serve as the Secretary and be a non-voting member of the Board of Appeals.
- (2) A petitioner shall fill out a Notice of Appeal form obtained from the Village Clerk for an action appealed to the Board of Appeals. Such application shall identify the person or governing body who denied the approval. The application must contain a copy of the application for permit or other action requested and, those involving building or construction plans, a copy of the plans and certified survey for building permit or zoning shall also be submitted. The Notice of Appeal shall be filed by the petitioner with the Village Clerk no later than Thirty (30) Days after the date of the decision being appealed.
- (3) The denying governmental entity or employee shall give a written statement to the Board of Appeals with the reason for denial within 10

working days from the notification of appeal received from the Board of Appeals.

- (4) A public hearing shall be held before the Board of Appeals within Fifteen (15) days after all written statements are received. The Board of Appeals may issue subpoenas for attendance of witnesses.
- (5) If any witnesses are compelled to attend the hearing by the Board of Appeals, Five (5) days written notice shall be given to such witnesses.
- (6) If the Chairperson of the Board of Appeals feels that legal or professional experts should be present for the hearing, he may request the Village Board to provide such legal or professional experts and the Village Board shall then grant that request, at the Village's cost and expense.
- (7) All property owners within 200 feet of the property lines of the subject property shall be notified by mailing a notice of public hearing.
- (8) No board member of the Board of Appeals shall participate as a board member on a matter if it is determined by the Chairperson that to do so would be a conflict of interest. The Chairperson's decision can be overridden by a unanimous vote of the other members of the Board of Appeals excluding the party on the Board alleged to have a conflict of interest and the Chairperson.
- (9) The Board of Appeals shall enter a written decision specifying in detail the reasons for the granting or denial of the appeal. All interested parties shall be notified in writing of the decision.
- (10) With any request for a variance which is appealed to the Board of Appeals involving an issue of location or construction of a building beyond the normal ordinance set-back lines a certified survey shall accompany the appeal showing the existing set-back and the location of any structures proposed for variance.
- (11) An administrative fee of \$100.00 shall accompany the Notice of Appeal. However, the Board of Appeals may waive the fee if it is determined to be in the interest of justice.
- (12) Once the Board of Appeals has entered its decision on any matter reviewed on appeal the same matter shall not be submitted to the Board of Appeals for review and no review shall take place on the same subject matter for a period of Twelve (12) months. This section shall not apply if there is a change, alteration or modification in a proposal subsequently denied and appealed.
- (13) The provisions of Wis. Stats. 62.23(7)(E) 1 through 15 (as the same may be amended from time to time and/or renumbered) are hereby incorporated in this ordinance by reference.
- (14) Village of North Bay shall provide liability insurance coverage for members of the Board of Appeals acting in their official capacity as such members.

## **8.14 FENCES**

- (1) Declaration of Policy.
  - (a) The intent of this ordinance is to establish standards for the location and design characteristics of and permits for fences within the Village of North Bay.
  - (b) The intent of this ordinance is also to provide a policy as to fences currently located within public drainage, sanitary sewer or water easements or public rights-of-way within the Village of North Bay.
- (2) Definitions.
  - (a) Fence. A fence is an artificial structure of posts and boards, wire, pickets, panels, rails or similar materials that is used as an enclosure of land. For purposes of this chapter, a fence shall not include vegetation, nor shall it include a retaining wall that retains or supports earth. Additionally, a fence shall not include a temporary snow fence that is installed and removed within the months of November through April, nor shall it include any temporary fence required by law, nor shall it include any "invisible fence" which is comprised entirely of buried wiring and which is designed to contain pets.
  - (b) Primary frontage. The primary frontage is a boundary of a lot bordering a public right-of-way. If a lot borders more than one public right-of-way, the primary frontage is the boundary of a lot bordering a public road right-of-way geographically situated in relation to and most convenient to the main entrance of the building.
  - (c) Front yard. The front yard of a residential property is the portion of a lot between the front of the residence and public road right-of-way bordering the primary frontage located between the side-yard property lines.
  - (d) Front of the residence. The front of the residence is any portion of the residence, including attached garages but not including architectural appurtenances, facing the primary frontage.
  - (e) Good side. The good side of the fence is the side of the fence that by virtue of design and appearance would generally be considered as the most aesthetically pleasing side of the fence.
  - (f) District. Any sanitary district or utility district operating in the Village of North Bay.
- (3) Design
  - (a) Height.
    - (i) No fence shall exceed eight (8) feet in height above ground level, as installed.
    - (ii) A supporting fence post that is set into the ground may not exceed 8 feet, 6 inches (8'6") in height above ground level, as installed.

- (iii) In no event shall any provision of this chapter be construed to permit a spite fence in violation of Section 844.10, Wisconsin Statutes.
  - (b) Prohibited Materials. No person shall construct or cause to be constructed, in whole or in part, a fence with barbed wire, razor wire, electrified wire, or any wire fabric within the Village.
  - (c) Maintenance. A fence shall be maintained by the property owner in a structurally adequate condition. Posts, supports, rails, boards, panels, etc. shall be repaired or replaced as reasonably required toward that purpose.
  - (d) Aesthetics.
    - (i) The good side of a fence shall face toward the adjoining property and toward the public road right-of-way if any portion of a fence extending along the public road is within fifty (50) feet of the public road right-of-way.
    - (ii) The Building Inspector shall determine which side of a fence is the good side and shall provide property owners with his determination upon request. The Building Inspector may require the property owner to provide sufficient evidence to make said determination. The determination of the Building Inspector may be appealed to the Village Board, whose determination shall be final.
- (4) Location
  - (a) A fence may be located within street, side, rear, and shore yard setbacks as permitted by applicable zoning ordinances, unless otherwise prohibited or restricted herein or unless prohibited, restricted or allowed by a Conditional Use Permit/Site Plan Review or variance.
  - (b) A fence may not be located within a public drainage, sanitary sewer, electrical, cable television or water easement or within a public right-of-way unless authorized elsewhere in this chapter. Any fence located in an easement area that must be removed so as to facilitate utility access or repair shall be removed at the fence owner's expense, without recourse to the Village or utility.
- (5) Permits
  - (a) No person shall install or construct or cause to be installed or constructed a fence within the Village of North Bay without first obtaining a permit therefor from the Building Inspector as herein provided.
  - (b) Any person desiring a permit for the installation or construction of a fence within the Village of North Bay shall file a written application form provided by the Village with the Building Inspector.
  - (c) A permit fee in an amount as established by and as may be modified from time to time by resolution of the Village Board of the Village of North Bay shall be paid at the time of the filing of the application for a permit hereunder.

- (d) A permit issued pursuant to this chapter shall be valid and permit construction of the fence for a period of one (1) year from date of issuance. If the fence is not completed within such period, a new permit shall be required.
  - (e) The Building Inspector or his representative shall have a right to enter upon the premises to inspect the fence and its construction to insure compliance with the permit and the provisions of this chapter.
  - (f) As a condition of receiving a permit under this section, the owner agrees to defend, indemnify and hold the Village of North Bay harmless from and against all claims, including boundary disputes, for injury or damage received or sustained by any person or entity in connection with the installation or construction of a permitted fence.
6. Prohibited Locations.
- (a) No fence may be located within a front yard.
  - (b) Fences located within a public right-of-way shall not be permitted and shall be removed.
  - (c) A fence currently located within a public drainage, sanitary sewer, electrical, cable television or water easement in the Village of North Bay shall be permitted to remain unless in the opinion of the Building Inspector the fence is determined to obstruct the purpose for which the easement was obtained or the maintenance of the easement, including underground lines. If the easement is under the jurisdiction of a District, the Building Inspector shall consult with such District in rendering an opinion under this subsection. The determination of the Building Inspector as to the existence of an obstruction may be appealed as set forth below.
  - (d) Any fence that is required to be removed and is removed, either by the owner or the Village, because of a violation of this Chapter, may be replaced at the cost of the owner if in the opinion of the Building Inspector the fence could not obstruct the purpose for which the public drainage, sanitary sewer, electrical, cable television or water easement was obtained or the maintenance related to such easement; provided that the owner shall agree to be responsible for the removal of the fence in the event of future interference with the purpose for which the easement was obtained or the operation or maintenance of the easement including underground lines; and provided that a permit is applied for and issued as provided in this chapter.
  - (e) The Building Inspector may order any fence located within the Village of North Bay contrary to the provisions of this chapter to be removed, repaired or otherwise corrected, as the case may be. Such notice shall be in writing and delivered to the last known owner of the property where the fence is located, either delivered in person or by first-class mail addressed to the last known address of the owner, directing the work or

action which is required to be taken. The work or action shall be completed within thirty (30) days after receipt of the notice in the case of personal delivery or after the mailing of the notice in the case of mailing. Upon written request of the Owner, and for good cause shown, the Village Board may extend the time for compliance with the order provided the property owner waives any appeal rights set forth below.

- (f) Any person shall have a right to request a review of the determination of the Building Inspector under this chapter or an order issued hereunder by filing a request for review with the Village Board. Failure to comply with the notice of required action shall permit the Village of North Bay to enter upon the premises and complete such action, and any cost to the Village of North Bay shall be charged as a special charge against the property as provided in Section 66.0627, Wisconsin Statutes.
- (g) Fences existing in any residential district prior to the effective date of this chapter which do not meet the regulations of this chapter are permitted to be:
  - (i) Repaired for ordinary maintenance, including painting, staining, and cleaning. No permit shall be required for such work.
  - (ii) Replaced; provided, however, that a permit is obtained for the construction of the replacement fence. No permit fee shall be required for a permit for a replacement fence.
- (h) As an exception to any notice requirements set forth above, the Village President may order the emergency removal of a fence, or a portion thereof, where there is an immediate danger to persons or property, or a significant maintenance concern. This determination shall be made by the Village President, upon the recommendation of the Building Inspector.

#### **8.15 AMENDMENTS**

The provisions of this Chapter may only be changed following a public hearing, preceded by a Class 2 notice, after a recommendation of the Planning Commission, and after notification to neighboring municipalities, as necessary, pursuant to the procedure, and subject to the protest provisions, set forth in WI Stats. 62.23(7)(d)

## **8.16 FLOODPLAIN OVERLAY DISTRICTS**

This section was created by Ordinance 2024-1 that was passed on March 11th, 2024 and took effect on March 19th, 2024.

*NOTE: 8.16 FORMATTING INSERTED FROM THE ORDINANCE DRAFTED BY VILLAGE ATTORNEY.*

### **DIVISION 1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE, AND GENERAL PROVISIONS**

#### **36-132 STATUTORY AUTHORIZATION**

This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23, for villages and cities; and the requirements in s. 87.30, Stats.

#### **36-133 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.

#### **36-134 STATEMENT OF PURPOSE**

This ordinance is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

#### **36-135 TITLE**

This ordinance shall be known as the Floodplain Zoning Ordinance for North Bay, Wisconsin.

#### **36-136 GENERAL PROVISIONS**

##### **(1) AREAS TO BE REGULATED**

This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE, VE, V1-30, or V on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also

be regulated under the provisions of this ordinance, where applicable.

(2) OFFICIAL MAPS & REVISIONS

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, AO, VE, V1- 30, or V on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subd. (b) below. These maps and revisions are on file in the office of the **Village Clerk, Village of North Bay.**

(a) OFFICIAL MAPS: Based on the Flood Insurance Study (FIS):

1. Flood Insurance Rate Map
2. Flood Insurance Study (FIS) for Village of North Bay (Racine County), 55101CV001C, 55101CV002C, and 55101CV003C, dated **01/11/2024.**

Approved by: The DNR and FEMA

(b) OFFICIAL MAPS: Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

The flood hazard areas regulated by this ordinance are divided into 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, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s. 36-200(5).
- b) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to s. 36-200(5), within A Zones shown on the FIRM.
- c) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
- d) The Coastal Floodplain District (CFP) is an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast, and any other area subject to high velocity wave action from storms, including areas identified

as zone V, V1-30, or VE on the FIRM. Where a riverine AE floodway extends into the CFP district, development within the floodway must comply with the regulations for both the FW and CFP districts. Where a riverine A zone or AE zone with no floodway determination abuts the CFP district, the riverine study's floodway limit must be determined based on standard floodway expansion principles within the CFP district and development within the floodway must comply with the standards for both the FW and CFP districts.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to Division 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. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 36-234(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Division 8.0 *Amendments*.

- a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- b) Where flood profiles do not exist for projects, including any boundary of zone A, AO, V1-30, VE, or V, the location of the boundary shall be determined by the map scale.

(5) REMOVAL OF LANDS FROM FLOODPLAIN

- a) 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 Division 8.0 *Amendments*.
- b) The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The floodplain

administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

1. The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
  2. The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;
- c) Removal of lands from the floodplain may also occur by operation of §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

(6) COMPLIANCE

- a) No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Division 9.0.
- c) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Floodplain Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Division 9.0.

(7) 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 s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under s. 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following

apply: The applicant provides documentation to the Floodplain Administrator that the proposed project is a culvert replacement or bridge replacement under 20' span at the same location, the project is exempt from a DNR permit under s. 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from a federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

(8) ABROGATION AND GREATER RESTRICTIONS

- a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under 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 this ordinance shall prevail.

(9) 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 Wisconsin Statutes. 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 on the date of the most recent text amendment to this ordinance.

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur, or 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 the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(11) 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.

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Racine County 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 municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

Secs. (36-137)-(36-149). Reserved

## **DIVISION 2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

Review, Required.

The zoning administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

- 1) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
  - a.) be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b.) be constructed with flood-resistant materials;
  - c.) be constructed by methods and practices that minimize flood damages; and
  - d.) Mechanical and utility equipment must be elevated to or above the flood protection elevation.
- 2) If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that:
  - a.) such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
  - b.) public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
  - c.) adequate drainage is provided to reduce exposure to flood hazards.

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. 36-232(2).

### **36-150 HYDRAULIC AND HYDROLOGIC ANALYSES**

- 1) No floodplain development shall:
  - a.) 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
  - b.) Cause any increase in the regional flood height due to floodplain storage area lost.
- 2) 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 Division 8.0 *Amendments* are met.

### **36-151 WATERCOURSE ALTERATIONS**

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 36-150 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 Division 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 the LOMC process.

### **36-152 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 according to Division 8.0 *Amendments*.

### **36+153 PUBLIC OR PRIVATE CAMPGROUNDS**

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- 1) The campground is approved by the Department of Agriculture, Trade and Consumer Protection;
- 2) A land use permit for the campground is issued by the zoning administrator;
- 3) 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;

- 4) 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 floodplain zoning agency or zoning administrator, 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 the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- 5) 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 Agriculture, Trade and Consumer Protection and all other applicable regulations;
- 6) All mobile recreational vehicles placed on site must meet one of the following:
  - a.) Be fully licensed, if required, and ready for highway use; or
  - b.) Not occupy any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or
  - c.) Meet the requirements in either Division 3.0, Division 4.0, Section 36-200, or Section 36-201 for the floodplain district in which the structure is located;

A mobile 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 additions.
- 7) 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 consistent with 36-153(6) and shall ensure compliance with all the provisions of this section;
- 8) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- 9) 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
- 10) 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; and

- 11) Standards for structures in a campground:
  - a.) All structures must comply with section 36-153 or meet the applicable requirements in Division 3.0, Division 4.0, Section 36-200, or Section 36-201 for the floodplain district in which the structure is located;
  - b.) Deck/landing-a portable landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the municipality compliant with section 36-153(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
  - c.) Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.
  - d.) Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 36-153(4).
  - e.) Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 36-153(4).
- 12) A land use permit shall be obtained as provided under 36-232(2) before any 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.

Secs. (36-154) – (36-166). Reserved

## **DIVISION 3.0 FLOODWAY DISTRICT (FW)**

### **36-167 APPLICABILITY**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 36-200(5).

**36-168 PERMITTED USES**. The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
  - they meet the standards in s. 36-169 and 36-170; and
  - all permits or certificates have been issued according to s. 36-232.
- 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. 36-169(4).
  - 4) Uses or structures accessory to open space uses or classified as historic structures that comply with s. 36-169 and 36-170.
  - 5) Extraction of sand, gravel or other materials that comply with s. 36-169(4).
  - 6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
  - 7) Public utilities, streets and bridges that comply with s. 36-169(3).
  - 8) 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.
  - 9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
  - 10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.
  - 11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

## **36-169 STANDARDS FOR DEVELOPMENT IN THE FLOODWAY**

### 1) GENERAL

- a.) Any development in the floodway shall comply with Division 2.0 and have a low flood damage potential.
- b.) Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to s. 36-150 and 36-232(2)(c). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
- c.) Any encroachment in the regulatory floodway is prohibited unless the data submitted for subd. 36-169(1)(b) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in s. 36-136(5).

