

## CHAPTER 7

### ZONING

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**ZONING ORDINANCE OF THE VILLAGE OF RIVER HILLS**

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**CHAPTER 7**

**SECTION 7.0100 INTRODUCTION**

**7.0101 AUTHORITY** This ordinance is adopted under the authority granted by Section 61.35, 61.351, 62.23(7), 87.30, and 281.31 of the Wisconsin Statutes and amendments thereto.

**7.0102 TITLE** This chapter shall be known and cited as the “Zoning Ordinance of the Village of River Hills” and is hereinafter referred to as the “Ordinance.”

**7.0103 FINDINGS** It is determined by the Village Board:

A. That the Village of River Hills is a community in the metropolitan area of Milwaukee County, in which substantially all of the land and real property has been or is being developed for private residential purposes by the owners thereof;

B. That Sufficient Lands for industrial, manufacturing, and mercantile purposes, are now located in adjoining communities accessible to the residents of this Village in an amount sufficient for the needs of the entire community, including the Village and the inhabitants thereof;

C. That at the Time of the Incorporation of the Village of River Hills, more than 90 percent of the land area of said Village had been subjected by deed restrictions to a limitation of not less than 5 acres for a homesite;

D. That Since the Village of River Hills has no public water system, it is therefore necessary that public and private sewer systems be properly regulated and controlled, for the protection of the health of the community.

E. That the Wishes of a great majority of the residents of the Village of River Hills for this type of protection have been evidenced by their conduct in subjecting their lands to deed restrictions, as hereinbefore referred to.

**7.0104 PURPOSE** Based on the findings in Section 7.0103, the Village Board has determined to preserve the existing rural residential character of the Village and, in order to do so, has found it necessary and desirable to enact this Ordinance to promote the public health, welfare, morals, safety, aesthetics, interest, and general prosperity of the residents of the Village.

**7.0105 INTENT** Based on the findings in Section 7.0103 and the purpose of the Ordinance

stated in Section 7.0104, it is the general intent of this Ordinance to regulate and restrict the use of all structures, lands and water in the Village of River Hills, and to:

- A. Regulate Lot Coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- B. Regulate Population Density and Distribution so as to avoid undue concentration and to facilitate the provision of adequate public services and utilities;
- C. Regulate Street Access so as to lessen congestion, and promote the safety and efficiency of the streets and highways;
- D. Secure Safety from fire, flooding, panic, pollution, contamination, and other dangers;
- E. Prevent and Control Erosion, sedimentation, and other pollution of the surface and subsurface waters;
- F. Prevent Flood Damages to persons and property;
- G. Minimize Expenditures for flood relief and flood control projects;
- H. Further the Maintenance of safe and healthful water conditions;
- I. Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- J. Stabilize and Protect existing and potential property values;
- K. Further the Appropriate Use of land and conservation of natural resources;
- L. Preserve and Protect the beauty of the community;
- M. Implement those municipal, county, watershed, and regional comprehensive plans or plan components adopted by the Village;
- N. Provide for the Administration and enforcement of this Ordinance and to provide penalties for its violation.

**7.0106 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

**7.0107 INTERPRETATION.** In their interpretation and application, the provisions of this

Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**7.0108 SEVERABILITY.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**7.0109 WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection provided for by this Ordinance is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by man-made or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this Ordinance does not imply that areas outside the delineated floodlands or uses permitted within the floodlands will be totally free from flooding and the associated flood damages. Nor shall this Ordinance create a liability on the part of, or a cause of action against, the Village of River Hills or any office or employee thereof for any flood damages that may result from reliance on this Ordinance.

**7.0110 REPEAL.** All other ordinances or parts of ordinances of the Village inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

## **SECTION 7.0200 GENERAL PROVISIONS**

**7.0201 JURISDICTION.** The jurisdiction of this Ordinance shall apply to all structures, lands, water, air, and air space within the corporate limits of the Village of River Hills.

**7.0202 COMPLIANCE.** No structure, land, or water shall hereafter be used, and no structure or part of a structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located.

**7.0203 MUNICIPALITIES AND STATE AGENCIES REGULATED.** Unless specifically exempted by law all governmental bodies, including but not limited to cities, villages, towns, counties, the state and federal government, are required to comply with this Ordinance and obtain all required permits.

**7.0204 USE RESTRICTIONS.** The following use restrictions and regulations shall apply:

A. Principal and Accessory Uses: Only those principal uses specified for a district and accessory uses thereto, and the following uses shall be permitted in that district. Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry.

B. Special Uses and their accessory uses are uses authorized by a Special Use Permit

as defined in Section 7.1300 and require review by the Village Plan Commission, public hearing, and approval by the Village Board.

C. Helicopter Landing Pads and the takeoff and landing of helicopters are prohibited in all zoning districts, except for forced or emergency landings or landings to render assistance or transport for medical purposes.

D. Temporary Uses, such as shelters for materials and equipment being used in the construction of a permanent structure may be permitted for a period of up to one year by the Village Building Inspector. Temporary use permits may be renewed if the Building Board deems such renewal appropriate.

### **7.0205 SITE RESTRICTIONS**

A. All Lots shall have access to a public or private street.

B. All Principal Structures shall be located on a lot; and only one principal structure shall be located, erected, or moved onto a lot.

C. Temporary Dwelling Structures. Notwithstanding paragraph B immediately above, a new principal dwelling structure including an accessory garage may be constructed on a lot while the principal dwelling structure is occupied and used as permitted in the residential zoning districts subjects to the following:

1. Compliance with all of the applicable Village ordinances, including but not limited to the building, razing and zoning ordinances; and

2. If the existing principal dwelling structure has not been razed before the new dwelling structure is completed and ready for occupancy, then the Building Inspector shall issue a temporary occupancy permit for the new principal dwelling structure that shall expire in ninety (90) days and which shall expressly require that the existing principal dwelling structure shall be razed prior to the expiration of the temporary occupancy permit for the new principal dwelling structure; and

3. Once the existing principal dwelling structure is razed and subject to all of the requirements applicable to the razing of the structure the building inspector shall issue an occupancy permit for the new principal dwelling structure. (Cre. Ord# 507, 11/19/08)

**7.0206 REDUCTION OR JOINT USE.** No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

**7.0207 APPLICATION.** It is not intended by this ordinance to interfere with, abrogate, or annul any existing easements, covenants or agreements between parties, nor is it intended by this ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing

provisions of law, ordinances, rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to the use, occupancy and location of buildings or premises; provided, however, that where the provisions of this Ordinance impose a greater restriction upon the use, occupancy or location of buildings or premises, or require larger open spaces than are imposed or required by such provisions of law or ordinances or by such rules, regulations or permits, the provisions of this ordinance shall control. No provisions of this ordinance shall be construed to bar an action to enjoin or abate a nuisance under the appropriate laws of the State of Wisconsin or other ordinances of this Village.

**7.0208 AREA REGULATIONS.** Except as otherwise provided in this ordinance, no building or structure shall hereafter be erected, nor shall any existing building or structure be moved, altered, enlarged, or rebuilt, nor any premises be used or occupied, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the area regulations of the zone in which such building or structure is located.

**7.0209 HEIGHT REGULATIONS.** No building or structure shall be erected, nor shall any existing building or structure be moved, reconditioned or structurally altered to exceed 26 feet to the eaves line and 40 feet to the ridge line of the roof or top of chimney. The height of all buildings or structures shall be measured from the first floor line which shall not be located greater than 2 feet above the average finished grade of the front wall of said building or structure.

## **SECTION 7.0300 ZONING DISTRICTS**

### **7.0301 ESTABLISHMENT OF ZONING DISTRICTS**

A. For the purpose of this Ordinance the Village of River Hills is hereby divided into the following 5 basic zoning districts and a Planned Unit Development Residential Overlay District:

- R-1 Residential District
- R-2 Residential District
- R-3 Residential District
- SW Shoreland-Wetland District
- NSW Nonshoreland-Wetland District
- PUD Planned Unit Development Residential Overlay District (Am. Ord#568, 1/10/23)

Provisions are also set forth for floodland regulations.

B. Boundaries of these districts are hereby established as shown on the map titled “Zoning Map--Village of River Hills, Milwaukee County, Wisconsin,” dated August 4, 1958, as amended, which accompanies and is herein made a part of this Ordinance. All notations and references shown on the zoning map are as much a part of this Ordinance as though specifically described herein. This Ordinance hereby incorporates herein any future changes or any later zoning maps that may be adopted by ordinance of the Village Board.



C. The District Boundaries in the R-1, R-2, and R-3 and PUD Districts shall be construed to follow: corporate limits; U. S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended. District boundaries in the SW and NSW Districts shall be as described in Subsection 7.0307.C. (Am. Ord#568, 1/10/23)

D. Vacation of public streets and alleys shall cause the vacated land to be automatically placed in the same district as the abutting side to which the vacated land reverts.

**7.0302 ZONING MAP**

A. A certified copy of the zoning map shall be kept in the office of the Village Clerk and shall be available for inspection by any interested person during regular office hours. Such certified copy shall bear on its face the certification that it is a true copy of the zoning map described in and accompanying this ordinance. Such certificate shall show the date of adoption of this ordinance and shall be signed by the Village President and attested by the Village Clerk. Thereafter no amendment which affects a change in the boundaries of any district, or establishes any new district or districts, shall become effective until such changes or new boundaries shall have been indicated by the appropriate convention on the aforesaid certified copy of the zoning map and described in a certificate placed thereon or attached thereto. Such additional certificate shall also bear the number and date of adoption of the amending ordinance and shall likewise be signed by the Village President and attested by the Village Clerk.

B. Determination of Boundaries

1. Subdivided Areas. Where land has been subdivided into lots and blocks, unless otherwise indicated, the district boundary lines are intended to follow the center lines of streets, boulevards, highways, or such lines extended. Boundary lines within blocks are intended to follow lot lines.

2. Unsubdivided Areas. In unsubdivided land, unless otherwise indicated, district boundary lines are intended to follow the centerlines of streets, highways, section lines, and other quarter section lines, or such lines extended. Whenever a portion of any district is indicated upon the zoning map as a strip paralleling an opened or unopened street or highway, where the above definition does not apply, the width of this strip, unless otherwise indicated, shall be determined by use of the scale shown on such zoning map.

3. District Boundary Lines to be Resolved by Village Board. Questions concerning the exact location of district boundary lines, which cannot be resolved by the application of subsections 1 and 2 above, shall be determined by the Village Board.

**7.0303 R-1 RESIDENTIAL DISTRICT**

A. Principal Uses:

1. Single-family dwellings and buildings accessory thereto.

2. Community living arrangements having a capacity of 8 or fewer, as may be required by state statutes.

3. Foster homes and treatment foster homes having no more than 4 foster children, as may be required by state statutes.

4. Adult family homes having a capacity of no more than 4 persons, as may be required by state statutes.

B. Accessory Uses: Accessory uses may be permitted as set forth in Section 7.0504.

C. Special Uses: Special uses may be permitted as set forth in Section 7.0804.

D. Lot Area: Lots shall have a minimum area of 5 acres.

E. Setbacks:

1. Front yard: 100 feet from lot line, except as permitted in Section 7.0503.

2. Side yard: 75 feet.

3. Rear yard: 75 feet.

**7.0304 R-2 RESIDENTIAL DISTRICT**

A. Principal Uses:

1. Single-family dwellings and buildings accessory thereto.

2. Community living arrangements having a capacity of 8 or fewer, as may be required by state statutes.

3. Foster homes and treatment foster homes having no more than 4 foster children, as may be required by state statutes.

4. Adult family homes having a capacity of no more than 4 persons, as may be required by state statutes.

B. Accessory Uses: Accessory uses may be permitted as set forth in Section 7.0504.

C. Special Uses: Special uses may be permitted as set forth in Section 7.0804.

D. Lot Area: Lots shall have a minimum area of 2 acres.

E. Setbacks:

- 1. Front yard: 100 feet from lot line, except as permitted in Section 7.0503.
- 2. Side yard: 50 feet.
- 3. Rear yard: 50 feet.

**7.0305 R-3 RESIDENTIAL DISTRICT**

A. Principal Uses:

- 1. Single-family dwellings and buildings accessory thereto.
- 2. Community living arrangements having a capacity of 8 or fewer, as may be required by state statutes.
- 3. Foster homes and treatment foster homes having no more than 4 foster children, as may be required by state statutes.
- 4. Adult family homes having a capacity of no more than 4 persons, as may be required by state statutes.

B. Accessory Uses: Accessory uses may be permitted as set forth in Section 7.0504.

C. Special Uses: Special uses may be permitted as set forth in Section 7.0804.

D. Lot Area: Lots shall have a minimum area of 1 acre.

E. Setbacks:

- 1. Front yard: 100 feet from lot line, except as permitted in Section 7.0503.
- 2. Side yard: 30 feet.
- 3. Rear yard: 30 feet.

**7.0306 FLOODLAND REGULATIONS (Rep & Rec, Ord 580, 9/18/24)**

**A. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE, GENERAL PROVISIONS AND MAPS**

**(1) STATUTORY AUTHORIZATION**

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23 and the requirements in s. 87.30, Stats.

(2) **FINDING OF FACT**

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

(3) **STATEMENT OF PURPOSE**

This ordinance is intended to regulate floodplain development to:

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

(4) **TITLE**

This Section shall be known as the “Floodplain Zoning Regulations” for the Village of River Hills, Wisconsin and shall be referred to as either “this section” or “this ordinance” throughout this Section.

(5) **GENERAL PROVISIONS**

(a) **AREAS TO BE REGULATED**

This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE 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.

(b) **OFFICIAL MAPS & REVISIONS**

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, AO

on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed below. These maps and revisions are on file in the office of the Village Clerk.

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

- (1) Flood Insurance Rate Map (FIRM), panel number 55079C0029F, 55079C0033F, 55079C0041F, 55079C0043F, and 55079C0037F dated 10/24/2024;
- (2) Flood Insurance Study (FIS) 55079CV001B, 55079CV002B, 55079CV003B, 55079CV004B, 55079CV005B, and 55079CV006B for Milwaukee County, dated 10/24/2024.

Approved by: The DNR and FEMA

(c) ESTABLISHMENT OF FLOODPLAIN DISTRICTS

The flood hazard areas regulated by this ordinance are divided into three districts as follows:

- (1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within the AE Zones as shown on the FIRM, or within A Zones when determined according to Subsection 7.0306.E(4).
- (2) 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 Subsection 7.0306.E(4) within A Zones shown on the FIRM.
- (3) 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) 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 (1) or (2) below. If a significant difference exists, the map shall be amended according to Subsection 7.0306.H. 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 Subsection 7.0306.G(3)(c) and the criteria in (1) and (2) 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 7.0306.H.

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

(e) REMOVAL OF LANDS FROM FLOODPLAIN

- (1) 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 Subsection 7.0306.H.
- (2) 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 two provisions are met:
  - (a) The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation; and
  - (b) The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F
- (3) 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.

(f) COMPLIANCE

- (1) 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.
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Subsection 7.0306.I.

- (3) 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 Subsection 7.0306.I.

(g) 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), Stats., 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.

(h) ABROGATION AND GREATER RESTRICTIONS

- (1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 61.35; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) 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.

## (j) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This 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.

**B. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

- (1) The community 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.
- (2) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be: (a) designed and anchored to prevent flotation, collapse, or lateral movement of the structure; (b) constructed with flood-resistant materials; (c) 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.
- (3) 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 shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in Subsection 7.0306.G(1)(b).
- (4) HYDRAULIC AND HYDROLOGIC ANALYSES
  - (a) No floodplain development shall:
    - (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
    - (2) Cause any increase regional flood height due to floodplain storage area lost.
  - (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights, based on the officially adopted FIRM or other adopted map, unless the provisions of Subsection 7.0306.H (Amendments) are met.



(5) **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 Hydraulic and Hydrological standards must be met and 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 Subsection 7.0306.H (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.

(6) **CHAPTER 30, 31, WIS. STATS., DEVELOPMENT**

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to Subsection 7.0306.H.

**C. FLOODWAY DISTRICT (FW)**

(1) **APPLICABILITY**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Subsection 7.0306.E(4).

(2) **PERMITTED USES**

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by this section or any other ordinance, meet the standards for development in the following subparagraphs (3) and (4) of this subsection, and all required permits or certificates have been issued:

- (a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (b) Nonstructural non-residential uses, such as loading areas and parking areas.
- (c) 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 Subsection 7.0306.C(3)(d).
- (d) Uses or structures accessory to open space uses, or classified as historic structures that comply with Subsections 7.0306.C(3) and (4).

- (e) Extraction of sand, gravel or other materials that comply with Subsection 7.0306.C(3)(d).
- (f) 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.
- (g) Public utilities, streets and bridges that comply with Subsection 7.0306.C(3)(c).
- (h) 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.
- (j) 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.

**(3) STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY**

**(a) GENERAL**

- (1) Any development in the floodway shall comply with Subsection 7.0306.B and have a low flood damage potential.
- (2) 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 Subsection 7.0306.B(4) and Subsection 7.0306.G(b)(3). The analysis must be completed by a registered professional engineer in the State of Wisconsin.
- (3) Any encroachment in the regulatory floodway is prohibited unless the data submitted pursuant to subparagraph (2) immediately 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 Subsection 7.0306.A(5)(e)

**(b) 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:

- (1) The structure is not designed for human habitation and does not have a high flood damage potential and is constructed to minimize flood damage.
- (2) Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:

- (a) 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; and
  - (b) Have structural components capable of meeting all provisions of Subsection 7.0306.C(3)(b)(7); and
  - (c) 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 Subsection 7.0306.C(3)(b)(7).
- (3) It must be anchored to resist flotation, collapse, and lateral movement;
- (4) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
- (5) It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.
- (6) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation the applicant shall submit a plan that meets Subsections 7.0306.C(3)(b)(1) through 7.0306.C(3)(b)(5) and meets or exceeds the following standards: (a) the lowest floor must be elevated to or above the regional flood elevation; (b) 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; (c) 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; and (d) the use must be limited to parking, building access or limited storage.
- (7) 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:
  - (a) Reinforcement of floors and walls to resist rupture, collapse or lateral movement caused by water pressures or debris buildup;
  - (b) 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 Subsections 7.0306.C(4)(d) and (4)(e).

- (c) Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
- (d) Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
- (e) Placement of utilities to or above the flood protection elevation.

(c) PUBLIC UTILITIES, STREETS AND BRIDGES

Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of Subsection 7.0306.B.

(d) FILLS OR DEPOSITION OF MATERIALS

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

- (1) The requirements of Subsection 7.0306.B are met;
- (2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.

(4) **PROHIBITED USES**

All uses not listed as permitted uses in Subsection 7.0306.C(3) are prohibited, including the following uses:

- (a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved

campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;

- (e) 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;
- (f) Any solid or hazardous waste disposal sites;
- (g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

#### **D. FLOODFRINGE DISTRICT (FF)**

##### **(1) APPLICABILITY**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Subsection 7.0306.E(5).

##### **(2) PERMITTED USES**

Any structure, land use, or development is allowed in the floodfringe district if the standards in Subsection 7.0306.D(3) are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in Subsection 7.0306.G(1) have been issued.

##### **(3) STANDARDS FOR DEVELOPMENT IN FLOODFRINGE**

Subsection 7.0306.B shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Subsection 7.0306.F, *Nonconforming Uses*.

##### **(a) RESIDENTIAL USES**

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;

- (1) 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 Subsection 7.0306.D(3),

*Removal of Lands from Floodplain.*

- (2) Notwithstanding par. (1) immediately above, the 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;
  - (3) Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in par. (4) immediately below.
  - (4) In developments where existing street or sewer line elevations make compliance with par. (3), immediately above, impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
    - a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
    - b. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
- (b) ACCESSORY STRUCTURES OR USES  
In addition to the provisions of Subsection 7.0306.B, new construction and substantial improvements of accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (c) NON - RESIDENTIAL USES  
In addition to the provisions of Subsection 7.0306.B, any non – residential principal structure that is permitted pursuant to a Special Use Permit under the provisions of Subsection 7.0804, which is erected, altered or moved into the floodfringe shall meet the requirements of Subsection 7.0306.D(3)(a). Subject to the requirements of Subsection 7.0306.D(3)(d), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (d) 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 Subsection 7.0306.G(5). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (e) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities may only be permitted if they designed to comply with Subsection 7.0306.G(5).
  - (2) 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.
- (f) SEWAGE SYSTEMS  
All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to Subsection 7.0306.G(5) to the flood protection elevation and shall meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.
- (g) WELLS  
All wells shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to Subsection 7.0306.G(5), to the flood protection elevation and shall meet the provisions of, and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (h) SOLID WASTE DISPOSAL SITES  
Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (i) DEPOSIT OF MATERIALS  
Any deposited material must meet all the provisions of this ordinance.
- (j) MANUFACTURED HOMES
- (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
  - (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
    - a. have the lowest floor elevated to the flood protection elevation; and
    - b. be anchored so they do not float, collapse or move laterally during a flood
  - (3) 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 Subsection 7.0306.D(3)(a).

**E. 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 Subsection 7.0306.A(5)(b).

**(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 Subsection 7.0306.A(5)(b), the boundaries of the regulatory floodway shall be determined pursuant to Subsection 7.0306.E(5). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of s 3.0. If the development is located entirely within the floodfringe, the development is subject to the standards Subsection 7.0306.D.

**(3) PERMITTED USES**

Pursuant to Subsection 7.0306.E(5), it shall be determined whether the proposed use is located within a floodway or floodfringe. Those uses permitted in floodway and floodfringe districts are allowed within the general floodplain district, according to the standards of Subsection 7.0306.E(4), provided that all permits or certificates required under Subsection 7.0306.G(1) have been issued.

**(4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT**

Subsection 7.0306.C applies to floodway areas and Subsection 7.0306.D applies to floodfringe areas.

- (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 feet (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 Subsection 7.0306.D 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 the 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 Subsection 7.0306.G(1)(b)(3).
  - (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.

**F. NONCONFORMING USES****(1) GENERAL****(a) APPLICABILITY**

- (1) 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.
- (2) 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.

- (b) 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:
- (1) 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.
  - (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
  - (3) 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;
  - (4) 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 Subsection 7.0306.D(3)(a)(3). 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;
  - (5) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, 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 Subsection 7.0306.D(3)(a)(3). 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.

- (6) If on a per event basis the total value of the work being done under (4) and (5) immediately above, 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 Subsection 7.0306.D(3)(a)(3).
- (7) Except as provided in (8) immediately following, 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.
- (8) 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:
  - (a) Residential Structures.
    - (1) Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts, or perimeter walls. Perimeter walls must meet the requirements of Subsection 7.0306.G(5)(b).
    - (2) Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with methods and materials resistant to flood damage.
    - (3) Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
    - (4) In A Zones, obtain, review, and utilize any flood data available from a federal, state or other source.

- (5) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards Subsection 7.0306.E(4).
- (6) In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(b) Nonresidential Structures.

- (1) Shall meet the requirements of Subsection 7.0306.F(1)(b)(8)(a)(1 – 6).
- (2) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Subsections 7.0306.G(5)(a) or (b).
- (3) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 7.0306.E(4).

(c) 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 Subsection 7.0306.C(3)(a) flood resistant materials are used, and construction practices and floodproofing methods that comply with Subsection 7.0306.G(5) are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Subsection 7.0306.F(2)(b)(8)(a) 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.

(d) Notwithstanding anything in this ordinance 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:

- (1) Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
- (2) The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;
- (3) The nonconforming building is permanently changed to conform to the applicable requirements of Subsection 7.0306.B;
- (4) If the nonconforming building is in the floodway, the building is permanently changed to conform to the applicable requirements of Subsections 7.0306.C(3)(a), C(3)(b)(1) through (5), C(3)(c), C(3)(d) and F(2). 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 Subsection 7.0306.E(5). If the encroachment is in the floodway, it must meet the standards in Subsection 7.0306.C(3)(d),

- (5) If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of Subsections 7.0306.D(3) and F(3);
- (6) 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;
- (7) 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 paragraph (7) immediately above.
  - (ii) The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed.
- (8) 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.
- (9) 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;
- (10) 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;
- (11) 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;
- (12) 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. F(1)(d)(6) through (11) (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 Subsection 7.0306.E(5). If the encroachment is in the floodway, it must meet the standards in Subsection 7.0306.C(3)(d). Subsequent improvements to

repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;

- (13) 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 Subsection 7.0306.E(5). If the encroachment is in the floodway, it must meet the standards in section Subsection 7.0306.C(3)(d). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- (14) 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
- (15) 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 Subsection F(1)(d)(7) above. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity.

**(2) FLOODWAY DISTRICT**

- (a) 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:
  - (1) Has been granted a permit or variance which meets all ordinance requirements;
  - (2) Meets the requirements of Subsection 7.0306.F(1);
  - (3) Shall not increase the obstruction to flood flows or regional flood height;
  - (4) Any addition to the existing structure shall be floodproofed, pursuant to Subsection 7.0306.G(5), by means other than the use of fill, to the flood protection elevation; and
  - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

- (a) 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;
  - (b) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - (c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - (d) The use must be limited to parking building access or limited storage.
- (b) 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, Subsection 7.0306.G(5)(c) and ch. SPS 383, Wis. Adm. Code.
  - (c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway district. Any replacement, repair or maintenance of an existing well in the floodway district shall meet the applicable requirements of all municipal ordinances, Subsection 7.0306.G(5)(c) and chs. NR 811 and NR 812, Wis. Adm. Code.

**(3) FLOODFRINGE DISTRICT**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in Subsection 7.0306.D(3) except where Subsection 7.0306.F(3)(b) is applicable
- (b) Where compliance with the provisions of par. (a) above would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in Subsection 7.0306.G(3), may grant a variance from those provisions of par. (a) above for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
  - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;



- (2) Human lives are not endangered;
  - (3) Public facilities, such as water or sewer, will not be installed;
  - (4) Flood depths will not exceed two feet;
  - (5) Flood velocities will not exceed two feet per second; and
  - (6) The structure will not be used for storage of materials as described in Subsection 7.0306.D(3)(e).
- (c) 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, Subsection 7.0306.G(5)(c) and ch. SPS 383, Wis. Adm. Code.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, Subsection 7.0306.G(5)(c) and chs. NR 811 and NR 812, Wis. Adm. Code.