### 2) STRUCTURES

Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- a.) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- b.) Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
  - 1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
  - 2. Have structural components capable of meeting all provisions of Section 36-169(2)(g) and;
  - 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 36-169(2)(g).
- c.) Must be anchored to resist flotation, collapse, and lateral movement;
- d.) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and

- e.) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
  - f.) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets s. 36-169(2)(a) through 36-169(2)(e) and meets or exceeds the following standards:
    - 1. The lowest floor must be elevated to or above the regional flood elevation;
    - 2. 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;
    - 3. the bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
    - 4. The use must be limited to parking, building access or limited storage.
  - g.) Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
    - 1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
    - 2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sections 36-170(4) and 36-170(5);
    - 3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
    - 4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and 5. Placement of utilities to or above the flood protection elevation.
- 3) PUBLIC UTILITIES, STREETS AND BRIDGES  
 Public utilities, streets and bridges may be allowed by permit, if:
- a.) Adequate floodproofing measures are provided to the flood protection elevation; and
  - b.) Construction meets the development standards of s. 36-150.

#### 4) FILLS OR DEPOSITION OF MATERIALS

Fills or deposition of materials may be allowed by permit, if:

- a.) The requirements of s. 36-150 are met;
- b.) 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;
- c.) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- d.) The fill is not classified as a solid or hazardous material.

#### **36-170 PROHIBITED USES**

All uses not listed as permitted uses in s. 36-168 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 ordinances and chs. NR 811 and 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 110.15(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.

Secs. (36-171)-(36-183). Reserved

## **DIVISION 4.0 FLOODFRINGE DISTRICT (FF)**

### **36-184 APPLICABILITY**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 36-200(5).

### **36-185 PERMITTED USES**

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 36-186 are met, the use is not prohibited by this, or any other ordinance or regulation and all permits or certificates specified in s. 36-232 have been issued.

### **36-186 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE**

Division 2.0 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Division 6.0 *Nonconforming Uses*;

#### **(1) 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 Division 6.0 *Nonconforming Uses*;

- a) All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet s. 36-136(5).
- b) Notwithstanding s. 36-186 (1)(a), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed below the regional flood elevation;
- c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).
- d) In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
  1. 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

2. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.

(2) ACCESSORY STRUCTURES OR USES

In addition to Division 2.0, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(3) COMMERCIAL USES

In addition to Division 2.0, any commercial structure which is erected, altered, or moved into the floodfringe shall meet the requirements of s. 36-186(1). Subject to the requirements of s. 36-186(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.

(4) MANUFACTURING AND INDUSTRIAL USES

In addition to Division 2.0, any manufacturing or industrial 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 36-236. Subject to the requirements of s. 36-186(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.

(5) 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. 36-236. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- a) 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. 36- 236.
- b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

All sewage disposal systems shall be designed to minimize or eliminate

infiltration of flood water into the system, pursuant to s. 36-236(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(8) WELLS

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 36-236(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.

(11) MANUFACTURED HOMES

- a) 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 and escape routes, with local emergency management authorities.
- b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
  1. have the lowest floor elevated to the flood protection elevation; and
  2. 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. 36-186(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:

- a) fully licensed and ready for highway use; or
- b) shall meet the elevation and anchoring requirements in s. 36-186 (11)(b) and
- (c). A mobile 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 additions.

Secs. (36-185) – (36-199). Reserved

## **DIVISION 5.0 OTHER FLOODPLAIN DISTRICTS**

### **36-200 GENERAL FLOODPLAIN DISTRICT (GFP)**

#### 1) APPLICABILITY

The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in s. 36-136(2)(a).

#### 2) FLOODWAY BOUNDARIES

For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in s. 36-136(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to s. 36-200(5). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of Division 3.0. If the development is located entirely within the floodfringe, the development is subject to the standards of Division 4.0.

#### 3) PERMITTED USES

Pursuant to s. 36-200(5) it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway (s. 36-168) and Floodfringe (s. 4.2) Districts are allowed within the General Floodplain District, according to the standards of s. 36-200(4) provided that all permits or certificates required under s. 36-232 have been issued.

#### 4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

Division 3.0 applies to floodway areas, determined to pursuant to 36-200(5); Division 4.0 applies to floodfringe areas, determined to pursuant to 36-200(5).

- a) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:
  1. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
  2. If the depth is not specified on the FIRM, two (2) above the highest adjacent natural grade or higher.
- b) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
- c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.

- d) All development in zones AO and zone AH shall meet the requirements of Division 4.0 applicable to flood fringe areas.

5) **DETERMINING FLOODWAY AND FLOODFRINGE LIMITS**

Upon receiving an application for development within zone A, or within zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, 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. 36-232(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.

**36-201 COASTAL FLOODPLAIN DISTRICT (CFD)**

(1) **APPLICABILITY**

The provisions of this section apply to all Coastal Floodplain Districts (CFD) shown on the floodplain zoning maps, which includes zones V, V1-30, and VE. Where a floodway shown on the floodplain zoning maps, or a floodway determined as explained in s. 36-136(3)(d) or a regulatory floodway identified pursuant to s. 36-200(5), extends into a Coastal Floodplain District, development shall comply with the standards of Division 3.0 and s. 36-201.

(2) **STANDARDS FOR DEVELOPMENT IN THE COASTAL FLOODPLAIN DISTRICT**

Development in the CFD district shall meet the requirements of Division 2.0, as well as the following:

- a. New construction shall be located landward of the Ordinary High-Water Mark.

- b. Bulkheads, seawalls, revetments, and other erosion control measures shall not be connected to the foundation or superstructure of a building and shall be designed and constructed so as not to direct floodwaters or increase flood forces or erosion impacts on the foundation or superstructure of any building.
- c. Man-made alterations of sand dunes are prohibited unless an engineering report documents that the alterations will not increase potential flood damage by reducing the wave and flow dissipation characteristics of the sand dunes.
- d. The use of fill for structural support of buildings is prohibited.
  - 1. Non-structural fill shall be permitted only if an engineering report demonstrates that the fill will not cause runup, ramping, or deflection of floodwaters that cause damage to buildings.
- e. New construction and substantial improvement of buildings shall be elevated, consistent with SPS 321.34, on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the FPE.
  - 1. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values shall be those associated with the base flood. Wind loading values shall be those defined according to American Society of Civil Engineers 7-16 *Minimum design loads and associated criteria for buildings and other structures*, or other equivalent standard.
  - 2. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of s. 36-201(2)(e).
- f. New construction and substantial improvement of buildings shall have the space below the lowest floor either free of obstruction or constructed with non supporting breakaway walls, open wood latticework, or insect screening intended to collapse without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

1. For the purpose of s. 36-201(2)(f), a breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot.
  2. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or where so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet all of the following conditions:
    - a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
    - b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values shall be those associated with the base flood. Wind loading values shall be those defined according to American Society of Civil Engineers 7-16 *Minimum design loads and associated criteria for buildings and other structures*, or equivalent standard.
  3. All space enclosed by breakaway walls, open wood latticework, or insect screening below the lowest floor shall be used solely for parking, building access, or storage.
- g. Require within flood-prone areas:
1. New and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and
  2. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
- h. All mobile recreation vehicles must be on site for less than 180 consecutive days and be either:
1. fully licensed and ready for highway use; or
  2. shall meet the standards of ss. 36-201(2)(a) through 36-201(2)(g) inclusive
- A mobile 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 type utilities and security devices and has no permanently attached additions.

- i. Manufactured homes placed or substantially improved within the Coastal Floodplain District shall meet the standards of ss. 36-201(2)(a) through 36-201(2)(g) inclusive.

Secs. (36-202) – (36-214). Reserved

## **DIVISION 6.0 NONCONFORMING USES**

### **36-215 GENERAL**

- 1) Applicability
  - a) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with s. 87.30, Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 CFR 59-72., these standards 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. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.
  - b) As permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value, and a list of the costs of those activities associated with changes to those buildings.
- 2) 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 alteration, 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 the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- 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 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. 36-186(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% provisions of this paragraph;
- e) No maintenance on a per event basis 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. 36-186(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- 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. 36-186(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 the 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 following minimum requirements are met, and all required permits have been granted prior to the start of construction:
  - 1. Residential Structures
    - a. 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. 36-236(2).
    - b. 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.
    - c. 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.
    - d. In A Zones, obtain, review, and utilize any flood data available from a federal, state or other source.
    - e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 36-200(4).
    - f. in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures
  - a. Shall meet the requirements of s. 36-215(2)(h)1a-f.
  - b. 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. 36-236 (1) or (2).
  - c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 36-200(4).
- 3) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 36-169 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 36-236 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 36-215 (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.
- 4) Notwithstanding anything in this chapter to the contrary, modifications, additions, maintenance, and repairs to a nonconforming building shall not be prohibited based on cost and the building's nonconforming use shall be permitted to continue if:
  - a) Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
  - b) The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;
  - c) The nonconforming building is permanently changed to conform to the applicable requirements of Division 2.0;
  - d) If the nonconforming building is in the floodway, the building is permanently changed to conform to the applicable requirements of 36-169(1), 36-169(2)(b) through (e), 36-169(3), 36-169(4), and 36-216. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 36-200(5). If the encroachment is in the floodway, it must meet the standards in section 36-169(4);
  - e) If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of 36-186 and 36-217;

- f) Repair or reconstruction of nonconforming structures and substantial improvements of residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation;
- g) Repair or reconstruction of nonconforming structures and substantial improvements of non residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
  - i. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of s. 36-215(4)(g) above.
  - ii. The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed;
- h) Fully enclosed areas below the lowest floor of repair or reconstruction of nonconforming structures and substantial improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Subsequent improvements to repaired or reconstructed nonconforming structures must not increase the degree of their nonconformity. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:
  - i. A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area.
  - ii. The bottom of all openings must be no higher than one foot above the adjacent grade.
  - iii. Openings may be equipped with screens, louvers,

valves, or other coverings if they permit the automatic entry and exit of floodwaters;

- i) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- j) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- k) Recreational vehicles placed on sites within zones A1-30, AH, and AE must either:
  - i. Be on site for fewer than 180 consecutive days; or
  - ii. Be fully licensed and ready for highway use (a 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 type utilities and security devices, and has no permanently attached additions); or
  - iii. Meet the elevation and anchoring requirements for manufactured homes in s. 36- 215(4)(i) above;
- l) In a regulatory floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including repair or reconstruction of nonconforming structures, substantial improvement, or other development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community

during the occurrence of the base flood discharge. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;

- m) In zone A, the community must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring repair or reconstruction of nonconforming structures, substantial improvement, and other development to meet ss. 36-215(4)(f) through (l) (inclusive) above. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 36-200(5). If the encroachment is in the floodway, it must meet the standards in section 36-169(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- n) In zones A1-30 or AE where a regulatory floodway has not been delineated on the FIRM, repair or reconstruction of nonconforming structures, substantial improvement, or any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 36-200(5). If the encroachment is in the floodway, it must meet the standards in section 36-169(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- o) In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity; or
- p) In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (together with attendant utility and sanitary facilities) be structurally dry-floodproofed to that level according to the standard specified in s. 36-215(4)(g) above. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity.

### **36-216 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. 36-215;
  - 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. 36-236, 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 following standards shall apply:
    1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    4. The use must be limited to parking, 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 to correct 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. 36-236(3) and Ch. SPS 383, 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. 36-236(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

### **36-217 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. 36-186 except where s. 36-217(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. 36-234, 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. 36-186(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, s. 36-236 (3) and ch. SPS 383, 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. 36-236 (3) and ch. NR 811 and NR 812, Wis. Adm. Code.

### **36-218 COASTAL FLOODPLAIN DISTRICT (CFD)**

- 1) New construction and substantial improvement shall meet the standards of s. 36-201.
- 2) No structural repairs, modifications or additions to an existing building, the cost of which exceeds, over the life of the existing building, 50% of its present equalized assessed value, may be allowed in a coastal floodplain area unless the entire building is permanently changed to conform with the standards prescribed in s. 36-201.

Secs. (36-219) – (36-231). Reserved

## **DIVISION 7.0 ADMINISTRATION**

### **36-232 ADMINISTRATION.**

Where a zoning administrator, planning agency or a board of 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.

### **36-233 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 all 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 zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
  5. All substantial damage assessment reports for floodplain structures.
  6. List of nonconforming structures and uses.
  7. In the Coastal Floodplain District, documentation of the certified elevation of the bottom of the lowest horizontal structural member of new construction and substantial improvements.
  8. In the Coastal Floodplain District, certification by a licensed professional engineer or architect where required for new construction and substantial improvement under s. 36- 201

- 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.
  - 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.
- g) Submit copies of amendments to the FEMA Regional office.

2) LAND USE PERMIT

A land use permit shall be obtained before any 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:

a) 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;

b) 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 proposed on-site sewage systems or private water supply systems;
- 5. Location and elevation of existing or future access 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 the location of the development and to determine whether or not the requirements of Divisions 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. 36-150. This may include any of the information noted in s. 36-169(1).

c) **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 and in AE zones within which a floodway is not delineated:
  - a. Hydrology
    - i. 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:

    - i. 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.
    - ii. channel sections must be surveyed.
    - iii. minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
    - iv. 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.

- v. the most current version of HEC-RAS shall be used.
- vi. a survey of bridge and culvert openings and the top of road is required at each structure.
- vii. 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.
- viii. 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.
- ix. 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.

- i. if the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

- ii. 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 ensure that all coefficients remain the same as in the 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 the following:

i. Duplicate 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 the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. 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.

iii. 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 to base the Revised (Post-Project) Model.

- iv. 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.
- v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
- vi. Changes 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 top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

c. Mapping

Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

- i. 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.
- ii. 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.
- iii. Annotated FIRM panel showing the revised

1% and 0.2% annual chance floodplains and floodway boundaries.

- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS 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 Plane Coordinate System in accordance with FEMA mapping specifications.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. 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.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

d) 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. If the permitted work has not started within 180 days of the permit date, the development must comply with any regulation, including any revision to the FIRM or FIS, that took effect after the permit date.

3) 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 for 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. 36-236 are met.
- e) Where applicable pursuant to s. 36-200(4), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
- f) Where applicable pursuant to s. 36-200(4), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by s. 36-200(4).

4) **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.

**36-233 ZONING AGENCY**

- 1) The 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.
  - c) publish adequate notice pursuant to Ch. 985, Stats., specifying

the date, time, place, and subject of the public hearing.

2) The Plan Commission shall not:

- a) grant variances 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.

### **36-234 BOARD OF APPEALS**

The Board of Appeals, created under 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) POWERS AND DUTIES

The Board of 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 - Hear 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 any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the 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

- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
  - 2 Hearing - Any party may appear in person or by agent. The board shall:
    - a. Resolve boundary disputes according to s. 36-234(3);
    - b. Decide variance applications according to s. 36-234(4); and
    - c. Decide appeals of permit denials according to s. 36-235.
- c) **DECISION:** The final decision regarding the appeal or variance application shall:
  - 1. Be made within a reasonable time;
  - 2. Be sent to the Department Regional office within 10 days of the decision;
  - 3. Be a written determination signed by the chairman or secretary of the Board;
  - 4. State the specific facts which are the basis for the Board's decision;
  - 5. Either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
  - 6. 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.

3) **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.
- 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 Division 8.0 *Amendments*.

4) 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 Board must find that the following criteria have been met:
1. The variance shall not cause any increase in the regional flood elevation;
  2. The applicant has shown good and sufficient cause for issuance of the variance;
  3. Failure to grant the variance would result in exceptional hardship;
  4. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
  5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- c) A variance shall not:
1. Grant, extend or increase any use prohibited in the zoning district;
  2. Be granted for a hardship based solely on an economic gain or loss;
  3. Be granted for a hardship which is self-created.
  4. Damage the rights or property values of other persons in the area;
  5. Allow actions without the amendments to this ordinance or map(s) required in Division 8.0 *Amendments*; and
  6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as

an historic structure.

- d) 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 of coverage. A copy shall be maintained with the variance record.

**36-235 TO REVIEW APPEALS OF PERMIT DENIALS**

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
  - a. Permit application data listed in s. 36-232(2);
  - b. Floodway/floodfringe determination data in s. 36-200(5);
  - c. Data listed in s. 36-169(1)(b) where the applicant has not submitted this information to the zoning administrator; and
  - d. Other data submitted with the application or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
  - a. Follow the procedures of s. 36-234;
  - b. Consider zoning agency recommendations; and
  - c. Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
  - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Division 8.0 *Amendments*; and
  - b. 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.

**36-236 FLOODPROOFING STANDARDS**

- (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 or above the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the development standards in Divisions 2.0, 3.0, 4.0, or Section 36-200, or Section 36-201.
- (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. meeting or exceeding the following 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;
  - e. Minimize or eliminate discharges into flood waters;
  - f. Placement of essential utilities to or above the flood protection elevation; and
  - g. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    4. The use must be limited to parking, building access or limited storage.

### **36-237 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. Secs. (36-238) – (36-250). Reserved

### **DIVISION 8.0 AMENDMENTS**

#### **36-251 WHEN PERMITTED.**

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 if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 8.(1).

#### **36-252 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 s. 36-136 (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 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.

### **36-253 PROCEDURES**

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities and villages. The petitions shall include all data required by s. 36-200(5) and 36-232(2). The Land Use Permit shall not be issued until a Letter of Map Revision is 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.
- (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.

Secs. (83)- (89). Reserved

## **DIVISION 9.0 ENFORCEMENT AND PENALTIES**

### **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 more than \$50.00 (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 the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

## **DIVISION 10.0 DEFINITIONS**

### **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 word "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. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.
5. ALTERATION – An enhancement, upgrade or substantial change or modification 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 chance 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 chance 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 on all sides.
9. BREAKAWAY WALL – A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
10. BUILDING – See STRUCTURE.
11. 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.
12. CAMPGROUND – 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.

13. 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, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
14. 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.
15. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
16. COASTAL FLOODPLAIN – An area along the coast of Lake Michigan or Lake Superior which is inundated by the regional flood and which is also subject to additional hazard due to wave runup.
17. COASTAL HIGH HAZARD AREA – An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast, and any other area subject to high velocity wave action from storms.
18. 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.
19. DECK – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.
20. DEPARTMENT – The Wisconsin Department of Natural Resources.
21. DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
22. 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.
23. ENCROACHMENT – Any fill, structure, equipment, use or development

in the floodway.

24. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.
25. 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.
26. 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 or 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.
27. 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.
28. 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.
29. 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.
30. FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood

Insurance Program.

31. 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.
32. FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
33. FLOODPLAIN MANAGEMENT – Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
34. 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.
35. FLOODPROOFING – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
36. FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the Regional Flood Elevation. (Also see: FREEBOARD.)
37. FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
38. FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
39. FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
40. HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.
41. 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.

42. HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
43. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
44. HISTORIC STRUCTURE – Any structure that is either:
  - Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - 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 been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
45. 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.
46. LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
47. LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
48. LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An enclosed space as provided in s. 36-201(2)(f), is not considered the building's lowest floor.
49. MAINTENANCE – The act or process of ordinary upkeep and repairs, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems, or structures.
50. 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."

51. 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.
52. 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. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
53. 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 of concrete pads.
54. 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 as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or 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."
55. 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 than that used in the current effective model.
56. MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
57. MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
58. MODEL, EXISTING (PRE-PROJECT) – A modification of the 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.

59. 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.
60. MODERATE WAVE ACTION AREA (MoWA) – A special flood hazard area subject to the potential for breaking wave heights of greater than or equal to 1.5 feet, but less than 3 feet, where the primary source of flooding is astronomical tides, storm surges, seiches, and/or tsunamis. A MoWA is an area within zone AE on a FIRM that is between the inland limit of zone VE and a Limit of Moderate Wave Action, where identified. (Also known as “coastal A zone”)
61. MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering, and enforcing this zoning ordinance.
62. NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.
63. NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.
64. NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective date of a floodplain zoning regulation adopted by this community and includes any subsequent improvements to such structures.
65. NON-FLOOD DISASTER – A fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.
66. NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this 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 than the flood protection elevation, the structure is nonconforming.)
67. 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.)
68. OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
69. OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s. 36-136(2), which has been approved by the Department and FEMA.
70. OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.

71. ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
72. PERSON – An individual, or group of individuals, corporation, partnership, association, municipality, or state agency.
73. PRIMARY FRONTAL DUNE – A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
74. 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.
75. 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.
76. 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.
77. 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.
78. SAND DUNES – Naturally occurring accumulations of sand in ridges or mounds landward of the beach.
79. START OF CONSTRUCTION – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor

does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

80. STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
81. SUBDIVISION – Has the meaning given in s. 236.02(12), Wis. Stats.
82. 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.
83. 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, any repairs are considered substantial improvement regardless of the work performed. The term does not include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official 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.
84. UNNECESSARY HARDSHIP – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
85. 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.
86. 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.

87. WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.
88. 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.
89. 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.

### **CONTINUATION OF EXISTING PROVISIONS**

The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

### **SEVERABILITY**

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other Ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

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# ***Chapter 9***

## ***FAIR HOUSING***

**THIS CHAPTER WAS REPEALED BY ORDINANCE 2012-10 ON 11-05-12 1**

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# Chapter 10

## BUILDING REGULATIONS

Last ordinance update: CH10-BUILDING REGS 11.27.2017

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### 10.01 PERMITS REQUIRED.

- (1) General Permit Requirement. No building, plumbing or electrical work shall be performed in the Village of North Bay unless a permit therefor is obtained as required in the provisions of this Chapter.
- (2) Payment of Fees. All fees shall be paid to the Village Treasurer and his receipt, showing that the fees prescribed by ordinance have been paid, presented to the Building Inspector, Plumbing Inspector or Electrical Inspector, as appropriate, before the Inspector shall issue to the owner or his agent a building, electrical or plumbing permit.
- (3) Permit Lapses. A building, electrical or plumbing permit shall lapse and be void unless operations under the permit are commenced within six months from the date of issuance thereof.
- (4) Revocation. If the Building, Electrical or Plumbing Inspector shall find at any time that the above-mentioned ordinances, laws, orders, plans and specifications are not being complied with, and that the holder of the permit refuses to conform after a written warning or instruction has been issued to him, he shall revoke the building, electrical or plumbing permit by written notice posted at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work thereunder until the permit is reissued, excepting such work as the Building, Electrical or Plumbing Inspector may order to be done as a condition precedent to the reissuance of the permit, or as he may require for the preservation of human life and safety or property.
- (5) Report of Violations. It shall be the duty of all Village officials, whether elected or appointed, to report at once to the Building Inspector, Electrical Inspector or Plumbing Inspector any building, electrical or plumbing work which is being carried on without a permit as required by this Ordinance.

## **10.02 BUILDING CODE.**

### **(1) Building Permits and Inspection.**

- (a) **Permit Required.** No building or any part thereof shall hereafter be erected within the Village of North Bay or ground broken for the same, except as hereinafter provided, until a permit therefor shall first have been obtained from the Building Inspector by the owner or his authorized agent. The term "building" as used in this section shall include any building or structure and any enlargement, alteration, heating or ventilating installation or demolishing or anything affecting the fire hazards or safety of any building or structure.
- (b) **Application.** Application for a building permit shall be made in writing upon a form furnished by the Building Inspector and shall state the name and address of the owner of the land and also the owner of the building, if different, the legal description of the land upon which the building is to be located and shall contain such other information as the Building Inspector may require for effective enforcement of this section. All building, electrical and plumbing contractors must have all proper licenses, and such licenses must be current.
- (c) **Plans.** With such application there shall be submitted two complete sets of plans and specifications, including a plot plan showing the location of the proposed building with respect to adjoining streets, alleys, lot lines and buildings. All plans and specifications shall be signed by the designer.
- (d) **Certified Survey.** With the application for building permit, there shall be submitted a certified survey showing the locations, boundaries, dimensions, elevations, uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking and driveways; existing highway access restrictions; existing and proposed street, side, rear and shore yards; the location, yard grade (elevation), and uses of any abutting lands and their structures within 40 feet of the subject site; and the location of the high-water elevation.
- (e) **Waiver of Survey and Plans.** If the Building Inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of a certified survey and plans for alterations or repairs provided the cost of such work does not exceed \$3,500.00.
- (f) **Approval of Plans.** If the Building Inspector determines that the proposed building will comply in every respect with all Ordinances of the Village and all applicable laws and orders of the State of Wisconsin, including, without limitation, the provisions of the Uniform Dwelling Code contained in SPC 320-325, he shall indicate his approval on one set of the plans and return it to the owner and shall issue a building permit therefor which shall be kept and displayed at the site of the proposed building. After being approved, the plans and specifications shall not be altered in any respect which involves the safety of the building or occupants, except with the written consent of the Building Inspector.

- (g) Minor Repairs. The Building Inspector may authorize minor repairs or alterations valued at less than \$3,500.00, which do not change the occupancy, area, structural strength, fire protection, exits, light or ventilation of the building without issuing a building permit.
- (h) Fees. The fees for building permits shall be in accordance with building permit fee schedule as used by the Village Building Inspector.
- (i) Inspection of Work. The builder shall notify the Building Inspector when ready, and the Building Inspector shall inspect all buildings upon completion of the foundation forms, or before the foundation is laid, and again when ready for lath and plaster, or before paneling is applied. After completion he shall make a final inspection of all new buildings and alterations.

(2) Construction Standards.

- (a) Single-Family Dwellings Only. All buildings constructed, altered, modified or used within the Village of North Bay shall be (i) single-family dwellings and/or one-family dwellings, and/or (ii) Village Municipal buildings, and/or (iii) an accessory building for such buildings/dwellings, all as further described in Chapter 8, "Planning and Zoning", of the Village of North Bay Code of Ordinances. Expressly excluded and prohibited, but without creating any limitation because of enumeration, are two-family dwellings, multiple-family dwellings, industrial buildings, commercial buildings, boarding and rooming houses, lodges, fraternities, cooperative living units, bed and breakfast establishments, hotels. The term "single-family dwelling" and/or "one-family dwelling", however, shall include a community-based residential facility to the extent that it is necessary to do so in accordance with the applicable laws of the State of Wisconsin and/or the United States of America. (Amended by Ord. 2017-03 on 11-27-17).
- (b) Moving of Buildings Prohibited. No building or structure erected elsewhere shall be moved on to any lot within the Village limits.
- (c) Accessory Buildings: No building other than a one-family building or an accessory building thereto shall be erected on any lot within the Village limits and the same shall comply with all building and setback regulations contained in these ordinances. No detached garage shall be erected or placed on any lot within the Village limits, however, except as may be allowed under Section 8.07(3) of the Village Code of Ordinances with respect to detached garages. (See Ordinance 2007-02, adopted 9-18-07.)
- (d) Accessory Building Defined. An Accessory Building is as defined in Section 8.06 (1) of the Village of North Bay Code of Ordinances.
- (e) No Building On Speculation. No home or dwelling shall be commenced in its construction except by or on behalf of a bona fide potential occupant and resident. Now dwelling shall be erected on speculation

(3) Building Restrictions.

- (i) Distances from Lot Lines. No part of any building erected within the Village limits shall be nearer than 25 feet to the front lot line or nearer than 15 feet from the side and rear lot lines of said property, and no building shall be erected on a corner lot nearer than 25 feet to any

street line. An owner of contiguous lots, or portions thereof, within the Village limits, may build closer to or on the dividing line between the lots or portions thereof, but thereafter such contiguous lots, or portions thereof, shall be treated as one lot for the occupancy of one dwelling and the front, side and rear lot lines shall thereafter be the same as if the entire parcel was initially one lot.

- (ii) **Size of Dwellings.** One floor residences erected in the Village shall have minimum living space area of 1,700 square feet. Two floor residences shall have minimum living space area of 2,000 square feet with not less than 1,400 square feet on the ground floor, except that in the erection of two floor residences, the minimum requirement of living space may vary or change by adding to the second floor two and one-half square feet for each square foot reduction on the ground floor. General utility areas, basements, attics, garages, breezeways, porches, enclosed or otherwise, and similar areas shall not be considered as living space. Each one family dwelling shall have a garage.
- (iii) **Height of Roofs.** The maximum height of the roof of any residence erected within the Village limits shall be as follows:
  - 1) The ridge, the peak, or the top of a roof having a pitch shall not be more than Thirty-five (35) Feet above the grade of the street which fronts and is adjacent to the lot on which the residence is located.
  - 2) The eave of a roof having pitch, and/or the top of a flat roof, shall not be more than Twenty (20) Feet above the grade of the street which fronts and is adjacent to the lot on which the residence is located.
  - 3) The "grade" of the street used to calculate the foregoing roof height restrictions shall be the highest elevation of that portion of the street, measured at the centerline of the street, that fronts the lot on which the building is located.

Notwithstanding the foregoing roof height restrictions, if a lot within the Village limits is already improved with a residence at the time of the adoption of this ordinance, and in the further event that such presently-existing residence has a roof that exceeds the height restrictions stated above, then when and if such residence (the "Lawful Nonconforming Residence") is in the future razed or demolished (in whole or in part, and whether intentionally or unintentionally), the replacement residence constructed on the lot may have a roof height, as determined above, that is less than or equal to the original roof height of the razed/demolished Lawful Nonconforming Residence. (See Ordinance 2007-01, adopted 6-11-07.)

- (b) **Unsafe Buildings.** Whenever the Building Inspector finds any building or part thereof within the Village to be, in his judgment, so old, dilapidated or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use and so that it would be unreasonable

to repair the same, he shall order the owner to raze and remove such building or part thereof, or if it can be made safe by repairs, to repair and make safe and sanitary or raze and remove at the owner's option. Such order and proceedings shall be as provided in Section 66.0413 of the Wisconsin Statutes.

- (c) Downspouts. No downspouts on any building shall be connected to the Village sewers.
- (d) Fences. See Section 8.14

### **10.03 ELECTRICAL CODE.**

- (1) State Code Applies. All electrical work, including the placing of wires and other equipment, shall conform to the Wisconsin State Electrical Code (Administrative Code Section SPS 324), adopted by the Industrial Commission of Wisconsin, 5th Edition, 1944, and amendments and revisions adopted to date, which is hereby made a part of this Ordinance by reference.
- (2) Permit. No electric wiring or other equipment shall be installed or altered without first securing a permit therefor from the Village Electrical Inspector, except that repairs or replacements of broken or defective sockets, switches or base receptacles may be made without a permit. The application for such permit shall be on a form furnished by the Electrical Inspector and shall state clearly the work planned, alterations to be made and equipment and materials to be used, and all later deviations from such plan must be submitted to and approved by the Electrical Inspector. The fees for electrical permits shall be in accordance with the electrical permit fee schedule as used by the Village Electrical Inspector.
- (3) Inspection of Work. After roughing in the wiring of any building and before any such work is covered up, or upon completion of any outside wiring construction work, it shall be the duty of the person doing such work to notify the Electrical Inspector who shall at once inspect or cause to be inspected the same. Upon completion of such wiring, the Inspector shall be notified and shall inspect or cause to be inspected the finished work. If he finds that the work conforms to the State Electrical Code, he shall issue a certificate of compliance which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in the office of the Electrical Inspector. It shall be unlawful to use any such electrical equipment until such certificate has been issued.

### **10.04 PLUMBING CODE.**

- (1) State Code Applies. The construction, reconstruction, installation and alteration of all plumbing, drainage and plumbing ventilation shall conform to the Wisconsin Administrative Code, Section SPS325, adopted by the State Board of Health, which is hereby adopted as a part of this Ordinance by reference.
- (2) Permit. No plumbing or drainage of any kind shall be installed or altered, except that leakage or stoppage repairs may be made, without first securing a permit therefor from the Plumbing Inspector. The application for such permit shall be on a form furnished by the Plumbing Inspector and shall state clearly the work planned, alterations to be made, and equipment and materials to be used. All later deviations from such plan must be submitted to and approved by the

Plumbing Inspector. The fees for plumbing permits shall be in accordance with the plumbing permit fee schedule as used by the Village Plumbing Inspector.

- (3) Licensed Plumber Required. All plumbing work shall be done only by a plumber licensed by the State Board of Health, except that a property owner may make repairs or installations in a single-family building owned and occupied by him as his home, provided that a permit is issued and the work is done in compliance with the provisions of this Ordinance.
- (4) Inspection of Work. Upon completion of the plumbing work on any premises, the person doing such work shall notify the Plumbing Inspector before such work is covered up and the Plumbing Inspector shall at once inspect or cause to be inspected the work. If he finds that the work conforms to the State Plumbing Code, he shall issue a certificate of compliance which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in the office of the Plumbing Inspector. No person shall use or permit to be used any plumbing or drainage until it has been inspected and approved by the Plumbing Inspector.
- (5) No New Sanitary Sewer Connections. The Village of North Bay is not a signatory to an existing written intergovernmental municipal agreement with the City of Racine which would allow new, additional sanitary sewer connections within the Village of North Bay to the City of Racine municipal sanitary sewer service system (the "Racine Sewer System"). There shall accordingly be no connections made to the Racine Sewer System above and beyond the sanitary sewer connections presently existing within the Village of North Bay. With the prior approval of the Village Board, and, to the extent legally required, with the prior approval of the City of Racine Wastewater Utility, however, a presently-existing connection to the Racine Sewer System may be repaired, replaced, or relocated, at the cost and expense of the property owner.

#### **10.05 FLAMMABLE LIQUIDS.**

The Wisconsin Administrative Code, Section SPS 310, "Flammable, Combustible and Hazardous Liquids", issued by the Industrial Commission of Wisconsin, is hereby adopted as a part of this Ordinance by reference, and it shall be the duty of the Building Inspector to enforce the provisions thereof.

#### **10.06 RAZING BUILDINGS.**

- (1) Razing Old or Damaged Village Buildings. Any existing building of frame construction within the Village limits which may hereafter be damaged by fire or which has deteriorated to an amount greater than one-half of its value, exclusive of the foundation, as determined by the Village Assessor, shall not be repaired or rebuilt, but shall be ordered removed by the Building Inspector under the provisions of Section 66.0413 of the Wisconsin Statutes.
- (2) Duty of Building Inspector. The Building Inspector is hereby authorized and it shall be his duty to enforce the provisions of this Section.

#### **10.07 EXCAVATION AND EROSION CONTROL.**

- (1) Grade. The grade shall slope away from the dwelling to provide drainage away from the dwelling.
- (2) Erosion Control Procedures.

(a) Performance Standards.