**G. ADMINISTRATION**

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under 62.23(7), Stats., these officials shall also administer this ordinance.

**(1) ZONING ADMINISTRATOR**

- (a) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
- (1) 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.
  - (2) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
  - (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
  - (4) Keep records of all official actions such as:
    - a. All permits issued, inspections made, and work approved;

- b. Documentation of certified lowest floor and regional flood elevations;
  - c. Floodproofing certificates;
  - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments
  - e. All substantial damage assessment reports for floodplain structures.
  - f. List of nonconforming structures and uses.
- (5) Submit copies of the following items to the Department Regional office:
- a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  - b. Copies of any case-by-case analyses and other required information.
  - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) 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.
- (7) Submit copies of amendments to the FEMA Regional office.

(b) 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:

(1) GENERAL INFORMATION

- a. Name and address of the applicant, property owner and contractor;
- b. Legal description, proposed use, and whether it is new construction or a modification;

(2) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- a. Location, dimensions, area and elevation of the lot;

- b. Location of the ordinary highwater mark of any abutting navigable waterways;
- c. Location of any structures with distances measured from the lot lines and street center lines;
- d. Location of any existing or proposed on-site sewage systems or private water supply systems;
- e. Location and elevation of existing or future access roads;
- f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
- h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Subsections 7.0306.C or 7.0306.D are met; and
- i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Subsection 7.0306.B(1). This may include any of the information noted in Subsection 7.0306.C(3)(a).

(3) 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.

(a) Zone A floodplains and in AE zones within which a floodway is not delineated:

- (1) Hydrology. 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*.
- (2) 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.
- (3) 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
- (b) Zone AE floodplains
- (1) 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*.
  - (2) 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.
- (3) 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.

## (4) 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.

(c) CERTIFICATE OF COMPLIANCE

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) 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;
- (4) 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 floodproofing measures meet the requirements of Subsection 7.0306.G(5).
- (5) Where applicable pursuant to Subsection 7.0306.E(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.
- (6) Where applicable pursuant to Subsection 7.0306.E(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 Subsection 7.0306.E(4).

(d) 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.

(2) **ZONING AGENCY**

- (a) The Village Manager shall:
  - (1) oversee the functions of the office of the zoning administrator; and
  - (2) review and advise the Governing body on all proposed amendments to this ordinance, maps and text.
- (b) The Village Manager shall not
  - (1) grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
  - (2) amend the text or zoning maps in place of official action by the Governing body.

(3) **BOARD OF APPEALS**

The Board of Appeals, created under Village ordinance Section 7.1000 and s. 62.23(7)(e), Stats. is hereby authorized to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and the Village Zoning ordinances. The zoning administrator may not be the secretary of the Board.

(a) POWERS AND DUTIES

The Board of Appeals shall:

- (1) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (2) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (3) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(b) APPEALS TO THE BOARD

- (1) 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.
- (2) Notice and hearing for Appeals including variances
  - a. Notice - The board shall:



1. Fix a reasonable time for the hearing;
  2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
  3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
- b. Hearing - Any party may appear in person or by agent. The board shall:
1. Resolve boundary disputes according to Subsection 7.0306.G(3)(c).
  2. Decide variance applications according to Subsection 7.0306.G(3)(d).
  3. Decide appeals of permit denials according to Subsection 7.0306.G(4).
- (3) DECISION: The final decision regarding the appeal or variance application shall:
- a. Be made within a reasonable time;
  - b. Be sent to the Department Regional office within 10 days of the decision;
  - c. Be a written determination signed by the chairman or secretary of the Board;
  - d. State the specific facts which are the basis for the Board's decision;
  - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
  - f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) BOUNDARY DISPUTES

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the

boundary.

- (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- (3) If the boundary is incorrectly mapped, the Board should inform the Village Manager or the person contesting the boundary location to petition the governing body for a map amendment according to Subsection 7.0306.H.

(d) VARIANCE

- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
  - a. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
  - b. 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;
  - c. The variance is not contrary to the public interest; and
  - d. The variance is consistent with the purpose of this ordinance in Subsection 7.0306.A(3).
- (2) In addition to the criteria in par. (1) immediately above, to qualify for a variance under FEMA regulations, the Board must find that the following criteria have been met:
  - a. The variance may not cause any increase in the regional flood elevation;
  - b. The applicant has shown good and sufficient cause for issuance of the variance;
  - c. Failure to grant the variance would result in exceptional hardship.
  - d. 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.
  - e. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.

- (3) A variance shall not:
  - a. Grant, extend or increase any use prohibited in the zoning district.
  - b. Be granted for a hardship based solely on an economic gain or loss.
  - c. Be granted for a hardship which is self-created.
  - d. Damage the rights or property values of other persons in the area.
  - e. Allow actions without the amendments to this ordinance or map(s) required in Subsection 7.0306.H(1); and
  - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (4) When a floodplain variance is granted, the Board 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.

**(4) TO REVIEW APPEALS OF PERMIT DENIALS**

- (a) The Board shall review all data related to the appeal. This may include:
  - (1) Permit application data listed in Subsection 7.0306.G(1)(b).
  - (2) Floodway/floodfringe determination data in Subsection 7.0306.E(5).
  - (3) Data listed in Subsection 7.0306.C(3)(a)(2) where the applicant has not submitted this information to the zoning administrator.
  - (4) Other data submitted with the application or submitted to the Board with the appeal.
- (b) For appeals of all denied permits the Board shall:
  - (1) Follow the procedures of Subsection 7.0306.G(3);
  - (2) Consider zoning agency recommendations; and
  - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the Board shall:

- (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Subsection 7.0306.H, *Amendments*; and
- (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase in flood elevation provided no other reasons for denial exist.

**(5) FLOODPROOFING STANDARDS**

- (a) 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 Subsections 7.0306.B, C, D, or E.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
  - (1) certified by a registered professional engineer or architect; or
  - (2) meeting or exceeding the following standards:
    - (i) 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;
    - (ii) the bottom of all openings shall be no higher than one foot above grade; and
    - (iii) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) Floodproofing measures shall be designed, as appropriate, to:
  - (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (2) Protect structures to the flood protection elevation;
  - (3) Anchor structures to foundations to resist flotation and lateral movement;
  - (4) Minimize or eliminate infiltration of flood waters;
  - (5) Minimize or eliminate discharges into flood waters;

- (6) Placement of essential utilities to or above the flood protection elevation; and
- (7) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  - (i) 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.
  - (ii) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - (iii) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - (iv) The use must be limited to parking, building access or limited storage.

**(6) PUBLIC INFORMATION**

- (a) Place marks on structures to show the depth of inundation during the regional flood.
- (b) All maps, engineering data and regulations shall be available and widely distributed.
- (c) All real estate transfers should show what floodplain zoning district any real property is in.

**H. AMENDMENTS**

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles in accordance with the GENERAL provisions of Subsection 7.0306H.(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 the GENERAL provisions of Subsection 7.0306H.(1). Any such alterations must be reviewed and approved by FEMA and the DNR.

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 the GENERAL provisions of Subsection 7.0306H.(1).

**(1) GENERAL**

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in Subsection 7.0306H.(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:

- (a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height.
- (b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (c) Any changes to any other officially adopted floodplain maps;
- (d) 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;
- (e) Correction of discrepancies between the water surface profiles and floodplain maps;
- (f) 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
- (g) 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.

**(2) PROCEDURES**

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats. and Section 7.1100 of the River Hills code. Such petitions shall include all necessary data required by Subsections 7.0306.E(5) and 7.0306.G(1)(b). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

- (a) The proposed amendment shall be referred to the Plan Commission for a recommendation to the governing body and a public hearing before the Village Board. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.
- (b) No amendments shall become effective until reviewed and approved by the Department.
- (c) All persons petitioning for a map amendment that obstructs flow 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.

**I. ENFORCEMENT AND PENALTIES**

Any violation of the provisions of this ordinance by any person shall be unlawful and may be prosecuted by issuance of municipal citations or may be referred to the municipal attorney for prosecution. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$10 and not more than \$2,000, together with the taxable costs 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.

**J. 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, i.e., below ground level, on all sides.
- 9) "BUILDING" - See STRUCTURE.
- 10) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which

allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

- 11) "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.
- 12) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 13) "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.
- 14) "DECK" – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.
- 15) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- 16) "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.
- 17) "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.
- 18) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- 19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- 20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- 21) "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.



- 22) "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 water;
  - 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.
- 23) "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.
- 24) "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.
- 25) "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.
- 26) "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.
- 27) "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.
- 28) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 29) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

- 30) "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.
- 31) "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.
- 32) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the Regional Flood Elevation. (Also see: FREEBOARD).
- 33) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 34) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 35) "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.
- 36) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- 37) "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.
- 38) "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.
- 39) "HIGHEST ADJACENT GRADE" – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure
- 40) "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.
- 41) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or 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.
- 42) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- 43) "LOWEST ADJACENT GRADE" – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
- 44) "LOWEST FLOOR" – The lowest floor of the lowest enclosed area (including basement).
- 45) "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.
- 46) "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."
- 47) "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."
- 48) "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.
- 49) "MODEL, DUPLICATE EFFECTIVE" – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

- 50) “MODEL, EFFECTIVE” – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- 51) “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.
- 52) “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.
- 53) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- 54) “NAVD” or “NORTH AMERICAN VERTICAL DATUM” – Elevations referenced to mean sea level datum, 1988 adjustment.
- 55) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- 56) "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.
- 57) “NON-FLOOD DISASTER” – A fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood
- 58) "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.)
- 59) "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.)
- 60) "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.
- 61) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in Subsection 7.0306.A(5)(b), which has been approved by the Department

and FEMA.

- 62) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- 63) "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.
- 64) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 65) "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.
- 66) "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.
- 67) "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.
- 68) "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.
- 69) "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.
- 70) "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.

- 71) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- 72) "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.
- 73) "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.
- 74) "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.
- 75) "VARIANCE" - An authorization by the board of appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 76) "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.
- 77) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- 78) "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.
- 79) "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.

**7.0307 SW SHORELAND-WETLAND AND NSW NONSHORELAND-WETLAND DISTRICTS**

A. Purpose. Due to the fact that the uncontrolled use of shoreland- and nonshoreland-wetlands and the pollution of the navigable waters of the Village of River Hills would adversely affect the public health, safety, convenience, and general welfare and impair the tax base of the Village, it is the purpose of this ordinance, in compliance with the legislative delegated responsibility, to:

1. Promote the public health, safety, convenience and general welfare;
2. Maintain the storm and flood water storage capacity of wetlands;
3. Prevent and control water pollution by preserving wetlands which filter and store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable water;
4. Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
5. Prohibit certain uses detrimental to the wetland areas; and
6. Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling wetland excavation, filling and other earth moving activities.

B. Wetland Zoning Districts Established.

1. District Boundaries; Map. There are hereby established wetland zoning districts for the Village of River Hills which are the Shoreland-Wetland Zoning District and the Nonshoreland-Wetland Zoning District. Both districts are based on information shown on the Wisconsin Wetland Inventory Map for the Village of River Hills, dated January 30, 1987, and stamped “Final.”

2. The boundaries of the Shoreland-Wetland District include all wetlands, 5 acres or greater in area shown on the Wisconsin Wetland Inventory Map which are:

a. Within 1,000 feet of the ordinary highwater mark of navigable lakes, ponds, or flowages. Lakes, ponds, and flowages shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Ordinance.

b. Within 300 feet of the ordinary high watermark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance. Floodplain zoning maps adopted in Subsection 7.0306.D shall be used to determine the extent of floodplain areas.

3. The boundaries of the Nonshoreland-Wetland District include all wetlands shown on the Wisconsin Wetland Inventory Map which are not delineated as shoreland-wetlands above, and all wetlands within the aforescribed shoreland that are greater than 2 but less than 5

acres in area, important drainage channels identified and numbered 1 through 12 on the Map attached to and made a part of this Ordinance, and all other wetlands greater than 2 acres in area.

C. Wetland Regulations. Uses permitted in both the Shoreland Wetland Zoning District and the Nonshoreland-Wetland District. Subject to the use regulations of this Ordinance, the following are permitted incidental uses within the shoreland-wetland district and the nonshoreland-wetland district within the Village of River Hills:

1. Activities and uses which do not require the issuance of a zoning permit:
  - a. Hiking, fishing, swimming, and boating.
2. Uses which do not require the issuance of a zoning permit and which may involve wetland alterations, only to the extent specifically provided below:
  - a. The maintenance and repair of existing drainage systems to restore pre-development levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;
  - b. The construction and maintenance of piers, docks, walkways, observation decks and trail bridges, built on pilings, including limited excavation and filling necessary for such construction and maintenance;
  - c. The installation and maintenance of sealed tiles for the purpose of draining lands outside the wetland zoning districts provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in Subsections 7.0307.A.2, A.3, and A.4 of this Ordinance; and
  - d. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavation and filling necessary for such maintenance, repair, replacement or reconstruction.
3. Uses not otherwise prohibited by this Ordinance in both the Shoreland-Wetland District and the Nonshoreland-Wetland District upon the issuance of a special exception by the Board of Appeals pursuant to Subsection 7.1004.B.3 of this Ordinance, which uses may include wetland alteration only to the extent specifically provided below are as follows.
  - a. The construction and maintenance of roads which are necessary for the continuity of the Village street system, the provision of essential utility and public safety services or to provide access to permitted open space uses in wetland incidental uses, provided that:
    - (1) The road cannot, as a practical matter, be located outside the wetland;
    - (2) The road is designed and constructed to minimize adverse



impacts upon the natural functions of the wetland listed in Subsections 7.0307.A.2, A.3, and A.4 of this Ordinance.