- (i) General. Erosion control procedures shall be placed along downslope areas and along sideslope areas as required to prevent erosion where erosion during construction will result in a loss of soil to waters of the estate, public sewer inlets or off-site. The best management practices as defined in Administrative Code Section SPS 360 or alternative measures that provide equivalent protection to these standards may be utilized to satisfy the requirements of this section. When the disturbed area is stabilized, the erosion control procedures may be removed. Sites within subdivisions with approved subdivision erosion control plans are exempt from erosion control procedures specified in this section when the subdivision erosion control plan includes adequate best management practices specified in Administrative Code Section SPS 360 for erosion control on individual construction sites.
- (ii) Tracking. Sediment tracked by construction equipment from a site onto a public or private paved roadway or sidewalk shall be minimized by providing a gravel access roadway where possible.
- (iii) Sediment cleanup. Off-site sediment deposition occurring as a result of a storm event shall be cleaned up by the end of the next work day following the occurrence. All other off-site sediment deposition occurring as a result of construction activities shall be cleaned up at the end of the work day.
- (iv) Public sewer inlet protection. Downslope, on-site public sewer inlets shall be protected with erosion control procedures.
- (v) Building material waste disposal. All building material waste shall be properly managed and disposed of to prevent pollutants and debris from being carried off the site by runoff. See also Section 10.08.

**Note:** For proper disposal of flammable, combustible and hazardous liquids, contact the local fire department.

(b) Best Management Practices.

- (i) General. Appropriate best management practices, as described in SPS 360 or specified in the Wisconsin Construction Site Best Management Practices Handbook, published by the Department of Natural Resources, shall be selected, installed, maintained and remain in place until the site is stabilized to meet the performance standards specified in sub. (1).
- (ii) Exceptions and clarifications. All references to a model ordinance and planning considerations within chapter 3, Wisconsin Construction site Best Management Practices Handbook, are not adopted by the department.

(c) Maintenance of Erosion Control Procedures.

- (i) General. During the period of construction at a site, all erosion control procedures necessary to meet the performance standards of this Section 10.07 of the Ordinances shall be properly implemented, installed and maintained by the building permit applicant or

subsequent landowner. If erosion occurs after building construction activities have ceased, some or all of the erosion control procedures shall be maintained until the site has been stabilized.

- (ii) Exceptions and clarifications. The maintenance procedures and inspection sequences within chapter 3, Wisconsin Construction Site Best Management Practices Handbook, are not adopted as a part of this code.

(3) Excavations adjacent to adjoining property.

- (a) Notice. Any person making or causing an excavation which may affect the lateral soil support of adjoining property or buildings shall provide at least 30 days written notice to all owners of adjoining buildings of the intention to excavate. The notice shall state that adjoining buildings may require permanent protection.
- (b) Responsibility For Underpinning And Foundation Extensions.
  - (i) Excavations less than 12 feet in depth. If the excavation is made to a depth of 12 feet or less below grade, the person making or causing the excavation shall not be responsible for any necessary underpinning or extension of the foundations of any adjoining buildings.
  - (ii) Excavations greater than 12 feet in depth. If the excavation is made to a depth in excess of 12 feet below grade, the owner(s) of adjoining buildings shall be responsible for any necessary underpinning or extension of the foundations of their buildings to a depth of 12 feet below grade. The person making or causing the excavation shall be responsible for any underpinning or extension of foundations below the depth of 12 feet below grade.

**10.08 PORTABLE TOILETS AND DUMPSTERS.**

This Section requires the location of portable toilets and dumpsters at the site of any new construction within the Village, regardless of the zoning of such site. For purposes of this Section only, "new construction," means the construction of any new building that will be the primary structure on the property, and not the construction of structures accessory thereto; "adjacent properties," means those properties sharing a common property line, and not those physically separated by any road, stream or other public right-of-way.

(1) Portable Toilets.

- (a) Intent. The intent of this Section is to ensure that individuals have access to hygienic lavatory facilities at the sites of new construction within the Village.
- (b) Duration. Portable toilets must be delivered to the new construction site after any footings or foundation is poured and back-filling is completed, and prior to any further work taking place at the site. The portable toilet must remain at the site until an occupancy permit therefor is issued. At the time of application for the first permit for any new construction, the applicant must produce evidence that a portable toilet has been rented for the subject property.

- (c) Location. Portable toilets must be located outside of any road right-of-way. A portable toilet must also be located where it can be easily accessed and serviced and, unless circumstances otherwise dictate and the Building Inspector approves in advance, at least 15 feet from the nearest property line of any adjacent property.
- (d) Number And Servicing Frequency.
  - (i) Each new construction site shall be served by at least one portable toilet. A single portable toilet shall be sufficient to serve approximately ten people who are regularly at the site over the course of a forty-hour week. Portable toilets must be serviced, i.e. cleaned, restocked of paper products, and emptied of waste, at least once per week. A record of the portable toilet's servicing dates must be kept and must be made available for review in a timely manner upon request.
  - (ii) If more than ten people are, or are regularly expected to be, at the new construction site, or if ten or fewer people are, or are regularly expected to be, at the site for more than forty hours per week, the number of portable toilets required or the servicing frequency thereof must be increased proportionately.
  - (iii) If a single property owner or contractor is undertaking new construction at two adjacent properties, a single portable toilet, subject to the above man-hour guidelines set forth in subparagraph (a), may serve the two adjacent properties, provided that when an occupancy permit is issued for one of the adjacent properties, the portable toilet must be moved to the other property, if construction is continuing thereat, and located as set forth in Subparagraph (c) above.

(2) Dumpsters.

- (a) Intent. The intent of this subsection is that all construction debris at new construction sites shall be stored in a suitable location so as to prevent any such debris from entering the surrounding environment.
- (b) Size and construction. Dumpsters shall be constructed of metal, plywood, plastic or other material sufficiently sturdy to withstand the construction process and exposure to the elements without allowing any construction debris to enter the surrounding environment. Metal dumpsters shall have a volume of at least 10 cubic yards and dumpsters made of plywood, plastic or other material shall have a minimum volume of 9.4 cubic yards.
- (c) Duration. Construction debris receptacles must be located at the new construction site before any exterior framing work begins. Following the installation of an operational garage door, construction-related debris shall be stored in such enclosed, interior space if all dumpsters have been removed from the site. Whenever the site is unoccupied, the garage or other door must remain closed so as to prevent any construction debris stored therein from entering the surrounding environment.
- (d) Location. Dumpsters must be located outside of any road right-of-way. Dumpsters must also be located where they can be easily accessed and serviced, i.e. emptied and/or removed/replaced. Additionally, unless circumstances otherwise dictate and the Building Inspector approves in

advance, dumpsters must be located at least 15 feet from the nearest property line of any adjacent property.

- (e) Number, Size, and Servicing Frequency. Every new construction site shall have at least one dumpster conforming to the specifications and limitations contained in this Section, or two dumpsters that, taken together, contain the minimum volume of a single dumpster as set forth above. Dumpsters shall be adequately sized and serviced frequently enough so as to completely contain the construction debris therein and prevent any such construction debris from entering the surrounding environment due to rain, wind, etc.
- (3) Violations. If the Building Inspector finds a new construction site to be in violation of any provision of this Section, he or she may issue an immediate stop-work order, may refuse to perform or to return to the site for any additional inspections, or, in his or her discretion, may allow the builder and/or property owner such time as is reasonable under the circumstances to remedy the violation. In lieu of, or in addition to, the issuance of a stop-work order under the subsection, the Building Inspector may also cause the property owner or contractor to be issued one or more citations under Section 10.09. Each separate violation of any provision of this Section, and each day a violation continues, shall constitute a separate offense.

#### **10.09 PENALTIES.**

In addition to the revocation provisions herein, the penalty for violating any provision of this Chapter shall be as provided in Section 19.04 of this Code. A separate offense shall be deemed committed on each day on which a violation of any provision of this Chapter occurs or continues

# Chapter 11

## REGULATION OF TRADE OR BUSINESS

Last ordinance update: ORD#2023-1 - CH 11.02(02) - Repealed & recreated section 11.02(02) Short Term Rentals to Vacation Rental Establishments that took effect August 29th,2023

<b>11.01 NO LICENSING FOR SALE OF BEVERAGES.</b>	<b>1</b>
<b>11.02 NO OPERATION OF BUSINESSES WITHIN VILLAGE LIMITS GENERALLY; RESIDENTIAL RENTALS.</b>	<b>1</b>
<b>11.03 NO PROFESSIONAL OFFICES WITHIN VILLAGE LIMITS.</b>	<b>6</b>
<b>11.04 HAWKERS, PEDDLERS AND TRANSIENT MERCHANTS.</b>	<b>6</b>
<b>11.05 FRANCHISES.</b>	<b>7</b>

### **11.01 NO LICENSING FOR SALE OF BEVERAGES.**

No license shall be issued within the Village of North Bay to any person, corporation, organization or partnership for the wholesale or retail sale of intoxicating or non-intoxicating beverages.

### **11.02 NO OPERATION OF BUSINESSES WITHIN VILLAGE LIMITS GENERALLY; RESIDENTIAL RENTALS.**

Other than as provided in this Chapter, no manufacturing, store, mercantile establishment or commercial business or enterprise of any kind shall be established or maintained or operated within the Village limits. This includes the operation of lodging houses, boarding houses, bed and breakfast establishments and other similar facilities, which offer comparable services with additional services.

- (1) Residential Rentals; Registration Required. It shall be unlawful for any individual, partnership, corporation, or other for-profit entity to rent residential units within the Village of North Bay without being registered for that purpose as provided herein. A premises shall be considered rented if any funds are paid for the right to reside at the property.
  - (a) Purpose. The purpose of the residential rental registration requirement as described herein is as follows:
    1. The collection of current and accurate information identifying existing residential rental entities within the Village of North Bay and the initiation or termination of rental of premises.
    2. Assistance with the efforts of various Village officials and departments, including the Village Clerk, Assessor, Police Department, and Fire Department in maintaining accurate records of residential rental premises to enable said officials and departments to perform their respective duties.

(b) Registration. Each owner of a rented residential premises within the Village of North Bay subject to this ordinance shall complete and return to the Village Clerk a registration form that shall be available at the Village Office and on the Village's website which shall require the following information pertaining to the residential rental premises: identification of the name, address, and phone number of the property owner; the property location and property location name, if any; the name, phone number, and address of primary contact person and directions for contacting the person. The registration form shall be accompanied with a registration fee in the amount provided on the Village fee schedule. This requirement shall apply to all rented residential premises which exist at the effective date of this ordinance and those initiated after the effective date of this ordinance. The registration shall be completed within 15 days of the rental of the residence.

(c) Term of Registration and Termination of Residential Rental Premises.

1. The residential rental registration described herein shall be effective and valid for a period of two years and may be renewed for an additional two-year period by filing a new registration form and fee. A new residential rental registration is also required for a change in ownership.
2. Each residential rental owner shall notify the Village Clerk upon termination of the rental of the premises. The Village Clerk shall record said termination.
3. Duty to Update. Each residential rental owner shall notify the Village Clerk of any change pertaining to the information provided within 15 days of any such change.

2. Vacation Rental Establishment.

\* Ordinance #2023-1 repealed and re-created Section 11.02(2) Short-Term Rentals to Vacation Rental Establishment that took effect August 29th, 2023.

- a. Purpose: The following vacation rental establishment licensing regulations are created, to ensure that applicable State laws are followed, to protect persons engaged in this practice either as landlord or tenant; to protect against adverse impacts of noise, odor, disturbance, adverse visual impacts, or other nuisances, that this practice could have upon neighboring properties; to preserve property values for the commercial benefit of the Village; and also to control the impacts of such operations on municipal services, including snow plowing, garbage collection, sanitation, law enforcement and fire protection.
- b. Definition: Vacation Rental Establishment means any property that is defined or regulated by Wisconsin Statutes §§66.1014(2)(d)2 or 97.01(15k), as a tourist rooming house.
- c. Licensing Required: No vacation rental establishment may operate in the Village unless a vacation rental establishment license for such operation is granted by the Village, and only in full compliance with such license. A separate license is required for each rental of the vacation rental establishment.

- d. Application: Application for license shall be made by the property owner in writing to the Village President upon forms provided by the Village. Such application must be filed with the Village President no later than 48 hours prior to the proposed vacation rental period of use. The Village President is authorized to issue the vacation rental permit if the Village President finds that the application meets all requirements of this Ordinance, and the Village President may include such conditions as the Village President deems to be necessary or appropriate to ensure compliance with this Ordinance. The application must include all of the following:
1. Address of vacation rental establishment. \
  2. Name (include full legal name with middle initial), address, telephone number and email address of vacation rental establishment owner.
  3. Name (include full legal name with middle initial), address, telephone number and email address of vacation rental establishment operator, if different from the owner or if owner is a trust or entity other than an individual.
  4. If the owner resides more than 20 miles from the vacation rental establishment, name (include full legal name with middle initial), address, telephone number and email address of owner's agent who is located within 20 miles of the vacation rental establishment.
  5. Name (include full legal name with middle initial), address, telephone number and email address of person renting the vacation rental establishment, and of all persons occupying the unit 18 years of age or older.
  6. Starting date of the 180-day annual rental period.
  7. A copy of the State Tourist Rooming House License for the vacation rental establishment.
  8. Proof that the vacation rental establishment complies with the Wisconsin Commercial Building Code as required by Wisconsin Administrative Code Section ATCP 72.14.
  9. Proof of property and liability insurance covering the vacation rental establishment property and use.
  10. A list of all property that may be used by the vacation rental establishment tenants including for example whether tenants are permitted to use the house, any guest house, any boathouse, any garage, any dock, any boats, golf carts, or particular amenities of the vacation rental establishment property.
  11. The total square footage of the principal structure used as a vacation rental establishment.
  12. The total number of bedrooms, and total number of beds used for the vacation rental establishment.

13. A photo copy of the current driver's license(s) of the property owner(s)

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- (e) Fees. The applicant shall pay such fee as may be established from time to time by the Village Board by separate resolution, for each vacation rental establishment license application.

The applicant shall, on demand, reimburse the Village of North Bay for all costs and expenses of any type incurred by the Village of North Bay in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Village of North Bay for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce this ordinance due to a violation of the ordinance. Additionally, any unpaid bills owed to the Village of North Bay by the applicant, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees or forfeitures owed to the Village of North Bay must be paid on demand and prior to issuance of any license and shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Village of North Bay, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this ordinance that is subject to all remedies available to the Village of North Bay, including possible cause for termination of the license.

- (f) Minimum Standards. A license shall not be granted for a vacation rental establishment unless all of the following conditions are met:
1. Transfer of a license because of transfer or sale of property is not permissible. Should such property be sold, then the license shall become void.
  2. All vacation rental establishments shall be subject to and comply with Wisconsin Statutes Chapter 97 including maintaining a tourist rooming house annual license as required by Wisconsin Statutes Section 97.605(1)(a), which sections are incorporated herein by reference.
  3. All vacation rental establishments shall be subject to and comply with Wisconsin Administrative Code Section ATCP 72 which is hereby incorporated by reference.
  4. Each vacation rental establishment shall be required to keep a register and require all guests to sign such register using their actual legal names including middle initial and address before being assigned quarters. A copy of Village Ordinances shall be provided.
  5. Every vacation rental establishment shall be properly addressed with numbers on the street side of the structure, a minimum of 5" high and of contrasting color so as to be visible from the street.
  6. The Village Board shall consider the potential impact to the surrounding neighborhood and proximity to any existing vacation rental establishment when reviewing a request for a vacation rental

establishment license. If a new owner obtains approval of a Tourist Rooming House License, the previously established annual 180-day period shall remain applicable.

7. Whenever the property changes ownership, a new license is required to ensure compliance with all State and local regulations and ordinances.
8. All refuse containers shall be screened from view.
9. If the Village finds that any statement made on the license application is incorrect, at any time, the Village may immediately and summarily revoke the license.
10. Sleeping quarters related to a vacation rental establishment use shall only be located within the principal structure on the lot. Accessory buildings, even legal non-conforming guest houses, cannot be used for sleeping quarters.
11. Property that is used for a vacation rental establishment must have clearly delineated property lines, by approved fences, vegetation or other means to the satisfaction of the Village President. Such clear delineation must be maintained for the duration of the license, to ensure that all users of the property are clearly aware of the boundaries of the property and confine their use to the applicable parcel.
12. Unless the property is connected to a municipal sewer system, the applicant must provide to the Village President, proof that is satisfactory to the Village President that the septic system is properly sized for purposes of the proposed use. Such septic system must be properly maintained at all times for the duration of the license.
13. The vacation rental establishment occupancy limits shall not exceed the lesser of the following occupant limitations at any time: (a) the number of occupants allowed by Wisconsin Administrative Code Section ATCP 72.14(2)(b) per bedroom; (b) 8 occupants per 1,000 square feet of living area within the principal structure; (c) the number of occupants for which there are beds available within the proposed vacation rental establishment structure provided that the beds do not include temporary beds (cots, air beds, fold-out beds, or futon couches) and each bed shall count for one occupant except each queen and king sized bed shall count for 2 occupants; (d) twenty (20) occupants.
14. The parcel cannot have more people on site than the higher of 20 people or the maximum number of people allowed under Wisconsin Administrative Code Section ATCP 72.14(2)(b).
15. The applicant must provide a copy of this section and a copy of the license, to all parties using the property for vacation rental purposes, prior to commencement of each such use.
16. Annual Limit. If a vacation rental establishment is rented for periods of more than 6, but fewer than 30 consecutive days the vacation rental establishment shall not operate outside of the 180 consecutive day period that begins on the date of the first such rental, for a 365 day period. The owner of the vacation rental establishment shall notify the Village President in writing when the first 365 day period

begins, and all subsequent 365 day periods shall be measured from that date. This limitation shall be interpreted in compliance with Wisconsin Statutes Section 66.1014(2)(d) 1.