(3) The road is designed and constructed with the minimum cross-section practical to serve the intended use;

(4) Road construction activities are carried out in the immediate area of the road bed only; and

(5) Any wetland alteration must be necessary for the construction or maintenance of the road.

b. The construction and maintenance of non-residential buildings provided that:

(1) The building is used solely in conjunction with a use permitted in the wetland districts or for the raising of water fowl, minnows, or other wetland or aquatic animals;

(2) The building cannot, as a practical matter, be located outside of the wetland;

(3) The building is not designed for human habitation and does not exceed 500 square feet in floor area; and

(4) Only limited filling or excavating necessary to provide structural support for the building is allowed.

c. The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities provided that:

(1) The utility transmission and distribution facilities cannot, as a practical matter, be located outside the wetland;

(2) Only limited filling or excavating necessary for such construction or maintenance is allowed; and

(3) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in Subsection 7.0307.A.2, A.3, and A.4 of this Ordinance.

D. Uses Subject to State Laws and Village Ordinances.

1. All incidental uses permitted by this Ordinance are subject to the provisions of Chapters 30 and 31 of the Wisconsin Statutes as well as all applicable ordinances of the Village. In addition, projects proposed in wetland areas may require a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Control Act, or a water quality

certification pursuant to Chapter NR 103 of the Wisconsin Administrative Code.

2. This ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants or easements; however, where this ordinance imposes greater restrictions the provisions of this ordinance shall prevail.

E. Uses Prohibited.

Any use not specifically listed as a permitted use in the wetland districts is prohibited.

F. Nonconforming Structures and Uses.

1. Notwithstanding any other provisions hereof, this ordinance shall not have the effect of prohibiting the repair, reconstruction, renovating, remodeling, or expansion of any legal nonconforming structure, or any environmental control facility related to a legal nonconforming structure, in the Shoreland-Wetland District or the Nonshoreland-Wetland District, which was in existence on the date this ordinance becomes effective.

2. Any legal nonconforming use of property which does not involve the use of a structure which was in existence on the date this ordinance became effective may be continued although such use does not conform with the provisions of this ordinance. Any such nonconforming use may not be extended.

3. If a nonconforming use of property or the use of a nonconforming structure is discontinued for a period of 12 consecutive months, any future use of the property or structure shall conform with the provisions of this ordinance.

G. Special Exception Permits Any use listed as a special exception use in this ordinance shall be permitted only after an application has been submitted accompanied by wetlands assessment study and report prepared by a person qualified to conduct such studies, setting forth that such proposal does not adversely affect the wetlands or any drainage, and a special exception use permit has been granted by the Board of Appeals. The provisions of Section 7.1000 shall be applicable to all proceedings before the Board of Appeals regarding properties in the Shoreland-Wetland District and the Nonshoreland Wetland District.

1. The Board shall give public notice of the hearing by publishing a Class 2 notice under Chapter 985 of the Wisconsin Statutes, specifying the date, time, and place of the hearing, and a summary of the subject matter to be heard by the Board. Copies of such notice of hearing shall also be mailed to all parties in interest by first class mail and to the appropriate district office of the Wisconsin Department of Natural Resources at least 10 days prior to the public hearing.

2. Upon consideration of the special exception application and the standards applicable to the permitted uses set forth in Section 7.0307.C.3 of this Ordinance, the Board of Appeals shall attach such conditions to a special exception permit, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operations; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of

construction. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance.

3. A copy of the decision of the Board of Appeals shall be mailed to the parties in interest and to the appropriate district office of the Wisconsin Department of Natural Resources at least 10 days after the filing of the decision.

H. Administration. The Building Inspector is hereby directed to administer the provisions of this Ordinance and, in doing so, shall exercise the duties and have the powers set forth in detail in Subsection 7.0306.H of this Ordinance.

I. Amending Shoreland-Wetland Zoning Regulations

1. The Village Board may amend or repeal the shoreland-wetland district boundaries and the regulations contained in this Ordinance in accordance with the provisions of Section 7.1100 of this Ordinance.

2. A copy of each proposed change in this ordinance shall be submitted to the district office of the Wisconsin Department of Natural Resources within 5 days after the submission of the proposed changes to the Village Plan Commission.

3. All proposed changes to the shoreland-wetland regulations or map shall be referred to the Village Plan Commission for its review and report to the Village Board. No such changes shall be made in this ordinance unless a public hearing is held before the Village Board and notice thereof given as provided in Section 7.1200 of this Ordinance. Written notice of the public hearing shall be provided to the district office of the Wisconsin Department of Natural Resources at least 10 days prior to the date of hearing.

4. In order to insure that this ordinance will remain consistent with the shoreland protection objectives of Section 281.31 of the Wisconsin Statutes, the Village may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:

- a. Storm or floodwater storage capacity;
- b. Maintenance of dry season streamflow or the discharge of groundwater from the wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
- c. Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters;
- d. Shoreline protection against soil erosion
- e. Fish spawning, breeding, nursery or feeding grounds;

- f. Wildlife habitat; and
- g. Areas of special recreational, scenic or scientific interest, including scarce wetland types of habitat or endangered species.

5. Where the district office of the Wisconsin Department of Natural Resources determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in subsection 4 above, the Department shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.

6. The district office of the Wisconsin Department of Natural Resources shall be provided with a copy of the recommendation and report, if any, of the Village Plan Commission on a proposed text or map amendment, within 10 days after the submission of those recommendations to the Village Board, and written notice of the action on the proposed text or map amendment within 10 days after the action is taken.

7. If the Department notifies the Village Board in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subsection 4 above, the proposed amendment, if approved by the Village Board, shall not become effective until more than 30 days have elapsed since written notice of the Village Board approval was mailed to the Department of Natural Resources. If within the said 30 day period, the Department of Natural Resources notifies the Village Board that the Department intends to adopt a superseding shoreland-wetland ordinance for the Village as provided in Section 61.351(6) of the Wisconsin Statutes, the proposed amendment shall not become effective until the ordinance adoption procedure of the Department under Section 61.351(6) of the Wisconsin Statutes is completed or otherwise terminated.

J. Amending Nonshoreland-Wetland Zoning Regulations.

1. The Village Board may amend or repeal the nonshoreland-wetland district boundaries and the regulations contained in this Ordinance in accordance with the provisions of Section 7.1100 of this Ordinance.

2. In addition to amendment of nonshoreland-wetland district boundaries under this subsection, land owners and developers may need to secure a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Control Act, or a water quality certification pursuant to Chapter NR 103 of the Wisconsin Administrative Code.

K. Wetland Disputes. Whenever the Board of Appeals is asked to interpret a shoreland-wetland district boundary or a nonshoreland wetland boundary where an apparent discrepancy exists between the Village's Final Wetland Inventory Map and actual field conditions, the Village shall contact the Wisconsin Department of Natural Resources (DNR) to determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was incorrectly mapped as a wetland, the Board of Appeals shall direct the Village Plan Commission to initiate appropriate action to rezone the property within a reasonable amount of time.

L. Non-Liability of the Village. The Village does not guarantee, warrant or represent that only those areas designated as parts of the shoreland-wetland district or the nonshoreland-wetland district are in fact the only wetlands within the Village and hereby asserts that there is no liability on the part of the Village, its officers, agents, or employees for any damages, of any nature, which may occur as a result of reliance upon this ordinance.

**7.0308 PUD – PLANNED UNIT DEVELOPMENT RESIDENTIAL OVERLAY DISTRICT (Cr. Ord#568, 1/10/23)**

A. Definition. A planned unit development residential overlay district is an alternative residential district which applies to any area of land of over 50 acres that consists of at least 25 acres that is wholly owned by one person or legal entity and at least 25 contiguous acres that is owned by the Village of River Hills and dedicated or restricted against any use other than for conservation purposes as set forth in section 7.0308.E. Such planned residential district gives no automatic right to landowners but only the right to apply in the manner provided below for discretionary approval by the Village Board of a planned residential development. The Village Board may approve such a plan only if the proposed development and application conform to this section. The landowner may develop the land for residential use only as is permitted in the underlying residential district, subject to section C below.

B. Purpose and intent. The purpose of the planned unit development residential overlay district is to encourage future development of large tracts of vacant land in a manner that will be more in the public interest than is likely to occur for development under the existing basic residence district regulations. A planned unit development residential overlay district, because of its flexibility, is more likely to conserve land through the setting aside of open space areas as private or public parks, to create attractive recreational areas, to lead to the installation of more and better utility services, such as access to a public water system, and to save costs in maintenance and capital expenditures for roads, sewers and water mains on a per-homesite basis. All the advantages of planned development tend to encourage and enable the owner to prepare a more attractive development and thereby strengthen the tax base of the village and property values in the neighborhood surrounding the future development. The planned development, by requiring discretionary village approval, encourages the owner to exhibit a degree of quality in design and aesthetics not universally attainable under the underlying zoning district regulations.

C. Relationship to basic residential district. The regulations of the underlying residential district shall apply in any planned residential development that shall be approved by the Village Board except that the Village Board may, in its approval of the proposed planned residential development, permit exceptions from those regulations in the following respects:

- 1. Uses. Permit detached single-family dwelling and uses permitted in the underlying residential zoning district plus such accessory uses as a community recreational area or clubhouse and other similar uses designed as an accessory amenity to the planned development.
- 2. Density. Permit a maximum number of detached single-family dwelling units of one per acre for each acre of the entire planned unit development residential overlay district.
- 3. Building location. Permit exceptions from the specific building location, size, height, yards, lot size and open space requirements of the underlying zoning district.
- 4. Street design. Permit variations in the village's existing requirements for road

design and other engineering matters to the extent that it is consistent with good engineering practice.

5. Setbacks. Building setbacks may be reduced in accordance with the approved site plan.

D. Procedure.

1. Proposal. The proponent of village approval of a planned residential development shall submit a proposal to the Village Board, together with fees in such amounts as established by the Village Board from time to time by ordinance or resolution. The proposal and any supplements to the proposal shall contain, but not be limited to, the following information:

- a. Names and addresses of the proponent, architect, planner, engineer, attorney and any other professional advisers who assisted and or will assist in preparing the proposed development. If the proponent is not the owner, proponent must submit proof of the right to submit along with the name and address of the owner.
- b. A legal description of the proposed project area, together with an accurate map showing its relationship to surrounding properties.
- c. Names and addresses of all opposite and abutting property owners of record.
- d. Maps and plans showing the proposed planned residential development plan, including the pattern of public and private roads, driveways, parking facilities, recreational facilities, private or public parks, and the size, arrangement and location of lots, the location of sewer and possible water facilities, and the existing topography and storm drainage system, showing basic topographic changes.
- e. Statistical data on the total size of project area, area reserved for open space, density computation, and proposed number of residential units.
- f. General outline of the manner by which any privately owned open space will be maintained and by which aesthetic and other similar controls will be enforced, together with the provision for services which may be supplied by a homeowners' or condominium association.
- g. A general summary of the financial factors, such as total anticipated cost of the development of the project, the estimated selling price for individual lots or residential units, the estimated cost of landscaping, and other improvements.

2. Referral to Plan Commission. The proposal shall be referred to the plan commission for review and a report on the proposal to the Village Board. The plan commission shall make its report to the Village Board, which may include recommendation for changes or additional conditions in the proposed plan. Unless the report of the plan commission is made within 60 days or such longer period as may be stipulated by the Village Board, the Board may take action without the report of the plan commission.

3. Public hearing. Upon the receipt of the plan commission's report the Village Board shall, before taking affirmative action to approve the proposed planned residential development, hold a public hearing on the proposal. Notice of such hearing shall include a reference to the specific proposed project's development plans. The public hearing shall be in compliance with state statutes then applicable.

E. Basis for approval. The Village Board in making its determination may give consideration to and determine that it is satisfied with the following:

1. That the proposed development complies with the requirements of subsections C and D of this section.

2. That such development will create an attractive residential environment and the economic impact is substantially as beneficial to the community as that which could be anticipated under the underlying zoning.

3. That the project will not create traffic or parking demands substantially greater than that anticipated under the existing zoning.

4. That the proponent of the proposed development will demonstrate ability to start construction within a specified period of time following the approval of the project, that the project appears economically sound, that the proponents of the proposed development have the financial capacity to carry out the project as proposed and furnish proof thereof to commence and complete construction within a time specified by the Village Board from date of approval.

5. That the plan would result in the preservation of open land in a manner that would enhance the total environmental setting and desirability of the development and compensate for any reduction in individual lot area requirements which are allowed.

6. That adequate guarantee is provided for permanent preservation of the residual common open land area resulting from the application of these regulations by private reservation as an enhancement to the development.

7. That the common open area to be reserved shall be protected against building development as part of the conditions for project approval with an open space easement over such common open areas, by the Village restricting them against any future building or use except as is consistent with that of providing natural or landscaped open space for the aesthetic and recreational satisfaction of the surrounding residences. Buildings or uses for recreational or cultural purposes compatible with open space objective may be permitted only where specifically authorized as part of the development plan or subsequently with the express approval of the Village Board.

8. That the care and maintenance of such common open space reservations shall be ensured either by establishment of an appropriate management organization for the project or by agreement with the village for establishment of a special service district for the project area on the basis of which the municipality shall provide the necessary maintenance service and levy the cost thereof as a special assessment on the tax bills of properties within the project area. In any case the village shall have the right to carry out and levy an assessment for the cost of any maintenance which it feels necessary, if it is not otherwise taken care of to the satisfaction of the village. The manner of assuring maintenance and assessing such cost to individual properties shall be determined prior to the approval of the final project plans and shall be included in the conveyance of each property.

9. That the ownership and tax liability of private common open space reservations shall be established in a manner acceptable to the village and made a part of the conditions of the plan approval.

F. Determination. The Village Board after due consideration may deny, approve as submitted, or approve the proposed development subject to additional conditions or modifications. Such approval shall constitute approval of the specific project development plan.

1. The developer shall enter into an appropriate contract with the village to guarantee the implementation of the development according to the terms of the conditions established as part of the development plan approval. The village board may require bonds and other sureties for all or any part of the development to ensure implementation and completion of the project as approved.

2. Any subsequent change or addition to an approved plan shall be submitted for approval to the Village Board. If such change or addition is construed by village staff to be substantial a public hearing shall be held prior to affirmative action by the Village Board on such recommendation.

3. Failure to comply with the conditions and regulations as herein established and as specifically made applicable to a specific project development shall be cause for termination of the approval for said project. At least 15 days' notice shall be given to the developer to appear before the Village Board and answer any such charge of noncompliance. If the Village Board finds the charges substantiated, they may recommend such termination of the project approval if the situation is not satisfactorily adjusted within a specified period.

**SECTION 7.0400 TRAFFIC AND STREET ACCESS**

**7.0401 TRAFFIC VISIBILITY**

A. No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of 2 and one-half (2½) feet and 10 feet above the plane through the street centerline within the triangular space formed by any 2 existing or proposed intersecting street right-of-way lines and a line joining points on such lines located a minimum of 15 feet from their intersection. (See Illustrations No. 1 and 2).

B. In the Case of Arterial Streets intersecting with other intersecting streets or railways, the corner cutoff distances establishing the vision triangle clearance space shall be increased to 50 feet. (See Illustration No. 2).

**7.0402 DRIVEWAYS** On all driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance, openings for vehicular ingress and egress shall not exceed 24 feet at the street right-of-way and 30 feet at the edge of pavement, unless the Village Board waives this requirement under the conditions imposed by a special use permit.

**7.0403 HIGHWAY ACCESS** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission from the highway agency that has access control jurisdiction. In addition, direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

A. Driveways on Arterial Streets shall be located a minimum of 100 feet from a street intersection unless the lot width is less than 100 feet in which case the Plan Commission shall determine the driveway location. Said setback shall be measured from the intersection of



the rights-of-way on the 2 streets.

B. Driveways on Collector or Local Streets shall be located a minimum of 50 feet from a street intersection. Said setback shall be measured from the intersection of the rights-of-way on the 2 streets.

C. Residential Driveways on Corner Lots shall be located on the street with the lowest functional classification. For example, when a lot is located on an intersection between an arterial and a local street, the driveway shall be located on the local street.

D. Temporary Access to the above rights-of-way may be granted by the Building Inspector and the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required.

## **SECTION 7.0500 EXCEPTIONS**

**7.0501 HEIGHT.** The district height limitations stipulated elsewhere in this Ordinance may be exceeded, but such modification shall be in accord with the following:

A. Essential Services, such as utilities, water towers, and electric power and communication transmission lines are exempt from the height limitations of this Ordinance.

B. Communication Structures, such as radio and television transmission and relay towers, radio and television receiving and sending antennas, satellite dish antennas when mounted on the roof of a principal structure, and observation towers, shall not exceed in height, including the height of any structure upon which such antenna or tower is mounted, 3 times their distance from the nearest lot line, up to a maximum of 60 feet in residential districts, with the exception of government owned communications structures.

**7.0502 YARDS.** The yard requirements stipulated elsewhere in this Ordinance may be modified as follows:

A. Projections Prohibited in Setback Area. No eaves, steps, balcony, bay window, cornice, or other projection whatsoever shall extend into any yard a distance of more than 2 feet.

**7.0503 SETBACKS FOR EXISTING BUILDINGS AND STRUCTURES.** The setback regulations set forth in this subsection shall apply to residences, principal buildings and structures existing on or before May 1, 1995, if such buildings or structures are in compliance with the setback regulations of this subsection or were a lawful non-conforming use on May 1, 1995. In addition these regulations shall be applicable to all lots which have 70% or more of the lot located in the 100 year floodplain, as shown in the Flood Insurance Study and Flood Insurance Rate Map for the Village dated April 15, 1980, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, said study and map being the Floodland Regulations Map pursuant to Section 7.0306 D of the Ordinance. (Ord. 474, 2/12/01)

A. Front Yard Setback. Every building or structure, except fences, hereafter moved

or structurally altered, shall be set back from the center line of any street or highway, or any area reserved for future street or highway purposes, a distance of not less than 100 feet, except that upon lots of less than 300 feet in depth the required setback may be reduced 1 foot for each 3 feet that the lot is less than 300 feet in depth; provided, however, that in no case shall the setback be less than 40 feet plus one-half of the established width of the adjoining street or highway or area reserved for future street or highway purposes.

B. Side and Rear Yard Setbacks. Every building or structure, except fences, hereafter erected or structurally altered shall be set back a distance of not less than 20 feet from any side or rear lot line.

**7.0504 ACCESSORY USE REGULATIONS.** Accessory uses are permitted in any district as may be specified in the appropriate district regulations or herein. An accessory use building permit shall be required where specifically noted in this Section. Accessory uses are permitted only after their principal structure is present or under construction. The use and/or location requirements stipulated elsewhere in this Ordinance are modified for accessory uses as follows:

A. Decks located adjacent to a principal structure shall be considered to be part of the principal structure and shall be located no closer to a lot line than the setback requirements for the district in which they are located and shall require the issuance of a building permit. Freestanding decks or decks surrounding private swimming pools separated from the principal structure shall be located at least 10 feet from the principal structure and shall be regulated in the same manner as an accessory garage, tool shed, or gazebo.

B. Central air conditioning condensers, generators, and transformers are permitted without a building permit, provided that such uses shall be located no closer to a lot line than the setback requirements for the district in which they are located. Where it is determined that it is impractical to locate a central air conditioning condenser, a generator, or transformer in the rear yard, the building inspector may permit placement in the street or side yard provided that the air conditioning compressor is screened from view. Central air conditioning condensers, generators, and transformers over 4 tons shall also require a building permit.

C. Private swimming pools are permitted, upon the issuance of a building permit, provided that:

1. Equipment shall be provided for the disinfecting of all pool water. No gaseous chlorinating shall be permitted.

2. Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance. Such equipment shall meet the setback requirements of the district.

3. There shall be an unobstructed areaway around all pools at least 3 feet in width.

4. Private swimming pools shall meet the setback requirements of the district. No private swimming pool shall be located closer than 8 feet to other structures, with

the exception of air conditioners and patios. No areaway surrounding a private swimming pool shall be located closer than 5 feet to a lot line. (Am. #572, 05/17/23)

D. Accessory Buildings may also include domestic employee's quarters provided that they shall be occupied by domestic employees employed on the premises, and that such quarters shall not be rented as a separate domicile. Accessory buildings shall require a building permit and Building Board approval.

E. Private Recreational Courts. Private recreational courts with an impervious hard surface such as, but not limited to, tennis courts, volley ball courts, and basketball courts, accessory to a residential use, shall comply with all yard setback requirements. Such courts may be lit, subject to Building Board approval, provided that no such lighting shall throw rays onto adjacent property, and shall not be operated between the hours of 10:00 P.M. and 7:00 A.M.

F. Antennas. Terrestrial and satellite dish antennas are permitted as accessory uses in any district subject to the following regulations. To protect the health and safety of all citizens, as well as the aesthetic values embodied in this Ordinance, the following regulations shall apply to all terrestrial and satellite dish antennas with the exception of satellite dish antennas that are one meter or less in diameter.

1. Location. In recognition of the negative aesthetic impact satellite dish antennas may have on the architecture of a building and the overall character of a neighborhood, satellite dish antennas shall be located and designed to reduce their visual impact on surrounding properties, and the location shall be approved by the Building Board. Landscaping, fences, and architectural elements of buildings may be used for this purpose. No satellite dish antenna shall be mounted on the front of a building, unless it is fully screened in a manner compatible with the architecture of the building. All landscape screening shall be installed at the time the antenna is installed.

2. Advertising. No form of advertising or identification may be displayed on the dish or framework of any antenna other than the customary manufacturer's identification plates.

3. Color. All satellite dish antennas shall be of a dark color, subject to the approval of the Building Board.

4. Diameter. No satellite dish antenna shall exceed 12 feet in diameter.

5. Not more than 1 terrestrial antenna tower and 1 satellite dish antenna per dwelling unit shall be permitted on a lot or parcel.

6. Height

a. All freestanding terrestrial antenna towers and roof antennas shall meet the height requirements for the district in which they are located, except as provided in Section 7.0501 of this Ordinance.

b. Ground-mounted satellite dish antennas shall not exceed 15 feet in

height.

7. Setbacks

a. All terrestrial antennas shall be located not less than 1 foot from a lot line for each 3 feet of height above the surrounding grade, up to a maximum of 80 feet in residential districts, with the exception of government owned structures. (See Illustration No. 3).

b. No satellite dish antennas shall be located within front, side, or rear yard setbacks. (See Illustration No. 3).

8. Construction

a. The installation of all antennas shall require a building permit. The property owner shall submit, to the Building Inspector, plans which indicate the appearance, proposed location, and installation method of the dish antenna.

b. All antennas shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of noncombustible and corrosive resistant materials.

c. All antenna support structures shall be erected in accordance with manufacturer's specifications.

d. All antennas must conform to the Village Building Code and Electrical Code regulations and requirements. Prior to the issuance of a building permit for a building mounted antenna, the applicant shall submit a plan or document prepared by a registered professional engineer which certifies that the proposed dish antenna installation is structurally sound.

9. In the event that harmful interference is caused subsequent to the installation of an antenna, the owner of the antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

10. Portable or trailer-mounted antennas are not permitted with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed 2 days at any one location.

G. Solar Energy System. A solar energy system is a permitted accessory use in any district when the solar energy system is not greater in size or capacity than is reasonably necessary to provide the energy needs of the property that it is to be located upon. To protect the health, welfare and safety of all residents, as well as the aesthetic values embodied in the Zoning Ordinance of the Village of River Hills, the following regulations shall apply to all solar energy systems. (Ord 557, 03/09/22)

1. Permit Required. The installation of all solar energy systems shall require a building permit and must conform to the Village Building Code and Electrical

Code regulations and requirements. The property owner shall submit, to the Building Inspector, plans which indicate the appearance, proposed location, and installation method of the solar energy system. The plans for a ground mounted solar energy system shall include to-scale horizontal and vertical (elevation) drawings and shall include the distance from property lines. Solar energy systems shall comply with all yard setback requirements. The Building Inspector may require a survey if necessary to determine compliance with the setback regulations.

- 2. Location and Screening. In recognition of the negative aesthetic impact solar energy systems may have on the architecture of a building, the overall character of a neighborhood and effect on the outlook from adjacent or neighboring properties, solar energy systems shall be located, designed and screened in a manner that reduces or eliminates their visual impact on adjacent or neighboring properties. Landscaping, fences, and architectural elements of buildings may be used for this purpose. All landscaping or other screening shall be installed at the time the solar energy system is installed and must be maintained in substantially the same manner and condition as initially installed until such time as the solar energy system is removed from the property.
- 3. Color/Non-reflective. The solar mounting devices or foundational parts of a solar energy system shall be of a dark color or a color that is compatible with the architecture of the existing residential or accessory structures, existing landscaping or the screening or landscaping being installed to screen the solar energy system. All solar energy systems shall be designed to be non-reflective so that no glare or redirection of sun light leaves the solar energy system unless the glare or reflection is completely screened from any adjacent or neighboring properties.
- 4. Building Board Approval. The solar energy system, its location and screening must be approved by the Building Board.
- 5. Height. Solar energy systems must meet the following height requirements:
  - a. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district.
  - b. Ground-mounted solar energy systems shall not exceed 10 feet when oriented at maximum tilt. The grades where the ground-mounted system will be located shall not be changed to elevate the system higher than the existing grades on the property.
- 6. Construction – Installation.
  - a. Roof-mounted systems on pitched roofs that are visible from the nearest edge of the front right-of-way or from adjacent properties shall have the same finished pitch as the roof and be no more than ten inches above the roof.
  - b. Roof-mount systems on flat roofs shall not be more than five feet

- above the finished roof.
  - c. The collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated.
  - d. All solar energy systems and solar mounting devices shall be erected in accordance with manufacturer's specifications.
  - e. Any ground mounted battery storage, converter or inverter shall be located inside a building unless located with proper screening as approved by the Building Board.
  - f. All electrical wires associated with the solar energy system, other than wires necessary to connect the system, grounding wires etc. shall be located underground.
  - g. No portable or temporary solar energy systems are permitted with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed 2 days.
7. Utility Notification. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. No Building or Electric Permits will be issued for a solar energy system until evidence has been given to the Building Inspector that the owner has received approval or consent from the electric utility company to install a grid-intertie solar energy system. Off-grid systems are exempt from this requirement.
8. Abandonment and Removal. When a solar energy system is no longer in operation or producing energy, the owner shall notify the Building Inspector in writing. Any solar energy system that has not operated for a continuous period of 12 months shall be considered abandoned. A solar energy system is to be removed once they are no longer in use and not a functional part of providing the intended energy and the site or building restored as necessary.