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- (h) Prohibition. Rental of a residential dwelling for 6 consecutive days or fewer is prohibited. For purposes of this subsection “rental” includes any real property that is subject to any verbal or written contract, lease, sublease, rental agreement, easement, instrument or other device (the “Agreement”), if all of the following circumstances apply: (i) the Agreement or Agreements create a right to occupy said property; (ii) such rights of occupancy have an actual duration of less than 7 consecutive days; and (iii) the Agreement requires payment or other remuneration or barter, for the benefit of the property owner.
- (i) Penalties. Owners and operators of a vacation rental establishment shall ensure that the property is in compliance with this Ordinance at all times and all other applicable Village ordinances and laws, and shall be liable for all violations, jointly and severally. Violation of this ordinance is subject to the Village of North Bay standard penalties ordinance, Section 19.04 of the Village of North Bay Municipal Code entitled, “Penalty Provisions,” including such amendments as may be made thereto from time to time, which are hereby incorporated herein by reference. Citations for violation of this Ordinance shall be written as “must appear.”

**SEVERABILITY:** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

### **11.03 NO PROFESSIONAL OFFICES WITHIN VILLAGE LIMITS.**

No professional offices shall be established or maintained or operated within the Village limits, in accordance with Section 8.07 of these ordinances. (Amended by Ord. 2013-01 on 05-13-13). A professional office is defined as a place where clients or customers are seen in connection with the provisions of goods and services.

### **11.04 HAWKERS, PEDDLERS AND TRANSIENT MERCHANTS.**

- (1) License Required. All hawkers, peddlers or transient merchants must have a license, in accordance with State Statute 66.0423(2a). (Amended by Ord. 2013-01 on 05-13-13). No person shall be allowed to travel from place to place within the limits of the Village of North Bay for the purpose of selling goods, wares, merchandise, books, magazines or periodicals, or soliciting for the

providing of services or goods, unless a permit has first been obtained from the Village of North Bay.

- (2) Application for License. Every person desiring to obtain a hawker's, peddler's or transient merchant's license shall make a written application to the Clerk of the Village of North Bay. Such application shall contain a statement of the manner and means by which the applicant intends to travel and what product or products he proposes to sell. He shall state his full name and he shall give his place of residence and the names of the manufacturers whose products he proposes to sell. He shall pay the Clerk a fee, as determined from time-to-time by the Village Board, for which the Clerk will issue and deliver to the applicant a license for a period of 15 days. (Amended by Ord. 2013-01 on 05-13-13).
- (3) Revocation of License. Any license issued under and pursuant to Section 11.04(2) of this Code may be revoked by the Village Clerk, at any time, should the applicant be convicted of fraud, false representation or an offense involving moral turpitude.

### **11.05 FRANCHISES.**

The Village Board may grant franchises for any purpose for which franchises may lawfully be granted, upon such terms and conditions as the Board shall determine to be to the benefit of the Village.

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# Chapter 12

## ANIMALS

Last ordinance update: CH12-ANIMALS final 09.08.2014

12.01 REGULATION AND LICENSING OF DOGS.	1
12.02 KEEPING OF ANIMALS; SANITARY REQUIREMENTS.	2

### 12.01 REGULATION AND LICENSING OF DOGS.

- (1) License Required. It shall be unlawful for any person in the Village of North Bay to own, harbor or keep any dog more than five months of age without complying with the provisions of Section 174.05 through 174.10 of the Wisconsin Statutes, relating to the listing, licensing and tagging of same.
  - (a) It shall be unlawful to keep more than Three (3) licensable animals in a single family unit. (Ord. 2013-06 on 11-4-13)
- (2) Definitions. In this section, unless the context or subject matter otherwise require:
  - (a) Owner. "Owner" shall mean any person owning, harboring or keeping a dog and the occupant of any premises on which a dog remains or to which it customarily returns daily for a period of ten days is presumed to be harboring or keeping the dog within the meaning of this section.
  - (b) At Large. "At large" means to be off the premises of the owner and not under the control of some person, either by leash or otherwise, but a dog within an automobile of its owner or in an automobile of any other person with the consent of the dog's owner shall be deemed to be upon the owner's premises.
- (3) Restrictions on Keeping of Dogs. It shall be unlawful for any person within the Village of North Bay to own, harbor or keep any dog which:
  - Habitually pursues any vehicle upon any public street, alley or highway in the Village;
  - Assaults or attacks any person;
  - Is at large within the limits of the Village;
  - Habitually barks or howls to the annoyance of any person or persons;
  - Kills or wounds any domestic animal; Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
- (4) Dog Litter.
  - (a) Dog Litter. It shall be unlawful for the owner or person in charge of any dog to permit fecal matter which is deposited by such dog while off its own

premises to remain on any street, alley, sidewalk, lawn field or any property, and it shall be solely the responsibility of such owner or person in charge of said dog to immediately after deposit remove all fecal matter by shovel, scoop or like instrument and deposit said fecal matter in a manner approved by state or other local regulations.

- (b) For the penalties for violating Section 12.01 (4) (a), see Sec. 19.04 (Ord. 2014-01, 9-8-14)
- (5) Duty of Owner in Cases of Dog Bite. See Sec. 13.03 (Amended by Ordinance 2009-1 on 04-12-10)
- (6) Impounding or Killing of Dogs. In addition to any penalty hereinafter provided for a violation of this section, any person may impound any dog in such place as the Constable may direct and the Constable of the Village may kill any dog which habitually pursues any vehicle upon any street, alley or highway of this Village, assaults or attacks any person, is at large within the Village, habitually barks or howls, kills or wounds any domestic animal or is infected with rabies. Any dog impounded shall be held for a period of seven days, pursuant to the provisions of Section 174.10 of the Wisconsin Statutes, and at the end of such period shall be disposed of in a humane manner unless the owner thereof shall reclaim such dog and pay impoundment costs.
- (7) Trustees May Contract for Disposal of Dogs. Notwithstanding anything contained in these Ordinances to the contrary, the Village Trustees may, in their discretion, enter into such agreements as they may deem advisable with any qualified organization for the provisions of all local animal control functions required by WI State Statutes (currently Chapters 173 and 174) providing for the removal, shelter, care or disposal of any cruelly exposed, starved, injured, neglected, abandoned, strayed or unlicensed dog found within the Village. Such agreements may provide, in substance, that the qualified organization will, upon being notified by an officer, designated agent or resident of the Village, pick up or receive and shelter, care for and/or dispose of any such dogs in the manner provided by law and shall hold the Village harmless from any failure to comply with the laws applicable thereto. In return for such services on the part of the qualified organization, the Village Trustees are hereby authorized to agree to pay a fee for each dog received by such organization, plus a pick up fee if an employee of the entity picks up any dog, plus an allowance for mileage from the shelter maintained by the organization to the Village and the return trip from the Village to the said shelter. (Ord. 2013-06 on 11-4-13)
- (8) Penalty. The penalty for violation of the provisions of this section, unless otherwise specifically provided, shall be a penalty as provided in Section 19.04 of this Code.

## **12.02 KEEPING OF ANIMALS; SANITARY REQUIREMENTS.**

All structures, pens, buildings or yards wherein animals are kept shall be maintained in a clean and sanitary condition, ceilings, floors partitions and appurtenances of such structures, except structures or houses occupied by more than one dog, cat, rabbit, or similar animals kept as a pet, shall be whitewashed or painted annually or more often, as the Constable shall direct. (Ordinance 2009-01 on 04-12-10)

# Chapter 13

## HEALTH DEPARTMENT

*Last ordinance update: CH13 HEALTH DEPT 08.19.2022*

- Ordinance 2021-1 repealed Chapter 13 (Central Racine City Health Department (CrCHD) merged to create a new Health Department) passed on November 29th, 2021 and went into effect on January 1st, 2022.
- Ordinance 2022-3 recreated Chapter 13 (Racine County Public Health Division) passed on August 19th, 2022 and went into effect on August 19th, 2022.

<b>HEALTH DEPARTMENT</b>	<b>1</b>
<b>13.01 RESERVED</b>	<b>1</b>
<b>13.02 HUMAN HEALTH HAZARDS</b>	<b>1</b>
<b>13.03 LODGING, RECREATION AND FOOD PROTECTION</b>	<b>5</b>
<b>13.04 RABIES CONTROL</b>	<b>6</b>

### **13.01 RESERVED**

*(ORDINANCE 2022-3 recreated Chapter 13 Section 01 as reserved.)*

### **13.02 HUMAN HEALTH HAZARDS**

*(ORDINANCE 2022-3 recreated Chapter 13 Section 02)*

#### **(a) Purpose and General Provisions.**

- (1) This Section is adopted for the purpose of preserving and promoting the public health of residents and preventing the continuance of Human Health Hazards.
- (2) No Person shall erect, construe, cause, continue, maintain or permit any Human Health Hazards. Any Person who shall cause, create or maintain a Human Health Hazard or who shall in any way aid or contribute to the creation or maintenance thereof shall be guilty of a violation of this Section, and shall be liable for all costs and expenses attendant upon the abatement or removal of such hazards and subject to penalties provided in this Section.
- (3) It shall be the joint responsibility of the Owner and Occupant of a Dwelling or Dwelling Unit to maintain their property in a manner which complies with this Code and any applicable state and federal laws.
- (4) This Section does not prohibit the following activities so long as they are conducted in accordance with the applicable ordinance or State Statute: the sanitary operation of licensed junkyards; or the storage and accumulation of ashes and effuse by industrial establishments which maintain adequate and sanitary facilities and the space for the accumulation and storage of such materials.
- (5) The purpose of this Section is to address Human Health Hazards that are not regulated by the Racine County Public Health Division. No provisions of this Section shall be construed to diminish any powers of the Racine County Public Health Division.

#### **(b) Definitions. The following definitions shall apply in the interpretation and enforcement of this Chapter, unless a different meaning is plainly intended:**

- (1) Basement. A portion of a building located partly or wholly underground.
- (2) Building Inspector. The Building Inspector of the Municipality or his or her authorized representative.
- (3) Carbon Monoxide Detector. A device that detects the presence of carbon monoxide gas.
- (4) Cellar. A portion of a building located partly or wholly underground, but having ½ or more of its clear floor to ceiling heights below the average grade of the adjoining ground.
- (5) Code Official. Building Inspector, municipal law enforcement officer, and /or the Fire Chief, or their respective authorized representatives.
- (6) Dwelling. Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.
- (7) Dwelling Unit. Any room or group of rooms located within a Dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one family.
- (8) Exterior Premises. The open space on the premises or the portion of the premises upon which there is not a structure.
- (9) Extermination. The control or elimination of insects, rodents or other Vermin by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by blocking their access to a Dwelling, by poisoning, spraying, fumigating or trapping, or by any other legal pest elimination method approved by the Code Official.
- (10) Human Health Hazard. A substance, activity or condition that is known to have the potential to cause acute or chronic illness, to endanger life, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public.
- (11) Immediate Human Health Hazard. A condition which exists or has the potential to exist which should, in the opinion of the Code Official, be abated or corrected immediately, or at least within a 24-hour period, to prevent imminent and severe damage to human health.
- (12) Municipality. The Village of North Bay, Wisconsin.
- (13) Occupant. Any Person living, sleeping or eating or having actual possession of a Dwelling Unit.
- (14) Owner. Any Person who, alone or jointly or severally with others shall be the record holder of the title of any Dwelling or Dwelling Unit, with or without actual possession thereof, or who has charge, care or control of any Dwelling as agent of the owner or as executor, administrator, trustee or Guardian of the estate of the owner.
- (15) Person. Includes Owners, Occupants, their agents, tenants and any individual, firm, corporation, partnership or association.
- (16) Smoke Detector. A device that detects the visible or invisible particles of combustion.
- (17) Vermin. Rats, mice, cockroaches or similar animals or insects that are known to be vectors of human pathogens.

- (18) Workmanlike. Work of such character so as to meet manufacturer's specifications, accepted national standards or recognized trade practices, and to provide a durable result as intended to ensure public safety, health and welfare insofar as they are affected by building construction, use and occupancy.
- (c) Health Standards for Basic Facilities and Maintenance of Habitable Living Quarters. No Person shall occupy or allow another Person to occupy any Dwelling or Dwelling Unit for the purpose of living or sleeping therein, which does not comply with the following requirements:
- (1) Toilet and Lavatory. Every Dwelling Unit shall contain a water flush toilet within a room which affords privacy to a Person in such room. Every Dwelling Unit shall contain a lavatory basin, preferably but not exclusively in the same room as the toilet. Such toilet and lavatory basins shall be connected and maintained in compliance with the Municipality's plumbing code.
  - (2) Bathing Facilities. Every Dwelling Unit shall contain, within a room which affords privacy to a Person in such room, a bathtub or shower connected and maintained in compliance with the Municipality's plumbing code.
  - (3) Egress. Every Dwelling Unit shall have access to at least two accessible, unobstructed means of egress leading to a safe and open public street, alley or court.
  - (4) Heating Facilities. Every Dwelling or Dwelling Unit shall be equipped with heating facilities which are properly installed, and maintained in a safe and good working condition and are capable of maintaining minimum temperatures of 68 degrees Fahrenheit in all rooms with an outside temperature of -10 degrees Fahrenheit.
  - (5) Electric Service. Every outlet and fixture shall be properly installed and shall be maintained in a good and safe working condition, and shall be connected and maintained in compliance with the Municipality's Electric Code.
  - (6) Smoke Detectors. Smoke Detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each additional story of the Dwelling Unit, including Basements and Cellars excluding crawl spaces and unfinished attics.
  - (7) Carbon Monoxide Detectors. The owner of a dwelling shall install a functional carbon monoxide detector in the basement of the dwelling and on each floor level except the attic, garage, or storage area of each dwelling unit. This paragraph does not apply to the owner of a dwelling that has no attached garage, no fireplace, and no fuel-burning appliance.
  - (8) Extermination of Vermin. Every Occupant of a Dwelling containing a single Dwelling Unit shall be responsible for the Extermination of any Vermin in or on the premises; and every Occupant of a Dwelling Unit in a Dwelling containing more than one Dwelling Unit shall be responsible for such Extermination within the unit occupied by them whenever their Dwelling Unit is the only one infested. Notwithstanding such provisions, whenever an infestation is caused by the failure of the Owner to maintain a Dwelling in a reasonably rodent-proof or insect-proof condition, Extermination shall be the responsibility of the Owner. Extermination of any infestation in an unoccupied Dwelling Unit shall be the responsibility of the Owner even though the condition may have

been caused by a previous Occupant. All Extermination services shall be performed by a licensed exterminator. Effective Extermination shall continue until all Vermin are eliminated. The responsible person shall submit completed Extermination reports from the licensed exterminator to the appropriate Code Official upon request.

- (9) Hazardous Conditions. Every Dwelling Unit shall be structurally sound and shall be free of conditions that constitute a Human Health Hazard, an Immediate Human Health Hazard to the health and safety of the Occupant(s) or which create an unreasonable risk of personal injury resulting from any reasonably foreseeable use of the Dwelling.
- (10) Discontinuance of Service. No Owner or Occupant shall cause any service, facility, equipment or utility which is required under this Section to be removed or shut off from, or discontinued for, any occupied Dwelling which is let or occupied by such Person, except for such temporary interruption as may be necessary while actual repairs or alterations are in progress, or during a temporary emergency when discontinuance of service is approved by a Code Official.
- (d) Enforcement. Upon request of an Owner or Occupant, or upon receipt of a credible complaint, a Code Official may inspect or cause to be inspected the Dwelling, Dwelling Unit or Exterior Premises which is the subject of the complaint or upon which there exists evidence of a violation of this Section. Such inspection shall be for the purpose of determining whether or not the condition of the Dwelling or Dwelling Unit complies with the standards set forth in this Section.
- (e) Access to Property. After presenting proper identification a Code Official shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this Section and related ordinances. If denied access, the Code Official may acquire a special inspection warrant for such access, pursuant to Sec. 66.0119, Wis. Stats., as amended from time-to-time.
- (f) Declaration of Dwelling as Human Health Hazard. Notwithstanding any other provisions of this Section, if a Code Official determines that any Dwelling or Dwelling Unit is a Human Health Hazard or Immediate Human Health Hazard, the Code Official may placard such Dwelling and within 24 hours thereafter serve notice either, by registered mail, return receipt requested, or by personally served notice in the manner provided for in the State Statutes for service of process to the Occupant and Owner that the Dwelling is unfit for human habitation and that it shall be vacated within a reasonable time as ordered by the Code Official. A Dwelling may be declared a Human Health Hazard or Immediate Human Health Hazard for any of, but not limited to, the following reasons:
  - (1) A Dwelling is so damaged, decayed, dilapidated, dangerous, unsanitary, unsafe or Vermin-infested that it creates a hazard to the health or safety of the Occupants or the public.
  - (2) A Dwelling lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health and safety of the Occupants.
  - (3) A Dwelling, because of its condition, has been implicated as the potential source of a severe poisoning by a toxic substance including but not limited to lead-bearing paint.