H. Greenhouses and Sheds. (Cr. 573, 1/17/24) Greenhouses or sheds used for storage for lawn or garden equipment and household items are permitted upon the issuance of a building permit, provided that it does not exceed 15 feet in height or 400 square feet. Subject to the provisions of this section the Building Inspector is authorized to issue a building permit for a greenhouse or a shed not larger than 200 square feet without the requirement that the Building Board approve such greenhouse or shed. An application for a building permit for a second or any additional greenhouse or shed on a lot, or a greenhouse or shed greater than 200 square feet shall be subject to review and approval by the Building Board.

- a. All greenhouses and sheds must comply with rear and side yard setbacks provided by the zoning ordinance. Greenhouses and sheds shall be located

to the rear of the extended rear line of the home. For corner lots, the greenhouse or shed shall be located behind the extended rear and side lines adjacent to the street.

- b. The aesthetics of new sheds shall aesthetically match the main structure on the property in architecture and color.
- c. Painting and residing of existing sheds are considered a minor repair and does not require a permit.
- d. A property survey must be provided showing the location of the proposed greenhouse or shed, all structures on the lot and the distance from the proposed greenhouse or shed to property lines.”

I. Miscellaneous Minor Structures Exempted from Building Permit Requirements. (Cr 573, 1/17/24) The following structures are excluded from the requirement of a Building Permit, provided that the following limitations applicable to these exclusions are strictly followed:

- (1) Play Equipment. This exclusion applies to a structure that is play equipment, as defined herein, provided that it is accessory to a residential use on the lot where it is located, and the lot is zoned for residential use, and the play equipment is set back at least five feet from any lot line. Play equipment is defined as a swingset, sandbox, jungle gym, or similar equipment that has no utility other than for amusement of children, as determined by the Village Building Inspector, but not including a structure that has walls and a roof which form an enclosure.
- (2) Gardens. This exclusion applies to a structure that is primarily intended to be a planting bed, raised flower garden, rain garden, or similar landscape feature, as determined by the Village Building Inspector, provided that such structure shall be located at least five feet away from any property line.

**7.0505 COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT**

Accommodations from the requirements of this Ordinance may be granted by the Village Board of Trustees for the purpose of complying with the requirements of Title II Public Services and Title III Public Accommodations and Commercial Facilities of the Americans with Disabilities Act. Such accommodations may require the waiving or modifications to setback and yard requirements; parking requirements; sign requirements; and site design and landscaping requirements. Accommodations granted by the Village Board shall be limited to the minimum extent necessary to make structures and uses accessible and barrier free.

**SECTION 7.0600 SIGNS**

**7.0601 GENERAL** It shall be unlawful to build, erect, and maintain, or permit to be built, erected and maintained upon any public or private lands within the Village of River Hills, any sign as herein defined, except as permitted in this Section.

**7.0602 PUBLIC PROPERTY**

A. The Following Signs are permitted without a permit on public property:

1. Signs that are owned by the Village of River Hills.
2. Traffic control and directional signs.
3. Signs identifying private roads.
4. Signs on mailboxes and newspaper receptacles.

B. A Place of Worship or School within the Village may be allowed to erect and maintain one directional sign upon public property with a permit, provided that:

1. The directional sign may only be located in the right-of-way along State Trunk Highway No. 100 (West Brown Deer Road), State Trunk Highway No. 57 (North Green Bay Road), West Good Hope Road, and Interstate Highway I-43.

2. The sign shall not exceed 5 square feet in size.

3. Written consent of the governmental body having jurisdiction over the applicable road or highway shall accompany the application for a permit.

4. The sign shall be maintained in good order and repair. In the event the Village Manager determines that the sign is not being maintained in good order and repair, or that the sign has been abandoned, he may serve a written notice upon the owner of the sign to repair or remove the sign within 30 days and, upon failure of the owner to comply with that order, the Village may remove the sign and assess the costs of doing so to the owner.

**7.0603 PERMIT APPLICATION.** The sign permit required in Subsection 7.0602 shall be applied for, submitted, and issued or denied in accordance with the following procedure:

A. The Application for Permit shall be obtained from the Village Clerk's office.

B. The Applicant Shall submit a drawing, photograph or other plans to show the actual design, color, dimensions, and proposed location of the directional sign.

C. The Village Building Code shall be applicable and the sign shall be considered a structure, and therefore the application shall be referred to the Village Building Board. In addition, the application for the permit shall be referred to the Village Manager for a determination of whether the location of the sign would constitute a hazard or danger to traffic or pedestrians.

D. If the Building Board, Village Manager, and the Building Inspector approve the application, the permit shall be issued.



**7.0604 PRIVATE PROPERTY**

A. The Following Signs are permitted without a permit on private property:

- 1. Signs offering real estate for sale or rent.
- 2. Signs identifying the name of the owner or occupant of any land or dwelling in the Village, or the name of any estate, provided that such signs shall not exceed one and one-half (1 ½) square feet in size. The size limit shall be determined by measuring the largest side of a two-sided sign.
- 3. Signs displaying the words “No Trespassing,” “No Solicitors,” and signs warning of dangerous or hazardous conditions.
- 4. Signs advising of the existence of security systems.
- 5. Signs identifying private roads.
- 6. Political signs, except as provided in Section 12.04, Wisconsin Statutes.
- 7. Neighborhood watch signs that have been approved by the Village Manager.

B. Special Event Signs, cards or notices are permitted with a permit on private property in accordance with the following:

- 1. Special events for which cards, signs, or notices may be erected are:
  - a. Events taking place on residential property which are accessory uses customarily incidental to the principal use of the premises;
  - b. Events taking place on lands being used under a Special Use Permit which events are authorized uses pursuant to the Special Use Permit in effect;
  - c. Events taking place on lands being used as a non-conforming use which are permitted uses by virtue of the non-conforming rights in existence for the subject premises.
- 2. Special event cards, signs, or notices may be erected on private property, with the written consent of the owner or occupant of the property, for the purpose of providing information concerning special events taking place within the Village and the location of the special event.
- 3. No special event card, sign, or notice shall be erected or maintained within

the Village unless a special event sign permit is obtained from the Village Clerk upon the payment of a fee of Two Dollars (\$2.00) per day for each card, sign, or notice, with a minimum fee of Ten Dollars (\$10.00) per special event. No more than 1 such card, sign, or notice shall be placed on any one parcel of land, and no more than a total of 5 such cards, signs, or notices shall be permitted per special event. No such card, sign, or notice shall be artificially illuminated.

4. Each special event sign permit shall limit the period of time for the erection and maintenance of such cards, signs, or notices, and in no event shall any permit be valid for a period of time in excess of 10 days from the date of the permit. All cards, signs, or notices shall be removed within 24 hours after the expiration of the permit. Each such permit shall specifically identify the location or locations at which the card, sign, or notice is to be erected, and the name of the owner or occupant of the premises who has given the written consent.

**7.0605 SIZE OF SIGNS.** No sign located on private property shall exceed 6 square feet in size. This subsection does not apply to political or directional signs as permitted under Subsections 7.0604.A.6 and 7.0602.B., nor shall it apply to signs allowed under a Special Use Permit pursuant to 7.0804. (Ord#498, 7/19/06)

## **SECTION 7.0700 NONCONFORMING USES, STRUCTURES AND LOTS**

**7.0701 EXISTING NONCONFORMING USES.** The lawful nonconforming use of land or water; or a lawful nonconforming use in a conforming or nonconforming structure; or a lawful nonconforming use on a conforming or nonconforming lot which existed at the time of the adoption or amendment of this Ordinance may be continued even though the use may not conform with the provisions of this Ordinance; however:

A. Only That Portion of the land or water in actual use may be so continued and the use may not be extended, enlarged substituted or moved; and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Ordinance.

B. Discontinuance. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance.

C. Total Lifetime Structural Repairs or structural alterations to a structure with a nonconforming use shall not exceed 50 percent of the municipality's equalized assessed value of the structure unless it is permanently changed to conform to the use provisions of this Ordinance.

D. Abolishment or Destruction. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity to the extent of more than 50 percent of its current equalized value, it shall not be restored except so as to comply with the use provisions of this Ordinance.

**7.0702 CONFORMING STRUCTURES ON NONCONFORMING LOTS.** The use of a structure existing at the time of the adoption or amendment of this Ordinance may be continued although the lot area or lot width does not conform to the requirements of this Ordinance.

A. Additions and Enlargements to the structures are permitted and shall conform with the established building setback lines along streets and the yard, height, parking, and access provisions of this Ordinance.

B. Existing Structures on Nonconforming Lots which are damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed and shall conform with the established building setback lines along streets and the yard, height, parking, and access provisions of this Ordinance.

**7.0703 NONCONFORMING STRUCTURES ON A CONFORMING OR NONCONFORMING LOT.** The use of a structure existing at the time of the adoption or amendment of this Ordinance may be continued although the structure's size or location does not conform with the established building setback line along streets, or the yard, height, parking, loading, and/or access provisions of this Ordinance.

A. Additions and Enlargements to existing nonconforming structures are permitted and shall conform with the established building setback lines along streets and the yard, height, parking, and access provisions of this Ordinance. Existing buildings and their additions shall not be permitted to encroach further upon established yard and height requirements than the existing encroachment.

B. Existing Nonconforming Structures which are damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed and shall conform with the established building setback lines along streets and the yard, height, parking, and access provisions of this Ordinance.

C. Existing Nonconforming Structures may be moved and shall conform with the established building setback lines along streets and the yard, height, parking, and access provisions of this Ordinance.

D. The Provisions of Subsections 7.0701.C and D shall apply.

**7.0704 CHANGES AND SUBSTITUTIONS.** Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure

## **SECTION 7.0800 ADMINISTRATION**

**7.0801 PLAN COMMISSION.** The Village Plan Commission shall have the duties of making reports and recommendations related to the planning and development of the Village. The Commission, in the performance of its functions, may enter upon any land and make

examinations and surveys. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its function and promote municipal planning.

**7.0802 ZONING ADMINISTRATOR DESIGNATED.** The Village Building Inspector is hereby designated as the zoning administrator and shall function as the administrative and enforcement officer for the provisions of this Ordinance. The duty of the Building Inspector shall be to interpret and administer this Ordinance and to issue all permits required by this Ordinance. The Building Inspector shall further:

- A. Maintain Records of all permits issued, inspections made, work approved, and other official actions.
- B. Record the Lowest Floor Elevations of all structures erected, moved, altered, or improved in the floodplain.
- C. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.
- D. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the Village Attorney in a manner specified by him.
- E. Assist the Village Attorney in the prosecution of Ordinance violations.
- F. Be Permitted Access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Section 66.122 of the Wisconsin Statutes.
- G. Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
- H. Request Assistance and cooperation from the Village Police Department and Village Attorney as deemed necessary.

**7.0803 BUILDING PERMIT REQUIRED.** No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after the owner or his agent has secured a building permit from the Building Inspector, unless otherwise exempted pursuant to Section 7.1004 of this Ordinance. Applications for a building permit shall be made, on the forms provided, to the Building Inspector and shall include the following additional information:

- A. Proposed Sewage Disposal Plan if municipal sewerage service is not available. This plan shall include a copy of the permit issued for the installation of an onsite soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal. The Village

Engineer shall certify that satisfactory, adequate, and safe sewage disposal is possible on the site as shown in the private sewage disposal plan.

B. Proposed Water Supply Plan if municipal water service is not available. This plan shall be in accordance with Chapter NR 112 of the Wisconsin Administrative Code and shall be approved by the Village Engineer who shall certify in writing that an adequate and safe supply of water will be provided.

C. Additional Information as may be required by the Village.

D. A Building Permit shall be granted or denied in writing by the Building Inspector. Any permit issued in conflict with provisions of this Ordinance shall be null and void.

**7.0804 SPECIAL USE PERMITS.** Subject to such conditions as determined by the Village Board of Trustees to be necessary to fulfill the purpose and intent of this Ordinance, the Village Board may grant special use permits conditionally permitting the use of land and/or buildings within the Village.

A. Special Use Permits may be granted for the following purposes:

1. Municipal and/or public utility buildings.
2. Places of worship, on parcels at least 15 contiguous acres in area, all of which land is owned by the proposed permittee.
3. Schools, elementary and secondary, on parcels at least 15 contiguous acres in area, all of which land is owned by the proposed permittee.
4. Clubs, incorporated as nonprofit corporations as defined in Chapter 181 of the Wisconsin Statutes, on parcels at least 15 contiguous acres in area, all of which land is owned by the proposed permittee.
5. Nature preserves owned by or held in trust for any nonprofit organization and used for the purpose of preserving native wild plant and animal life and educating members of the public with respect thereto, on parcels at least 15 contiguous acres in area, all of which land is owned by the proposed permittee.
6. Combination art and sculpture museum and sculpture park owned and operated exclusively by a nonprofit educational or benevolent organization on a parcel or parcels at least 25 contiguous acres in area, all of which land is owned by the proposed permittee; provided that it shall be used for:
  - (a) educational and benevolent activities, including exhibits of sculpture, paintings and other art works; and,
  - (b) preservation of native wild plants (Am. Ord#500, 4/27/2007)

7. Wireless communication facilities located entirely on property owned and used by the Village of River Hills for municipal purposes, subject to the following conditions:

a. Overall Plan. The developer shall prepare a plan showing the number and potential location of all antenna sites needed within a 5-mile radius of the Village to complete the communications network.

b. Co-Location. If the application includes a new tower, the applicant shall demonstrate to the Village the need for a new tower and shall agree, in writing, that, if the Village approves a new tower, the structure shall be made available for co-location of similar communications equipment operated by other companies.

c. Setbacks.

(1) Towers shall be located on the lot so that the distance from the base of the tower to any adjoining property line is a minimum of 60 percent of the tower's height.

(2) Any storage building associated with a cellular tower shall meet the setback requirements for principal buildings in the district in which it is located. A storage building shall not be classified as an “accessory use” or “accessory building.”

d. Structural Standards. New or modified towers shall be certified by a registered engineer to be in accordance with applicable structural standards for design and construction of antennas.

e. Abandonment. Abandoned or unused antennas, towers or portions of towers shall be removed within 12 months of the cessation of operations at the site. In the event that a tower is not removed within 12 months of cessation of operations at a site, the tower may be removed by the Village and the costs of removal assessed against the property.

f. Tower Appearance and Illumination.

(1) A surface paint or finish shall be used that reduces the visibility of the tower, except as required for towers regulated by the Wisconsin Division of Aeronautics or the Federal Aviation Administration,

(2) Towers shall not be illuminated and shall not display strobe lights, except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.

g. Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

h. Interference with Public Safety or Other Telecommunications. No

new or existing telecommunications service shall interfere with public safety or other telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the Village at least 30 calendar days in advance of such changes and allow the Village to monitor interference levels during the testing process.

i. Landscaping and Building Materials. Landscaping shall be installed or existing vegetation shall be maintained for the purpose of screening the base of towers and their associated buildings. The following regulations shall apply:

(1) Support buildings in association with cellular towers shall be constructed of natural materials such as wood, brick, or stone and shall be designed to be architecturally compatible with the exterior of the residential buildings in the neighborhood. Pitched, not flat, roofs shall be used.

(2) For all towers, a buffer area shall be provided along all property lines, including street lines.

(3) Existing trees and shrubs on the site shall be preserved to the greatest practical extent. The site plan shall show any existing trees and shrubs to be removed.

j. Additional Submittal Requirements. In addition to the information required elsewhere in this Ordinance, applications for towers or the location of antennas on towers shall include the following supplemental information:

(1) A report from a qualified and licensed professional engineer which:

(a) Describes the tower height and design including a cross section and elevation;

(b) Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

(c) Describes the tower's capacity, including the number and type of antennas that it can accommodate;

(d) Documents what steps the applicant will take to avoid interference with established public safety tele-communications;

(e) Includes a State of Wisconsin licensed engineer's stamp and registration number;

(f) Includes all other information necessary to evaluate the request.

(2) Documentation that the proposed tower meets the Federal Communications Commission radiation emission standards.

(3) Before the issuance of a building permit, the following supplemental information shall be submitted:

(a) Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration.

(b) A report from a qualified State of Wisconsin licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

(4) Any other applicable or relevant information required by the Village Board to demonstrate that the application shall not be detrimental to the health, safety, general prosperity, and general welfare of the Village.

8. Community living arrangements as defined in Section 46.03 (22) Wis. Stats., subject to all procedures, requirements, and conditions of this Ordinance and Section 62.23 (7)(i) Wis. Stats.

a. No such special use permit shall be granted authorizing the use of land and/or buildings for community living arrangement purposes with a capacity for 9 to 15 persons on any parcel of land less than 10 contiguous acres, all of which land is owned by the proposed permittee.

b. No such special use permit shall be granted authorizing the use of land and/or buildings for community living arrangement purposes with a capacity greater than 15 persons on any parcel of land less than 15 contiguous acres, all of which land is owned by the proposed permittee.

9. Athletic facilities owned and used exclusively by a public school district (as defined in the Wisconsin statutes), on a parcel or parcels that are contiguous to land owned and used by the school district for school buildings and school purposes; provided that the parcel or parcels shall be used for athletic facility uses that are customarily incidental to the principal school uses of the public school district's contiguous land.

(Cr. Ord # 523, 11/21/14)

B. Procedure and Fee. All applications for special use permits, including amendments thereto, shall be made to the Village Clerk on forms furnished by the Clerk, shall be accompanied by a filing fee in the amount of One Thousand Dollars (\$1,000.00), except as set forth in Subsection 7.0804.I.5, and shall include the following where pertinent and necessary for



proper review by the Village Plan Commission and Board:

1. The names and addresses of the applicant(s), owner(s) of the site, architect, professional engineer, contractor(s), and all opposite and abutting property owners of record.
2. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; and the zoning district within which the subject site is located.
3. A site plan of the existing and proposed structures, improvements, easements, streets and other public ways; offstreet parking, loading areas and drive-ways; existing highway access restrictions; and existing and proposed topography. Site plans shall be drawn to scale not less than 1 inch equals 30 feet, with the name of the project noted. One colored rendering of the site plan shall be submitted along with 25 copies of the site plan and related documents and data.
4. An operations plan of the proposed use.
5. A landscaping plan showing location, amount, size and type of proposed landscaping and plantings including berms with slope ratios of side slopes.
6. Plat of survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations to the nearest datum, uses, and sizes of the following: subject site; existing and proposed topography; existing and proposed structures; existing and proposed easements, streets, and other public ways; offstreet parking, loading areas and drive-ways; existing highway access restrictions; and existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 200 feet of the subject site, and the mean and historic high water lines and floodlands on or within 100 feet of the subject site.
7. Additional information such as proposed location, design and dimensions of all signs, general floor plans, groundwater conditions, stormwater management plan, areas subject to inundation by flood waters, depths of inundation, flood-proofing measures and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its effect on flood flows, proposed signage, and traffic or noise impact analysis, financial information, or such additional information as may be required by the Village for a proper determination of the application.

C. Referral to Plan Commission. All applications for special use permits which meet the provisions of Subsection 7.0804.B, shall be referred by the Village Board to the Village Plan Commission for its findings and recommendations to the Village Board. Unless the report of the Plan Commission is made within 60 days or such longer period as may be stipulated by the Village Board, the Board may take action without the report of the Plan Commission.

D. Review Requirements.

1. Both the Village Board and the Plan Commission shall review the application, the site, existing and proposed structures, architectural plans, proposed location, design and dimensions of signs, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, water disposal, sewage disposal, water supply systems, and existing and/or proposed uses of similar nature within the Village, the location of existing uses of similar nature in adjoining communities, and the effects of the proposed use, structure, operation and improvement upon the property values of the Village, the finances of the Village, and the safety, health, morals, aesthetics, and general welfare of the Village. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Village Board of Trustees upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

2. Before granting any such special use permit, the Village Board shall, in each case, find as a fact that the proposed use and/or structures are not hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality or property values in the Village, that the requirements of sanitation will be met, that the nature of the proposed use and/or structure will not be detrimental to the safety, health, morals, aesthetics, and general welfare of the Village, that a need exists within the Village for the use/or structure at the site proposed, and the proposed special use will benefit the Village and its residents.

3. In determining whether a need exists for a special use and whether the proposed special use will benefit the Village and its residents, the Village Board shall take into consideration:

a. The number and location of uses of similar types and nature to that proposed which already exist within the Village or within neighboring municipalities;

b. The availability of other sites properly zoned for such use within neighboring municipalities;

c. In the case of places of worship, the existence of other places of worship of the same denomination and faith presently located both within the Village and within neighboring municipalities;

d. The proximity of such use to existing nonresidential uses within the Village;

e. The existing use and development of abutting lands within the Village;

f. The particular benefits which will accrue to the Village and its residents from the existence of the proposed use at the proposed location.

E. Conditions

1. All buildings allowed by such special use permit shall cover not more than 3 percent of the parcel on which said buildings are to be situated; provided, however, that all such buildings to be situated on a parcel exceeding 50 acres may cover up to 4 percent of said parcel; and provided further that upon parcels of 5.5 acres or less for which a special use permit has been granted prior to January 1, 2005 for use as a house of worship, the buildings may cover up to 6% of said parcel. (Ord. 490, 1/18/05) (Ord. 493, 5/18/05)

2. The Village Board, in the granting of any special use permit or in the amendment of any existing special use permit shall impose appropriate conditions such as, but not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, surety provisions to insure compliance with the conditions imposed, lighting, fencing, physical location of structures, size and number of signs, water supply and waste disposal systems, street dedication, certified survey maps, flood proofing, water diversion, silting basins, terraces, stream bank protection, deed restrictions, highway access restrictions, increased yards or additional parking, and may further restrict the use allowed to the named permittee, and not to its assigns or successors, all for the purpose of insuring that the use permitted is in harmony with the purpose and intent of this Ordinance.

3. No permittee shall deviate from the specific conditions imposed without prior written permission from the Village Board, and no accessory uses shall be permitted without special approval therefor.

4. If the use of land and/or buildings for the use allowed by a special use permit is discontinued for a period of 12 consecutive months, any future use of such land and/or building shall conform to the use regulations for the district in which it is located, and the special use previously permitted may not be resumed.

5. A buffer yard shall be created and maintained around all non-residential uses which abut residential uses. Buffer yards shall be a minimum of 20 feet in width and shall screen non-residential uses from adjoining lands in such a manner that:

a. If the buffer yard is composed entirely of plant materials, it shall be of sufficient initial depth and height and of such varieties as to provide adequate visual screening within no more than 2 years and during all seasons of the year.

b. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side, and all walls and fences shall be maintained in a structurally sound and attractive condition.

c. All landscaping shall be maintained by the owner or operator to the satisfaction of the Building Inspector.

d. Where the land adjacent to the buffer yard is a parking lot, the buffer yard shall be sufficiently opaque to prevent the penetration of headlight glare. Overhead lighting installed in or adjacent to a buffer yard shall not throw any rays onto adjacent residential properties.

F. Compliance/Modifications. Special uses shall be subject to all other provisions of this Ordinance and the Village Building Code, except that any such building may be erected to a height in excess of the height limitation found in Section 7.0209 upon approval by the Village Board. Ornamental and/or mechanical appurtenances may exceed said maximum height limit upon approval by the Village Board and when erected in accordance with all other applicable ordinances of the Village.

G. Public Hearing. The Village Board of Trustees or, upon request by the Board, the Village Plan Commission, shall hold a public hearing on each application, giving public notice as specified in Section 7.1200 of this Ordinance. The Village Board may subsequently issue the special use permit with appropriate conditions, deny the permit with reasons, or require the submittal of a modified application.

H. Notice of Final Action and Right to Appeal

1. The Village Clerk shall cause notice to be given of the final action of the Village Board in granting, denying, amending, suspending or revoking a special use permit by publishing a concise summary of the action of the Village Board as a Class 1 Notice within 10 days after the date of the Village Board's action, which notice shall contain advice regarding the right of any person aggrieved to appeal the action of the Village Board to the Board of Appeals.

2. Any person aggrieved by an action of the Village Board in granting, denying, amending, suspending or revoking a special use permit may appeal the action of the Village Board to the Village Board of Appeals within 20 calendar days of the date of publication of the notice of the final action of the Village Board. All such appeals shall be filed, heard, and decided by the Board of Appeals in accordance with the provisions of Section 7.1000 of this Ordinance.

I. Amendments

1. Amendments By Village. To further ensure that the use permitted is in harmony with the purpose and intent of this Ordinance, the Village Board may reserve the right to amend the special use permit and to impose additional terms, conditions, restrictions and limitations upon the use of the lands and/or structures for the purpose of insuring that the permitted use will not be detrimental to the health, safety, general prosperity and general welfare of the Village of River Hills.

2. Amendments by Grantee. In the event that any holder of a special use permit desires to use the land and/or structures for which the special use permit was granted, in any manner different than the specific manner for which the permit was granted, to vary or change any conditions or restrictions imposed in the special use permit, to transfer, lease or

assign the lands and/or structures for which the special use permit has been granted, to use the lands and/or structures for accessory uses, to materially change or enlarge the physical structures within which the special use is conducted, or for which the special use permit was granted, shall petition the Village Board for an amendment to the special use permit.

3. The process for amending a special use permit by the Village or the Grantee shall follow the same procedures as those required for granting an initial special use permit as set forth in this Section.

4. All of the provisions of this Section, including the fee provisions except as set forth in Subsection 7.0804.I.5, shall apply to any such petition and the request for the amendment to the special use permit shall be granted or denied upon the same criteria which governs the issuance of an initial special use permit.