- (g) Workmanship. All repairs, maintenance work, alterations or installations which are required directly or indirectly by the enforcement of this Section shall be executed and installed in a Workmanlike manner.
- (h) Notice of Violation and Orders for Corrective Actions. Whenever a Code Official determines that there has been a violation of this Section, notice may be given to the property Owner, and Occupant as appropriate. Such notice shall:
  - (1) Be in writing.
  - (2) Include a statement of the violation with reference to the applicable provision(s) of this Section.
  - (3) Include the correction(s) necessary to bring about compliance.
  - (4) Contain an order to correct said violation by a date certain.
- (i) Service of Notice. Each notice or order, other than as provided in Subsection (g), provided under this Section shall be deemed to be properly served if a copy thereof is:
  - (1) Personally served in the manner provided for in the State Statutes for service of process or,
  - (2) Sent by U.S. first class mail, postage prepaid, addressed to the last known address,
  - (3) Posted in a conspicuous place on or about the main entrance to the structure located at the last known address, where there is a structure.
- (j) Appeal. Any Person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this Section may request in writing a review by the Code Official issuing such notice or order. Such request shall be submitted before the date for the violation is to be corrected. Subsequent appeal shall be pursuant to the Administrative Review section of this Code or Chapter 68 of the Wisconsin Statutes.
- (k) Noncompliance with Order.
  - (1) Citation. A citation for any violation of this Section may be issued by the Police, Sheriff's Department or by an appropriate Code Official.
  - (2) Abatement of Human Health Hazards/Emergency Action. In extreme cases where a violation poses an Immediate Human Health Hazard as determined by the Code Official, the Code Official may immediately commence the actions authorized by this Chapter, or any other statutory or ordinance authority, to abate or removed the hazard.
- (l) Penalties. Any Person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

### **13.03 LODGING, RECREATION AND FOOD PROTECTION**

- (a) Purpose and General Provisions. The purpose of this Section is to address lodging, recreation and food protection issues that are not regulated by the Racine County Public Health Division. No provisions of this Section shall be construed to diminish any powers of the Racine County Public Health Division. These provisions are in effect to give the Village The power to act in the event the Racine County

Public Health Division chooses not to exercise its granted powers. The Village will only act under the provisions of Section 13.03 when a Code Official deems it is necessary.

- (b) Definitions. The following definitions shall apply in the interpretation and enforcement of this Section, unless a different meaning is plainly intended:
  - (1) Body Piercer. Means a person who performs body piercing on another person at that person's request.
  - (2) Food Establishment. An operation that stores, prepares, serves, vends, sells or otherwise provides food for human consumption. The term "Food Establishment" includes a "restaurant" as defined in Section 97.01, Wis. Stats.; a "retail food establishment" as defined in Section 97.30, Wis. Stats.
  - (3) Tattooist. Means a person who tattoos another person at that person's request.
- (c) Mobile Food Establishments. A valid Food Establishment permit issued by the State of Wisconsin or any other competent Health Department for any mobile restaurant or mobile retail Food Establishment which chooses to operate within the jurisdiction of the Village of North Bay will be honored by the Village. Unless regulated by the Racine County Public Health Division, the Mobile Food Establishment may be required to be inspected by a Code Official.
- (d) Body Piercers and Tattooists. Unless regulated by the Racine County Public Health Division, all body piercers and tattooists shall annually complete a bloodborne pathogen training course that is approved by the Village.
- (e) Fees. All fees associated with the operation of any establishment governed by this Section shall be established as part of the annual budget process or by resolution of the Village Board, except as regulated by the Racine County Public Health Division.
- (f) Penalties. Any Person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

#### **13.04 RABIES CONTROL**

- (a) Purpose and General Provisions. The purpose of this Section is to address rabies control issues that are not regulated by the Racine County Public Health Division. No provisions of this Section shall be construed to diminish any powers of the Racine County Public Health Division. These provisions are in effect to give the Village the power to act in the event the Racine County Public Health Division chooses not to exercise its granted powers. The Village will only act under the provisions of Section 13.04 when a Code Official deems it is necessary
- (b) Definitions. The following definitions shall apply in the interpretation and enforcement of this Section, unless a different meaning is plainly intended:
  - (1) Bite. To seize with teeth or jaws, so as to enter, wound, or pierce the skin.
  - (2) Cat. Any member of the species felis catus (the domestic cat).
  - (3) Code Officer. The Municipality's law enforcement officer, Humane Officer, or their designees.
  - (4) Dog. Any member of the species canis familiaris (the domestic dog).
  - (5) Ferret. Any member of the species mustela putorius (the domestic ferret).

- (c) Rabies Vaccination Required for Dogs. The owner of a Dog shall have the animals vaccinated against rabies. An owner who fails to obtain a rabies vaccination for a Dog shall be subject to a forfeiture of not less than \$50 and not more than \$100, plus the costs of prosecution.
- (d) Duty to Report Bite. Any person having knowledge or reason to believe that any Dog, Cat or Ferret has bitten a person, shall immediately report, so far as is known, the name and address of the owner of the animal and circumstances of such Bite. Such report shall be made to the Village of Wind Point Police Department or Racine County Sheriff's Department.
- (e) Quarantine. Any Dog, Cat or Ferret within the Municipality which is believed to have bitten a person, to have been infected with rabies, or to have been in contact with a rabid animal shall be subject to the quarantine requirements and procedures set forth in Sec. 95.21, Wis.Stats. If the Code Official or Chief of Police determines that a Dog, Cat, Ferret or other domestically-owned animal found in the Municipality has rabies, the Code Official may order district quarantine, as provided by § 95.21(3).
- (f) Noncompliance with Quarantine Order. If after a Dog, Cat or Ferret Bites a person, the animal's owner fails to quarantine the animal and/or fails to have the animal examined by a licensed veterinarian, the animal may be seized by the Code Official, Police Officer, Deputy Sheriff or their designees and held at a designated facility until the quarantine time expires. The owner or custodian of the animal shall pay all applicable fees associated with the quarantine, veterinarian's examinations, vaccination and license prior to releasing the animal from the quarantine facility.
- (g) Appeal. Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this Section may request in writing a review by the Code Official issuing such notice or order. Such request shall be submitted before the date for the violation is to be corrected. Subsequent appeal shall be to the Village Board pursuant to the applicable ordinance.
- (h) Penalties. Except as otherwise provided herein, any person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

## **SEVERABILITY**

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

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# Chapter 14

## PUBLIC NUISANCES

Last ordinance update: CH14-PUBLIC NUISANCES final 07.16.2013

14.01	PUBLIC NUISANCES PROHIBITED.	1
14.02	DEFINITIONS.	1
14.03	ABATEMENT OF PUBLIC NUISANCES.	2
14.04	COST OF ABATEMENT.	3

### 14.01 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of North Bay.

### 14.02 DEFINITIONS.

- (1) Public Nuisance. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to: substantially annoy, molest, harass, disturb, injure or endanger the comfort, health, repose or safety of the public; in any way render the public insecure in life or in the use of property; greatly offend the public morals or decency; unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.
- (2) Public Nuisances Affecting Health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of subsection (1) of this section: retaining the carcasses of animals, birds or fowl, not intended or fit for human consumption, or putrefying or decomposed organic materials or food which are not buried or otherwise disposed of in a sanitary manner for more than 24 hours; accumulation decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed; accumulating or permitting stagnant water to remain on any property in which mosquitoes, flies or other insects can multiply; maintaining garbage cans which are not fly-tight; permitting noxious weeds or other rank growth of vegetation; permitting animals to run at large; permitting or using any

property, substances or things within the Village of North Bay emitting or causing any foul, offensive, noisy, nauseous, noxious or disagreeable odors, gases, smoke, effluvia or stenches extremely repulsive to the physical sense of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village; permitting any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.

- (3) Burning. Burning, out of doors, of organic or inorganic materials creating offensive or disagreeable smoke or odors is prohibited. Refer to Chapter 16.05 (1).

#### **14.03 ABATEMENT OF PUBLIC NUISANCES.**

- (1) Inspection of Premises. Whenever complaint is made to the Village President that a public nuisance exists within the Village of North Bay, he shall promptly notify the Constable, Health Officer or Building Inspector who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Village President. Whenever practical, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Clerk.
- (2) Summary Abatement.
  - (a) Notice to Owner. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village President may direct the Constable to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
  - (b) Abatement by Village. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Health Officer, in case of health nuisances, and the Constable, in other cases shall cause the abatement or removal of such public nuisance. The cost of such abatement or removal shall be charged to the person causing such public nuisance, and if not timely paid, shall be collected as a special charge against the property. (Ord. 20-13-02 on 05/13/13)

- (3) Abatement by Court Action. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Village President who shall cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Racine County in accordance with the provisions of Chapter 280 of the Wisconsin Statutes.
- (4) Other Methods Not Excluded. Nothing in this Ordinance shall be construed as prohibiting the abatement of public nuisances by the Village of North Bay or its officials in accordance with the laws of the State of Wisconsin.

#### **14.04 COST OF ABATEMENT.**

In addition to any other penalty imposed by this Ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

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# Chapter 15

## TRAFFIC CODE

*Last ordinance update: CH15-TRAFFIC CODE final 09.08.2-14*

<b>15.01 STATE TRAFFIC LAWS ADOPTED.</b>	<b>1</b>
<b>15.02 GO-CARTS, DIRT BIKES, ETC.</b>	<b>1</b>
<b>15.03 PARKING LIMITATIONS.</b>	<b>1</b>
<b>15.04 SPEED LIMITS</b>	<b>2</b>
<b>15.05 SNOWMOBILES.</b>	<b>2</b>
<b>15.06 FORFEITURES FOR TRAFFIC OFFENSES.</b>	<b>2</b>
<b>15.07 FORFEITURES FOR PARKING VIOLATIONS.</b>	<b>2</b>
<b>15.08 ENFORCEMENT.</b>	<b>2</b>
<b>15.09 REFERENCES TO WISCONSIN STATUTES.</b>	<b>3</b>
<b>15.10 POLICE AUTHORITY.</b>	<b>3</b>

### **15.01 STATE TRAFFIC LAWS ADOPTED.**

Pursuant to the provisions of Sec. 349.06, Wis. Stats., the Village does hereby adopt and incorporate into this chapter of the Village Code the provisions of Chapters 340, 341, 342, 343, 344, 345, 346, 347 and 348 of the Wisconsin Statutes, inclusive of all future amendments to any provisions of those sections of the Wisconsin Statutes. The Village's power to enforce any provision of Chapters 340 through 348, Wis. Stats., shall not be extended to any offense for which jail or imprisonment, other than for non-payment of a forfeiture, is a prescribed penalty.

### **15.02 GO-CARTS, DIRT BIKES, ETC.**

No riding or rideable motorized apparatus, go-cart, dirt bike or any other mechanical device, other than lawn mowers, not subject to the regulation of the State of Wisconsin, Department of Transportation, shall be operated within the corporate limits.

### **15.03 PARKING LIMITATIONS.**

In addition to parking regulations otherwise adopted in this Code, it shall be unlawful for the operator or owner of any vehicle to:

- (1) Park vehicles on the streets within the Village when snow is being removed, or when the streets are being cleaned or paved. Temporary "No Parking" signs shall be posted during such times and at the locations impacted by such work.
- (2) Park vehicles on or along Vincennes Circle between signs designating the Village Parkway.
- (3) Park vehicles on any street in the Village between the hours of 2:00 a.m. and 6:00 a.m. Official traffic signs shall be installed at or near the corporate limits of the Village notifying motorists of this overnight parking restriction.

#### **15.04 SPEED LIMITS**

- (1) North Main Street. The speed limit on North Main Street through the Village shall be 20 miles per hour or as posted.
- (2) Village Streets. Except as noted in (1) the speed limit within the Village shall be 20 miles per hour or as posted.

#### **15.05 SNOWMOBILES.**

No person shall operate a snowmobile upon any street, highway or alley within the Village except such operations as may be authorized by state statute.

#### **15.06 FORFEITURES FOR TRAFFIC OFFENSES.**

- (1) Forfeiture Penalty. The penalty for violation of any provision of this Chapter shall be a forfeiture as provided in state statute and the Uniform State Traffic Deposit Schedule, including court costs and fees prescribed by Sections 814.63 or 814.65, Wisconsin Statutes, the penalty assessment for moving traffic violations, the driver improvement surcharge, and such other costs, assessments, and surcharges imposed by Wisconsin Statutes, where applicable and as may be amended from time to time. Payment of the judgment and applicable court costs, fee assessments and surcharges may be suspended by the sentencing court for not more than 60 days, unless the court orders payment in installments. Any person 18 years of age or older who shall fail to pay the amount of the forfeiture, court costs, any penalty assessment or driver surcharge or other penalty imposed for violation of any provision of this Code may, upon order of the court entering judgment therefor and having jurisdiction of the case, be imprisoned until such forfeiture, costs and assessment are paid, but not exceeding 90 days.
- (2) Other Sanctions by Court. Nothing herein shall preclude or effect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes to suspend or revoke the operating privileges of the defendant, order the defendant to submit to assessment and rehabilitation programs or to attend traffic safety school in addition to payment of a monetary penalty or in lieu of imprisonment.

#### **15.07 FORFEITURES FOR PARKING VIOLATIONS.**

Forfeitures for Uniform Statewide Parking, Stopping and Standing Offenses shall be the minimum and maximum forfeitures for such violations adopted by reference in Section 15.01 of this Code and as described in Wisconsin Statutes, Chapters 341 to 348. Any person violating any of the provisions of Section 15.03 shall, upon conviction thereof, be punished by a fine as set forth in Sec. 19.04. (Ord. 2014-01, 9-8-14)

#### **15.08 ENFORCEMENT.**

This ordinance shall be enforced in accordance with the applicable provisions of the Wisconsin Statutes, as may be amended from time to time, and this Section.

- (1) Applicable Court Procedures. Except as otherwise specifically provided by the laws of the State of Wisconsin or the provisions of this Code, the traffic regulations in this Code shall be enforced in the Wind Point/North Bay Joint

Municipal Court in accordance with the applicable provisions of Chapters 345 and 800, Wisconsin Statutes.

(2) Citations

- (a) Uniform Citation and Complaint. The Wisconsin Uniform Traffic Citation and Complaint described and defined in the Wisconsin Statutes shall be used for enforcement of all provisions of this Code except those provisions which describe or define non-moving traffic violations.
- (b) Parking Citations. The Village Constable shall recommend a citation for use in enforcing the non-moving traffic offenses of this Code. When approved by the Village Board such citation shall be used for enforcement of non-moving traffic regulations created or adopted by this Code. The citation for non-moving traffic citations shall contain a notice that the person cited may discharge the forfeiture for violation of a non-moving traffic regulation and penalty thereof by complying with procedures adopted pursuant to this Chapter.

(3) Deposits and Stipulations.

- (i) Who May Make. Persons arrested or cited for violation of offenses created by this Code shall be permitted to make deposits and stipulation of no contest or be released by payment of the appropriate forfeiture as established by the Uniform Traffic Bond Schedule if not otherwise established in this Code.
- (ii) Deposits. Deposits shall be handled as required by Wis. Stat. 345.26, as may be amended from time to time.

**15.09 REFERENCES TO WISCONSIN STATUTES.**

- (1) Statutes Specifically Incorporated by Reference. Whenever this Code incorporated by reference specific sections of the Wisconsin Statutes, such references shall mean the Wisconsin Statutes of 1981 as from time to time amended, repealed or modified by the Wisconsin Legislature.
- (2) General References. General references in this Code to Wisconsin statutory sections or chapters describing or defining procedures or authority for enactment or enforcement of local traffic regulations shall be deemed to refer to the most recent enactments of the Wisconsin Legislature describing or defining such procedures or authorities.

**15.10 POLICE AUTHORITY.**

The provisions of this Code will be subject to enforcement of such person or persons authorized by the Village to exercise its police power. This provision is not intended to restrict or limit the powers and authority otherwise granted the Village Constable.

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# Chapter 16

## **OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS**

*Last ordinance update: CH16-OFFENSES AG PUBLIC final 03.13.2017*

<b>16.01 DISORDERLY CONDUCT.</b>	<b>1</b>
<b>16.02 LITTERING.</b>	<b>1</b>
<b>16.03 FIRES.</b>	<b>1</b>
<b>16.04 MISCELLANEOUS PROHIBITED CONDUCT.</b>	<b>2</b>
<b>16.05 POSSESSION OF MARIJUANA.</b>	<b>3</b>
<b>16.06 CONTROL OF WEEDS AND GRASSES.</b>	<b>4</b>
<b>16.07 FALSE AND POLICE ALARMS.</b>	<b>4</b>
<b>16.08 FIREWORKS.</b>	<b>4</b>
<b>16.09 PENALTY.</b>	<b>4</b>

### **16.01 DISORDERLY CONDUCT.**

No person shall, in a public or private place, engage in violent, abusive, indecent, profane, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

### **16.02 LITTERING.**

No person shall throw, place or deposit, or allow to be thrown, placed or deposited, any type of handbill, circular, debris or waste material upon any street, alley, vehicle, waterway, beach, park sidewalk or other public or private place within the Village of North Bay or to allow or cause the deposit accumulation of debris or waste material including dog droppings or excrement upon any premises other than designated trash receptacles.

### **16.03 FIRES.**

No person shall burn any rubbish, leaves or other combustible material on any street, sidewalk, park or public beach in the Village, unless authorized by the appropriate Village representative. Anyone burning rubbish, leaves or other combustible materials in private places must employ methods to contain such fires and to prevent the creation of offensive or disagreeable smoke or odors.

- (1) The Village of North Bay hereby further adopts the provisions of the Racine County Open Burning Ordinance (70-865 Chapter IX 9.05) as follows:
  - (a) All open fires are hereby prohibited in the County except for
  - (b) outdoor fires for cooking ceremonies and recreation. Such fires may not burn plastic, rubber, asphalt, oily substances or any material that will create dense smoke or cause a nuisance.

- (c) Open fires for clean, dry, combustible refuse disposal on one or two family residential properties. The fires must be at least ten feet from the property line and may not burn wet, combustible rubbish, garbage, oily substances, asphalt, plastic, rubber products or any material that creates dense smoke or causes a nuisance.

**16.04 MISCELLANEOUS PROHIBITED CONDUCT.**

The statutory provisions specified below from the Wisconsin Statutes describing and defining various crimes and other prohibited conduct, exclusive of statutory penalty provisions, are hereby adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this Code. Any further amendments, revisions or modification of these referenced statutory regulations shall be considered amendments, revisions or modification of this Code.

- (1) 941.01 (Negligent operation of vehicle)
- (2) 941.10 (Negligent wood burning)
- (3) 941.12 (Interfering with fire fighters)
- (4) 941.20 (Reckless use of weapons)
- (5) 941.24 (Switchblade)
- (6) 943.10 (Burglary [Trespass])
- (7) 943.11 (Entry into locked vehicle)
- (8) 943.12 (Possession of burglary tools)
- (9) 943.13(1) (Criminal trespass)
- (10) 943.20(1)(2) (Theft)
- (11) 943.23 (Operate vehicle without owner's consent)
- (12) 943.34(1) (Receiving stolen property)
- (13) 944.15 (Fornication)
- (14) 944.20 (Lewd and lascivious behavior)
- (15) 944.34 (Keeping place of prostitution)
- (16) 945.04 (Permit premises to be used for commercial gambling)
- (17) 946.40 (Refusing to aid officer)
- (18) 946.41 (Resisting or obstructing officer [false information])
- (19) 946.65 (Obstructing justice)
- (20) (a) DUTY TO OBEY LAW ENFORCEMENT OFFICER. No person shall fail or refuse to comply with any lawful order, at any time, given by any village, county, or state law enforcement officer.

- (21) 947.047 (Metal or glass debris in or on shore of any body of water)
- (22) 947.15 (Contributing to delinquency)
- (23) (a) OPEN BOTTLE ORDINANCE. No person shall have in his possession, in a private motor vehicle upon a public highway or private property, other than his own, moving or sitting, any bottle or receptacle containing intoxicating liquor or fermented malt beverages or wine which has been opened or the seal broken, or the contents which have been partially removed, except when such bottle or receptacle shall be kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be considered to be within the area occupied by the driver and passengers.
- (b) POSSESSION BY MINORS. No person under the age of 21 shall possess, not accompanied by a parent, guardian, or adult spouse, any intoxicating liquors or any fermented malt beverages or wine upon any public or private lands, waters, or lands adjacent to any waters.
- (c) FURNISHING TO A PERSON UNDER THE AGE OF 21. No person shall sell or furnish to a person under the age of 21, not accompanied by parent, guardian or adult spouse, any intoxicating liquor, fermented malt beverage or wine.
- (24) \*\* Snowmobiles. No snowmobiles shall be operated within the Village of North Bay.  
(Added by Ord. No. 2013-04 on 10/14/13).

\*\* Subsection 16.07(24) was renumbered as subsection 16.04(24) via ordinance 2014-01, dated 9-8-14.

## **16.05 POSSESSION OF MARIJUANA.**

It shall be unlawful for any person to carry, possess or use marijuana as that substance is defined in Section 161.01(14), Wisconsin Statutes (1979), unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner filled out in the course of his/her professional practice, or except as otherwise authorized by Chapter 161 of the Wisconsin Statutes (1981).

#### **16.06 CONTROL OF WEEDS AND GRASSES.**

(Ord. 2009-01 on 4-12-10)

- (1) Mowing Required. No person owning property within the Village of North Bay shall permit to grow or pollinate upon his premises any weeds or grasses which cause or produce hay fever in human beings, exhale unpleasant or noxious odors or conceal filthy deposits. In order to prevent such growth and pollination, it shall be the duty of every property owner to keep his lawn mowed to such height that it will not present an unsightly condition or present a concern for the general well-being of the community.
- (2) Mowing by Village. The Director of Public Works shall enforce this section and if any person shall fail to comply, after providing of a five-days written notice to the owner, shall cause the premises to be mowed and report the cost thereof in writing to the village Clerk which charge shall be assessed against the property of the owner.

#### **16.07 FALSE AND POLICE ALARMS.**

- (1) False Fire Alarms. It shall be unlawful for any person by any means or in any manner to give or make, or cause any one to give or make, any false, misleading or untruthful call or alarm of a fire which causes, or which is given under such circumstances as likely to cause, any fire department to respond with personnel and equipment as if to attend an actual fire.
- (2) False Police Alarms. If the police department responds to a burglary alarm or fire alarm at a property and investigation reveals there has been no break-in or fire, the owner of the property shall pay a fee to the Village for the police department's response, except that there shall be no fee charged for the first two false alarms at each property per calendar year. The Village Clerk shall assess and collect fees, as provided in the Village fee schedule. Any such fee that is not paid within 30 days of billing shall be delinquent and shall be collected via the next available tax roll as a special charge against the property, pursuant to 66.0627 WI Stats. (Ord. 2017-01 dated 3-13-17)

#### **16.08 FIREWORKS.**

Fireworks, as defined in Section 167.10(1), Wis. Stats., may not be sold, possessed or used in the Village.

#### **16.09 PENALTY.**

The penalty for violation of the provisions of this chapter, unless otherwise specifically provided, shall be a penalty as provided in Section 19.04 of this Code. (Ord. 2014-01, dated 9-8-14)

# Chapter 17

## ***PARKS, PARKWAYS AND PUBLIC BEACHES***

*Last ordinance update: CH17-PARKS PARKWAYS BEACHES final 01.13.2020*

<b>17.01 TRAFFIC REGULATIONS.</b>	<b>1</b>
<b>17.02 DEFACING PROPERTY.</b>	<b>1</b>
<b>17.03 FIRES.</b>	<b>1</b>
<b>17.04 FIREARMS.</b>	<b>1</b>
<b>17.05 LITTERING.</b>	<b>2</b>
<b>17.06 DISORDERLY CONDUCT.</b>	<b>2</b>
<b>17.07 DISTURBING ANIMALS OR IMPROVEMENTS.</b>	<b>2</b>
<b>17.08 INTOXICATING BEVERAGES IN PARKS OR BEACHES.</b>	<b>2</b>
<b>17.09 FIREWORKS.</b>	<b>2</b>
<b>17.10 CLOSING HOURS.</b>	<b>2</b>
<b>17.11 REMOVAL FROM PARKS AND BEACHES.</b>	<b>2</b>
<b>17.12 SCHEDULE OF FORFEITABLE OFFENSES.</b>	<b>2</b>
<b>17.13 REMOVAL OF MATERIALS FROM PUBLIC BEACHES.</b>	<b>3</b>

The following regulations apply in all parks, parkways and public beaches in the Village of North Bay subject to the control, custody and supervision of the Village:

### **17.01 TRAFFIC REGULATIONS.**

No automobile or other vehicle shall be driven within any park or upon any public beach except upon roads and drives established for such purpose, or at a greater speed than 20 MPH or as posted; nor shall any person park an automobile or other vehicle in any park or upon any public beach except in places designated therefor.

### **17.02 DEFACING PROPERTY.**

No person shall deface, injure or remove any building, rock, tree, shrub or plant or other property standing or growing in the parks, parkways or public beaches subject to the control, custody and supervision of the Village.

### **17.03 FIRES.**

No fire shall be lighted or made in any park unless permitted or ordered by the officer in charge of the grounds; no fire shall be lighted or made upon any public beach unless a permit to light or make such fire has been obtained from the Village Board.

### **17.04 FIREARMS.**

No person, except a policeman or other law enforcement officer, shall carry or wear concealed about his person, any firearm, sling shot, cross-knuckles, knuckles of lead, brass

or other metal, or bowie knife, dirk knife, or switchblade or dagger, or any other dangerous or deadly weapon, upon any park, parkway or public beach grounds. The use of firearms, explosives and weapons upon park or beach grounds is prohibited.

**17.05 LITTERING.**

No person shall scatter or litter the grounds of any park or beach with any waste material. No person shall throw or place any foreign or waste substance in the lake, rivers or lagoons in or bordering upon any of the parks, boulevards or beaches.

**17.06 DISORDERLY CONDUCT.**

No person shall use any unreasonable loud, violent, obscene or profane language while on park or beach grounds, nor shall anyone conduct him/herself in a disorderly or obscene manner or commit any nuisance upon said grounds.

**17.07 DISTURBING ANIMALS OR IMPROVEMENTS.**

No person shall disturb or interfere with any improvements made or being made in or about the parks or beaches, or disturb or interfere with birds or animals found therein.

**17.08 INTOXICATING BEVERAGES IN PARKS OR BEACHES.**

No person shall consume or possess any intoxicating beverage including beer and wine while upon park or beach grounds without approval.

**17.09 FIREWORKS.**

No person shall use, discharge or explode any fireworks in, or bring any fireworks upon any of the park or beach grounds. For the purpose of this section, the term "fireworks" shall include all material and devices enumerated under Section 167.10(1) Wisconsin Statutes, and shall include gold star producing sparklers on wires, but shall not include toy snakes which contain no mercury or paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipping.

**17.10 CLOSING HOURS.**

The parks and beaches of the Village shall be closed to the public between the hours of sunset and sunrise, and no person except a policeman, security guard or authorized employee of the Village shall be permitted within the limits of said parks or beaches during the aforementioned times without a permit issued by the Village.

**17.11 REMOVAL FROM PARKS AND BEACHES.**

Any person violating any of the regulations set forth in this chapter may be required to leave such park, playground or beach by the police, sheriff, constable, or a Village Board member, and may be subject to the penalty provided for such violation if a citation is issued.

**17.12 SCHEDULE OF FORFEITABLE OFFENSES.**

Offenses under this Chapter shall be subject to a penalty under Section 19.04 of this Code. (Ord. 2014-01, dated 9-8-14)

**17.13 REMOVAL OF MATERIALS FROM PUBLIC BEACHES.**

No person shall intentionally take, remove, or carry away any stone, gravel, sand, or earth from the Lake Michigan lake bed or from any other public ditch or waterway. (Ord. 2019.2 dated 10-14-2019)

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# Chapter 18

## ***CURFEW FOR MINORS***

*Last ordinance update: CH18-CURFEW MINORS final 09.18.2014*

<b>18.01 HOURS.</b>	<b>1</b>
<b>18.02 RESPONSIBILITY OF PARENTS AND GUARDIANS.</b>	<b>1</b>
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### **18.01 HOURS.**

A minor under the age of 18 years shall not be present either on foot or in a vehicle upon the streets, alleys, sidewalks, parks, playgrounds, public grounds or other unsupervised places in the Village between the hours of 11:00pm and 5:00am. This Chapter does not apply to a minor accompanied by his parent, guardian or other adult person having legal custody or control of the minor, or where the minor is upon an emergency errand directed by his parent, guardian, or other adult person having legal custody or control of the minor, or where the minor is pursuing the duties of his employment, or going directly between employment and home, or if the minor is returning directly home from attending an organized school activity, including but not limited to dances, or if the minor was exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech or the right to assembly, or if the minor was attending a faith-based group or an official community-based group.

### **18.02 RESPONSIBILITY OF PARENTS AND GUARDIANS.**

A parent, guardian or other adult person having legal custody or control of any person under the age of 18 years shall not allow or permit such minor to violate this Chapter.

### **18.03 PENALTY.**

The penalty for violation of the provisions of this section, unless otherwise specifically provided, shall be a penalty as provided in Section 19.04 of this Code. (Ord. 2014-01 on 9-18-14)

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# Chapter 19

## GENERAL PROVISIONS

*Last ordinance update: Ch19-GENERAL PROVISIONS final 09.08.2014*

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### **19.01 RULES OF CONSTRUCTION.**

In the construction of this Code of General Ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Ordinance:

- (1) The term “Wisconsin Statutes”, wherever used in this Code, shall mean the current Wisconsin Statutes. (Ord. 2012-09 on 10-08-12)

### **19.02 CONFLICT AND SEPARABILITY.**

- (1) Conflict of Provisions. If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.
- (2) Separability of Code Provisions. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional by reason of any decision or any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Village President and the Village Board of the Village of North Bay hereby declare that they would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

### **19.03 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE.**

Whenever in this Code any standard, code, rule, regulation, or other written or printed matter, other than the Wisconsin Statutes or other sections of this Code are adopted by reference, they shall be deemed incorporated in this Code as if fully set forth herein and the

Village Clerk is hereby directed and required to file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Clerk's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

#### **19.04 PENALTY PROVISIONS**

- (1) General Penalty. Whenever so provided in this Code, any person who shall violate any of the provisions of this Code shall upon conviction of such violation, be subject to a penalty, which shall be as follows:
  - (a) Offense Penalty. Any person who shall violate any provisions of this Code subject to a penalty not otherwise specified shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution may be committed to the Racine County Jail and/or may have his driver's license suspended until said forfeiture and costs are paid, but not exceeding 90 days. Each day that a violation continues shall constitute a separate offense, which may be enforced by issuance of a continuing daily violation. (Amended by Ord. 2012-09 on 10-08-12)
  - (b) Any person who shall violate a provision of this code, which violation shall constitute an on-going violation of prohibitive conduct, upon conviction thereof, shall forfeit not less than \$50.00 per day nor more than \$500.00 per day for each day of violation, together with costs of prosecution, including attorney fees, and in default of payment of such forfeiture and costs of prosecution may be committed to the Racine County Jail and/or may have his driver's license suspended until said forfeiture and costs are paid, but not exceeding 90 days. Each day that a violation continues shall constitute a separate offense, which may be enforced by issuance of a continuing daily violation. (Amended by Ord. 2012-09 on 10-08-12)
  - (c) Bond. In the absence of any violation-specific bond amount set forth in, as appropriate, the Wisconsin Revised Uniform State Traffic Deposit Schedule or in such municipal court bond schedule as shall be authorized by the municipal court judge and approved by the Village Board, the bond amount for any violation of this Code shall be \$100, plus applicable costs and surcharges as required by law. (Ord. 2014-1 on 9-8-14).
- (2) Execution Against Defendant's Property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any Ordinance of the Village, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.

- (3) Citation. The citation will be issued by the Wind Point Police Department. All violations will be prosecuted through the Wind Point municipal court system. (Amended by Ord. 2012-09 on 10-08-12)

#### **19.05 REPEAL OF GENERAL ORDINANCES.**

All Ordinances adopted prior to July 8, 2000 (Ord. 2012-09 on 10-08-12) by the Village Board of the Village of North Bay are hereby repealed, except all Ordinances or parts of Ordinances relating to the following subjects and not conflicting with any of the provisions of this Code:

- The issuance of corporate bonds and notes of the Village of North Bay of whatever name or description;
- The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys;
- The setting of salaries of public officials and employees;
- Rights, licenses or franchises or the creation of any contract with the Village of North Bay;
- The lighting of streets and alleys;
- The annexation of territory to the Village of North Bay;
- The naming and changing of names and streets, alleys, public grounds and parks;
- The letting of contracts without bids;
- Tax and special assessment levies;
- Releases of persons, firms, or corporations from liability;
- Construction of any public works;
- Water, sewer and electric rates, rules and regulations and sewer and water main construction;
- Budget Ordinances, resolutions and actions.

#### **19.06 EFFECT OF REPEAL.**

The repeal or amendment of any section or provision of this Code or of any other Ordinance or resolution of the Village shall not:

By implication be deemed to revive any Ordinance not in force or existing at the time at which such repeal or amendment takes effect;

Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the Village;

Affect any offense committed or penalty or forfeiture incurred, previous to the time when any Ordinance shall be repealed or amended, except that when any forfeiture or penalty shall have been mitigated by the provisions of any Ordinance, such provisions shall apply to and control any judgment to be pronounced after such Ordinance takes effect for any offense committed before that time;

Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any Ordinance aforesaid shall be repealed or amended, but the right of action

shall continue and the offender shall be subject to the penalty as provided in such Ordinances, and such prosecution shall proceed, in all respects, as if such Ordinance or Ordinances had not been repealed, except that all such proceedings had after the time this Code shall take effect, shall be conducted according to the provisions of this Code, and shall be, in all respects, subject to the provisions of this Code.

**19.07 TITLE; EFFECTIVE DATE; CITATION.**

These Ordinances shall be known as the “Revised Municipal Code of the Village of North Bay” and shall take effect from and after passage and posting. All references thereto shall be cited by section number. (Example: Section 12.06, Revised Municipal Code of the Village of North Bay.)

**19.08 STYLE OF ORDINANCES; ADDITIONS; AMENDMENTS; REPEALS.**

All general Ordinances hereafter enacted by the Village Board of the Village of North Bay shall be numbered in chronological order, prefixed by the year of issue (Ord. 2012-09 on 10-08-12) and shall indicate by appropriate decimal number the section, subsection or paragraph of this Code created, amended, repealed or revised.

**19.09 CLERK TO FILE ORDINANCES; SUPPLEMENTAL SHEETS.**

The Village Clerk shall certify one copy of this Code as the original Revised Municipal Code of the Village of North Bay, and shall file the same as part of the Village Ordinance book. Such copy shall be retained in its original form. In addition, the Clerk shall retain in his office at least one copy of the Revised Municipal Code of the Village of North Bay in current form in which shall be inserted all supplemental sheets as hereinafter provided.

Whenever any Ordinance amending, repealing, revising or creating any section of this Code is adopted by the Village Board, the Clerk, after recording such Ordinance in the Ordinance book, shall cause copies of such Ordinance to be reproduced on supplemental sheets in proper form for insertion in the Municipal Code and shall insert such Ordinances in all copies of this Code in his possession except the aforementioned original copy. The Clerk shall make such supplemental sheets available at a fee specified by the Village Board to all persons requesting the same.

# Chapter 20

## VILLAGE OF NORTH BAY RECYCLING ORDINANCE

*Last ordinance update: 1994 (exact date unknown).*

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### 20.01 TITLE.

Recycling Ordinance for Village of North Bay.

### 20.02 PURPOSE.

- (1) The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in s. 287.11, Wis. Stats., and Chapter NR 544, Wis. Administrative Code.

- (2) Negotiations With Waste Haulers. The Director of Public Works shall attempt to negotiate with waste haulers to provide indemnification and insurance against any claims arising out of the hauling and disposal of wastes from the Village of North Bay.
- (3) Landfills. The Director of Public Works shall request from any hauler a list of landfills or the specific landfill used by the hauler for the disposal of wastes. The Director of Public Works shall attempt to obtain from the hauler or landfill an indemnification and insurance from the landfill indemnifying and insuring the Village against any claims at present or in the future, as a result of the disposal of village waste at said landfill.
- (4) Indemnification of Public Works. The Village of North Bay hereby warrants, indemnifies and defends and agrees to defend the Director of Public Works against any claim or claims as a ranger on behalf of the municipality or its residents. All officers, trustees, elected and appointed official agents, attorneys and assignees of the Village of North Bay are hereby provided indemnification and the Village of North Bay hereby warrants, defends, and holds harmless the aforesaid parties for any acts of claims of damages or claims for environmental repair or natural resource damages, as a result of any alleged personal liability with regard to disposal of waste by the Village of North Bay.

#### **20.03 STATUTORY AUTHORITY.**

This ordinance is adopted as authorized under sec. 59.70(2)(c) and sec. 287.09(3)(b), Wis. Stats.

#### **20.04 ABROGATION AND GREATER RESTRICTIONS.**

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

#### **20.05 INTERPRETATION.**

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.

#### **20.06 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.

## **20.07 APPLICABILITY.**

The requirements of this ordinance apply to all persons within the Village of North Bay.

## **20.08 ADMINISTRATION.**

The provisions of this ordinance shall be administered by Director of Recycling for the Village of North Bay.

## **20.09 EFFECTIVE DATE.**

The provisions of this ordinance shall take effect on January 1, 1995.

## **20.10 DEFINITIONS.**

For the purposes of this ordinance:

- (1) "Bi-metal container" means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
- (2) "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.
- (3) "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
  - (a) Is designed for serving food or beverages.
  - (b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
  - (c) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- (4) "HDPE" means high density polyethylene, labeled by the SPI code #2.
- (5) "LDPE" means low density polyethylene, labeled by the SPI code #4.
- (6) "Magazines" means magazines and other materials printed on similar paper.
- (7) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.
- (8) "Multiple-family dwelling" means a property containing 5 or more residential units, including those which are occupied seasonally.
- (9) "Newspaper" means a newspaper and other materials printed on newsprint.
- (10) "Non-residential facilities and properties" means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
- (11) "Office paper" means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
- (12) "Other resins or multiple resins" means plastic resins labeled by the SPI code #7.

- (13) "Person" includes any individual, corporation, partnership, association, local governmental unit, as defined in s. 66.299(1)(a), Wis. Stats., state agency or authority or federal agency.
- (14) "PETE" means polyethylene terephthalate, labeled by the SPI code #1.
- (15) "Plastic container" means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.
- (16) "Postconsumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. 144.61(5), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in s. 144.44(7)(a)1., Wis. Stats.
- (17) "PP" means polypropylene, labeled by the SPI code #5.
- (18) "PS" means polystyrene, labeled by the SPI code #6.
- (19) "PVC" means polyvinyl chloride, labeled by the SPI code #3.
- (20) "Recyclable materials" includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.
- (21) "Solid waste" has the meaning specified in s. 144.01(15), Wis. Stats.
- (22) "Solid waste facility" has the meaning specified in s. 144.43(5), Wis. Stats.
- (23) "Solid waste treatment" means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.
- (24) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
- (25) "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

## **20.11 SEPARATION OF RECYCLABLE MATERIALS.**

Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:

- (1) Lead acid batteries
- (2) Major appliances
- (3) Waste oil
- (4) Yard waste
- (5) Aluminum containers

- (6) Bi-metal containers
- (7) Corrugated paper or other container board
- (8) Foam polystyrene packaging
- (9) Glass containers
- (10) Magazines
- (11) Newspaper
- (12) Office paper
- (13) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins
- (14) Steel containers
- (15) Waste tires

**20.12 SEPARATION REQUIREMENTS EXEMPTED.**

The separation requirements of S. 20.11 do not apply to the following:

- (1) Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties that send their Postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in s. 20.11 from solid waste in as pure a form as is technically feasible. Occupants shall comply with the requirements of the processing facility or hauler as directed by the village of North Bay.
- (2) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- (3) A recyclable material specified in s. 20.1(5) through (15) for which a variance has been granted by the Department of Natural Resources under s. 159.11(2m), Wis. Stats., or s. NR 544.14, Wis. Administrative Code.

**20.13 CARE OF SEPARATED RECYCLABLE MATERIALS.**

To the greatest extent practicable, the recyclable materials separated in accordance with s. 20.11 shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

**20.14 MANAGEMENT OF LEAD ACID BATTERIES, MAJOR APPLIANCES, WASTE OIL AND YARD WASTE.**

- (1) Disposal. Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:
  - (a) Lead acid batteries shall be disposed of by each residence with a licensed and approved D.N.R. Hauler, or by an approved processing facility.

- (b) Major appliances shall be disposed of by each residence with a licensed and approved D.N.R. Hauler, or an approved processing facility.
  - (c) Waste oil shall be disposed of by each residence with a licensed and approved D.N.R. Hauler, or an approved processing facility.
  - (d) Yard waste shall be disposed of by each residence with a licensed and approved D.N.R. Hauler, or an approved processing facility -- or to be managed on site.
- (2) Penalty for Non-Disposal. Failure of any property owner to dispose of Items (a) through (d) will be completed by the Village of North Bay and its cost will be chargeable to the Property Owner.

Places for Disposal as of January 1, 1995:

White Goods: Major appliances such as washers, dryers, ovens, refrigerators, air conditioners, hot water heaters, can be recycled with the appliance dealer where a new purchase is made or by calling metal salvage dealers such as Johnson Metal Co. (634-4341) or Standard Scrap Metal Ltd. (637-2900).

Waste Oil: Local service stations will sometimes take waste motor oil or you can use the waste oil recycling container behind the Caledonia Fire Station on 5-Mile Road.

Waste Tires: Tire dealers will accept trade-in tires; there is a tire drop-off facility at Land Reclamation Corp., 1989 Oakes Road.

Batteries: Arrange a trade-in with the dealer where your new battery is purchased; check with service stations or auto repair centers and the metal salvage dealers listed above.

## **20.15 PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS AND OTHER WASTE.**

Except as otherwise directed by the Village of North Bay, occupants of residences in the Village shall do the following for the preparation and collection of the separated materials specified in s. 20.11(5) through (15):

- (1) Newspapers, magazines, catalogs, junk mail and mixed paper shall be bundled or bagged.
- (2) Corrugated cardboard shall be flattened to a maximum size of 3 feet by 4 feet and tied with string or twine no higher than 1 foot or placed in brown paper bags. Such cardboard shall not be combined with newspapers or magazines.
- (3) All other recyclables, mixed, shall be placed in a special container marked "commingled". The recyclables are as follows:
  - (a) Aluminum or bi-metal cans;
  - (b) Kitchen foil products;
  - (c) Glass bottles or jars; clean, remove and discard lids. Ceramics, window glass and light bulbs are not to be included with recyclables.

- (d) Plastic bottles coded for recyclability; remove and discard caps. No automotive product containers for such items as motor fuel, or food containers such as yogurt should be included in recyclable plastics.
- (e) Steel/tin cans shall be rinsed clean. No paint cans, hangers, scrap metal, pots or pans are included in recyclable products.
- (f) The following articles are not acceptable for recycling purposes and should be discarded in regular trash.
  - 1. Aluminum siding and scrap auto parts;
  - 2. Automotive product containers;
  - 3. Ceramics of all types;
  - 4. Drinking glasses;
  - 5. Eye glasses;
  - 6. Hangers;
  - 7. Lids from bottles and jars;
  - 8. Light bulbs;
  - 9. Mirrors;
  - 10. Motor oil bottles;
  - 11. Pizza boxes;
  - 12. Plastic bags;
  - 13. Plastics coded with the recyclables designations, 3, 4, 5, 6 and 7;
  - 14. Plastic flower pots/plants;
  - 15. Plate glass;
  - 16. Pots and pans;
  - 17. Pyrex® dishes;
  - 18. Scrap metal;
  - 19. Styrofoam packaging materials, Styrofoam egg cartons.
- (4) The Village Board shall have the right to modify this ordinance from time to time to accommodate the practices of contract processing facility requirements and hauler requirements. Such accommodation can be made on an emergency basis without the formalities of an ordinance change, which changes subsequently shall be made by ordinance.
- (5) No container, bundle, or single item for disposal shall exceed 50 pounds in total weight.
- (6) Waste tires shall be disposed of by each resident with a licensed and approved DNR hauler or an approved processing facility.

**20.16 MULTIPLE-FAMILY DWELLINGS.**

This section does not apply to the Village of North Bay.

## **20.17 RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF NON-RESIDENTIAL FACILITIES AND PROPERTIES.**

- (1) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in s. 20.11(5) through (15):
  - (a) Provide adequate, separate containers for the recyclable materials.
  - (b) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.
  - (c) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
  - (d) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- (2) The requirements specified in (1) do not apply to the owners or designated agents of non-residential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in s. 20.11(5) through (15) from solid waste in as pure a form as is technically feasible.

## **20.18 PROHIBITIONS ON DISPOSAL OF RECYCLABLE MATERIALS SEPARATED FOR RECYCLING.**

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in s. 20.11(5) through (15) which have been separated for recycling except waste tires may be burned with energy recovery in a solid waste treatment facility.

## **20.19 ENFORCEMENT.**

- (1) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the Village of North Bay may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Village of North Bay who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.
- (2) Any person who violates a provision of this ordinance may be issued a citation by the Village of North Bay to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the

same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

- (3) Penalties for violating this ordinance may be assessed as follows:
  - (a) Any person who violates s. 20.18 may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2000 for a third or subsequent violation.
  - (b) Any person who violates a provision of this ordinance, except s. 20.18, may be required to forfeit not less than \$10 nor more than \$1000 for each violation.

## **20.20 ADDITIONAL REQUIREMENTS.**

- (1) Hauler licensing. No person or corporation shall engage in the business of hauling recyclables within the Village without being licensed by the DNR under section NR 502.06. Wis. Adm. Code.
- (2) Processing facilities. Any contractor operating in the Village shall not transport for processing any recyclables to a processing facility unless that facility has been approved (in writing) by the Village (or unless the contractor notifies the municipality which facility they're using) and by January 1, 1995, the facility has self-certified with the WI DNR under section NR 544.16, Wis. Adm. Code.
- (3) Antiscavenging or Unlawful removal of recyclables. It shall be unlawful for any person, unless under contract with or licensed by the municipality, to collect or remove any recyclable material that has been deposited or placed at the curb or in a container adjacent to a home or nonresidential building for the purposes of collection for recycling.
- (4) No Dumping.
  - (a) It shall be unlawful for any person to dispose of or dump garbage in any street, alley or other public place within the village or in any receptacles or private property without the owner's consent unless it is placed in bags or containers in the manner and at the times specified by this ordinance.
  - (b) No person shall place for collection any garbage at the curb not owned or occupied by such person.
- (5) No burning or burying. It shall be unlawful to burn or bury solid waste and recyclables by residential and nonresidential sectors and at construction sites. OR: Open burning shall be permitted only per Village Ordinance s. 16.05.
- (6) Nondisposable materials. It shall be unlawful for any person to place for disposal any of the following wastes: Hazardous and toxic wastes, chemicals, explosives, flammable liquids, paint, trees and stumps, construction debris, carcasses, medical wastes (unless personal needles which shall be contained in cardboard to eliminate injury to collection personnel).
- (7) Garbage from outside of Municipality. It shall be unlawful to bring refuse for disposal (and recyclables) from outside the corporate limits into the Village unless authorized by agreement with the municipality.
- (8) Ownership of recyclables and refuse. Recyclable materials and refuse, upon placement at the curb, shall stay the property of the Residence. Recyclable

materials, upon collection by any permitted collector, shall become the property of the contractor.

- (9) Exemptions. The Village Board reserves the right to designate additional solid waste materials as recyclable or currently collected materials as no longer recyclable in accordance with state law and to either add or delete them from any collection services provided by the municipality or its contractors. The municipality shall provide written notice to its service recipients of this declaration.
- (10) Collection Schedule. The Village shall establish the time of collection of solid waste and recyclables and the clerk shall publish and provide written notice of the collection schedule at least once in the spring and fall of each year and at any time when the collection schedule is changed.
- (11) Specified containers.
  - (a) Solid waste shall be placed for collection in Containers not to exceed 50 lbs. and contained in such a manner as to avoid litter. Containers placed out for collection must be those designated by the municipality and have the designated tag or sticker affixed.
  - (b) All solid waste and recyclables shall be placed as herein required at the specified collection point no sooner than 24 hours prior to the regularly scheduled collection time or be allowed to remain at the curb longer than 12 hours thereafter.
- (12) Placement of recyclables and solid waste for collection. Except as otherwise specifically directed or authorized by the Village Board, solid waste and recycling containers shall be placed at the curb line adjacent to the premises owned or occupied by the person, of the street designated in the published collection schedule for collection. Materials shall be placed out for collection according to the scheduled days established and published by the Village of North Bay.

#### **20.21 HAULER SPECIFICATIONS.**

- (1) Hauler Restrictions. Haulers may not dispose in a landfill or burn in a solid waste facility any recyclable materials generated in Village that have been separated for recycling.
- (2) Right to Reject Materials. The hauler or drop off site attendant has the right to reject or leave at the curb any recyclable material that is not prepared according to the specifications in this ordinance (specify sections) or in education material provided by the contractor to the service recipients. Materials may also be left if not separated from solid waste, placed in the proper container, or are not designated recyclable materials for collection. The hauler also has the right to refuse to pick up any solid waste if it contains recyclable containers and material. In such cases, the hauler or attendant shall notify the generator of the materials about the reasons for rejecting the items either in writing or verbally. The hauler shall also keep a list of such occurrences and provide it to the Village quarterly or designated time period.
- (3) Hauler Licensing. Haulers who collect solid waste or recyclables in the Village for storage, treatment, processing, marketing or disposal shall obtain and

maintain all necessary municipal and state permits, licenses and approvals prior to collecting any materials in the Village of North Bay.

- (4) Reporting Requirements. The recycling haulers and processors operating in the Village are required to maintain records and report in writing to the Village Clerk or other designee at least twice each year. Reports shall include: the amount of solid waste and recyclables collected and transported from the Village; the amount of solid waste and recyclables processed and or marketed by item type from the Village; and the final disposal location of solid waste and recyclable material. Failure to report shall be cause for the municipality to revoke any license or sever any contract with the hauler/processor.

#### **20.22 CONSTRUCTION MATERIALS.**

No construction materials from remodeling, repairs, new additions, or new homes will be part of the Village of North Bay Recycling Program. All material to be disposed of by Owner and/or Contractor through an approved hauler and/or processing facility.