5. Applications for amendment to a special use permit issued for a place of worship to use the lands or structures for accessory uses shall be accompanied by a filing fee in the amount of Five Hundred Dollars (\$500.00).

J. Revocation of Special Use Permits. Should a permit applicant, his heirs or assigns, fail to comply with the conditions of the special use permit issued by the Village Board of Trustees or should the use, or characteristics of the use be changed without prior approval by the Village Board of Trustees, the special use permit may be revoked. The process for revoking a special use permit shall generally follow the procedures for granting a special use permit.

**7.0805 HILL, MOUND, OR BERM PERMIT** A permit shall be required to construct a hill, mound, or berm exceeding 4 feet in height. Applications for such hill, mound or berm require the approval of the Village Building Board, which may consider such application at a regular or special meeting. The application shall include all information as set forth in Subsection 7.0906.

**7.0806 OTHER PERMITS** It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, county or municipal agency.

**7.0807 SALE OF PROPERTY REDUCING AREA BELOW MINIMUM** No person, firm or corporation shall sell, transfer or otherwise dispose of any portion of a lot subsequent to the application for and during the life of a building permit for the erection of a building upon said lot issued pursuant to such application or after the erection of a building, whereby the area of said lot is reduced below the minimum requirements of this ordinance.

**7.0808 LOTS PURCHASED; REDUCING AREA** No person, firm, or corporation purchasing land within the Village of River Hills, whereby the seller violates the provisions of this Ordinance, as specified in Subsection 7.0807 of this section, may include the area of land so purchased as a portion of his lot for the purpose of computing the area thereof in applying for a building permit, except insofar as the land so purchased was in excess of the amount required by the seller at the time of the transfer in order that the seller's lot might comply with the minimum requirements of this Ordinance applicable thereto.

**7.0809 ENFORCEMENT BY BUILDING INSPECTOR** It shall be the duty of the Building Inspector of the Village of River Hills to enforce the provisions of this ordinance. Appeals from the decisions of the Building Inspector involving the provisions of this ordinance may be made to the Board of Appeals.

**7.0810 VIOLATIONS** In the event that any building or structure is or is proposed to be erected, constructed or reconstructed, or any land is or is proposed to be used in violation of any provision of this Ordinance or in violation of any of the terms, conditions, restrictions or limitations imposed in a special use permit, whether imposed at the time of its issuance or subsequent to its initial issuance, the Building Inspector or the Village Attorney may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent or enjoin, abate, or remove such unlawful erection, construction, reconstruction or use.

**7.0811 REMEDIAL ACTION** Whenever an order of the Building Inspector has not been complied with, the Village Board, the Building Inspector, or the Village Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water. The Building Inspector or the Village Attorney may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent or enjoin, abate, or remove such unlawful erection, construction, reconstruction or use.

**7.0812 PENALTIES** Any person, firm, or corporation that fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) and costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.

## **SECTION 7.0900 BUILDING BOARD**

**7.0901 ESTABLISHMENT AND PURPOSE** There is hereby established a Building Board for the Village of River Hills for the purpose of maintaining and preserving the character of the Village, consistent with the intent of this Ordinance and in accordance with the comprehensive plan adopted by the Village to protect property within the Village on which buildings or structures are constructed, altered, relocated or added to, and to protect real estate within the Village from reduction or destruction of value.

**7.0902 INTENT** In order to promote the general welfare, good order, and prosperity of the Village of River Hills and to promote the purpose stated in Subsection 7.0901, it is the intent of this Section to regulate the exterior design, location and orientation of the following:

- A. All New Buildings or structures erected within the Village;

B. Existing Buildings or structures proposed to be moved to a new location; and

C. Structural Alterations or Additions to existing buildings or structures, and construction of any hill, mound, or berm exceeding 4 feet in height, to ensure that all such construction, relocations, alterations or additions will be in keeping with the traditional character of the Village, to avoid extreme styles or architectural features which would clash with the aesthetic architecture in the neighborhood, or which would be offensive to good taste, and to require adherence to sound, well-recognized aesthetic standards of building construction, and overall appearance of the lands within the Village.

**7.0903 MEMBERSHIP** Such Board shall consist of 9 members, residents of the Village, who shall be appointed by the Village President, subject to approval of the Village Board.

A. Terms Shall be for Staggered 3-year periods.

B. The Board shall elect its Chair.

C. The Village Manager, or his designee, shall act as secretary.

D. The Members shall be chosen by reason of such qualifications that are best suited to enable such member to carry out the purposes and intent of this Ordinance.

E. Vacancies shall be filled for the unexpired term in the same manner as appointments for the full term.

#### **7.0904 ORGANIZATION**

A. Meetings shall be held at the call of the Chair.

B. Minutes of the proceedings and a record of all actions shall be kept by the secretary, or other designated person, showing the vote of each member upon each question, reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Village Clerk and shall be a public record.

C. The Concurring Vote of a majority of those present shall be necessary to make any determination, decision or interpretation.

**7.0905 FINDINGS.** Findings of the Building Board shall be based on the following review criteria:

A. Structural Alterations or Additions which materially change the exterior appearance of existing buildings or structures, shall be aesthetically compatible with the existing building or structure.

B. The Building Board shall have the right to refuse to approve applications for permits where the exterior architectural plan, style or design of the building, structure, or hill,

mound or berm, which is proposed to be constructed or structurally altered, is not desirable for aesthetic or other sound reasons, including, but not limited to, the suitability of the proposed building, structure, or hill, mound, or berm, and of the materials of which it is to be built, to the site upon which it is located or to be located, the harmony thereof with the surroundings, including developed and undeveloped lands, the effect of the building, structure, or hill, mound, or berm, on the outlook from the adjacent or neighboring properties, or the effect of the proposed building, structure, or hill, mound or berm, as constructed or as altered, upon the value of other properties in the area.

C. No Permit for any building, structure, hill, mound, or berm for which a permit is required shall be issued by the Building Inspector or Village Engineer unless it has been found as fact by the Board after considering the site of the building, structure, hill, mound or berm, and the area of the Village wherein the same is proposed to be located, and examining the application papers and all information submitted in support thereof, that the exterior architectural appeal and functional plan of the building, structure, hill, mound, or berm, are in harmony with the purpose and intent of this Ordinance and will promote the general welfare, good order and prosperity of the Village, and will maintain and preserve the character of the Village.

D. No Permit for a solar energy system shall be issued by the Building Inspector unless after considering the site of the solar energy system as proposed to be located, and examining the application papers and all information submitted in support thereof, that it has been found as fact by the Building Board that the effect of the solar energy system on the outlook from the adjacent or neighboring properties does not require additional landscaping or a different location on the applicant’s property so that the approval is consistent with all the provisions in subsections A, B and C above. Notwithstanding the foregoing if an applicant for a solar energy system shows that moving the location, or the requirement of additional landscaping or other conditions that may be required by the Building Board would significantly increase the cost of the system or significantly decrease its efficiency, the Building Board shall take into consideration the requirements of Section 66.0401, Wisconsin statutes such that then the Building Board shall either approve the application as presented or conditionally approve the application subject to specified modifications that meet the intent of the Code as closely and as reasonably possible, while allowing construction of a solar energy system that would not significantly increase the cost or significantly decrease the efficiency of the solar energy system. In every case, the Building Board shall not approve an application or a modification that jeopardizes the public health or safety. (Ord 557, 03/09/22)

**7.0906 PROCEDURE**

A. Application for Building Permit. The Building Inspector shall submit all applications for a building permit requiring approval of the Building Board, to the Board at a regular or special meeting thereof. The application shall include the exterior architectural plan, style or design and layout of the building or structure proposed to be constructed, structurally altered or added to, including the grounds upon which the building or structure is or will be located. The application shall be supplemented so as to include the location of the building or structure upon the lands, the exterior elevations, building materials, and a rendering of the front



elevation of the building or structure; except that the Building Board may waive any of these requirements when the Building Inspector determines that the application for a building permit involves minor alterations or repairs or when the Building Board determines that it is not necessary to carry out the purpose or intent of this ordinance. The rendering shall be drawn using a scale not less than one-fourth (1/4) inch equals one foot, and shall be completed in color depicting in detail the true colors and shades of color of all of the exterior features. The colors depicted in the rendering shall not be changed after the Building Board approves the issuance of the building permit. (Am. Ord# 508, 4/22/09)

B. Application for Hill, Mound or Berm Permit. The Village Engineer shall refer all applications for a permit to construct a hill, mound, or berm exceeding 4 feet in height, requiring approval of the Building Board, to the Building Board at a regular or special meeting thereof.

C. Landscaping and Drainage. With the application for a building permit or hill, mound, or berm permit, the following shall be provided:

1. A drainage plan for the site satisfactory to the Village Engineer.

2. A landscape plan (2 copies) or evidence of existing landscaping for alterations repairs or minor structures that is satisfactory to the Building Board. The plan shall contain the following information:

a. The species, size, and location of trees, shrubs and ground cover plants;

b. The location, height, and side slopes of berms;

c. The size and location of lighting, fencing, patio areas and driveway pillars and gates.

The landscaping plan shall be in harmony with the development and physical characteristics of the surrounding lands (natural landscaping is permitted where appropriate.) Planting of new plant material shall be completed within one growing season after the initial filling and excavation permit has been issued. Modifications to the landscaping design after initial approval, which are consistent with the overall integrity of the plan, must have the approval of the Building Inspector prior to planting. The owner of the property shall be responsible to remove all building materials and debris from the premises, and all finish grading shall be completed. (Am. Ord. #508, 4/22/09)

**7.0907 APPEAL** Any person or persons aggrieved by any decision of the Building Board, may appeal therefrom to the Board of Appeals of the Village. Such appeal shall be filed with the Village Clerk within 20 days after the filing of the decision of the Building Board in the Office of the Village Clerk.

**SECTION 7.1000 BOARD OF APPEALS**

**7.1001 ESTABLISHMENT** There is hereby established a Board of Appeals for the Village of River Hills for the purpose of hearing appeals and applications, and for granting variances and exceptions to the provisions of this Zoning Ordinance.

**7.1002 MEMBERSHIP** The Board of Appeals shall consist of 5 members appointed by the Village President and approved by the Village Board.

A. Terms shall be for staggered 3-year periods, and members shall serve without compensation.

B. The Village President shall appoint one of the members as Chair.

C. The Village Manager or his designee, shall act as secretary, or the Board may employ a secretary and such other employees as may be necessary to carry out its duties.

D. Vacancies shall be filled for the unexpired term in the same manner as appointments for the full term.

E. The Village President shall appoint, and the Board of Trustees shall approve, for staggered terms of 3 years, 2 alternate members of the 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 a second alternate. The 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 so refuses or is absent or when more than one member of the Board refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.

**7.1003 ORGANIZATION** The following shall be the rules governing the conduct of the business of said Board of Appeals:

A. Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine.

B. The Chair or, in his/her absence, the acting Chair, may administer oaths and compel the attendance of witnesses.

C. All Meetings of the Board shall be open to the public.

D. The Board Shall Keep Minutes of its proceedings, showing the vote of each member upon each question (or if absent or failing to vote, indicating such fact) and shall keep records of all its hearings and examinations and other official actions, all of which shall be immediately filed in the office of the Village Clerk and shall be a public record.

E. If a quorum is present, the Board may take action by a majority vote of the members present. The grounds of every determination to reverse any order, requirement, decision or determination of any administrative officer or to decide in favor of the applicant any

matter upon which it is required to pass or to effect any variation shall be stated. (Am. Ord. 497, 3/15/06)

**7.1004 POWERS**

A. No action of the Board of Appeals shall have the effect of permitting in a district any use prohibited in that district.

B. The Board of Appeals shall have the following powers:

1. Errors. To hear and decide appeals wherein it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.

2. Variances. To authorize, upon appeal in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions peculiar to a specific lot or tract of land, a literal enforcement of the provisions of this ordinance will result in practical difficulty, or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. In every case where a variance from the regulations imposed by this ordinance has been granted by the said Board, the minutes of the Board shall affirmatively show that an “unnecessary hardship” exists, and the records of the Board shall clearly show in what particular and specific respects an unnecessary hardship is created.

3. Special Exceptions. To hear and decide special exceptions to the terms of this Ordinance, upon which the said Board is required to pass.

4. Interpretations. To hear and decide applications for interpretations of the zoning regulations and the location of the boundaries of the zoning districts, after the Plan Commission has made a review and comment.

a. A district boundary may be extended in the event that such boundary divides a lot in single ownership at the time of the passage of this ordinance, only, however, in those cases wherein more than one-half (1/2) of the area of the lot is within the district to be extended.

b. Floodland boundaries shall be altered only when the applicant presents evidence that clearly and conclusively establishes that the location as shown on the floodland zoning map is incorrect. No variance or special exception to the floodland zoning regulations shall grant a lower degree of flood protection than a point 2 feet above the 100-year recurrence interval flood for the particular area, or be contrary to any provision of the state law or state administrative codes applicable thereto.

5. Permits and Miscellaneous. The scope of the Board’s powers in the following matters are as set forth:

a. Village Board and Building Board. Upon appeal from decisions,

orders, requirements or determinations of the Village Board regarding a special use permit and upon appeals from decisions, orders, requirements or determinations of the Building Board, the Board of Appeals, after hearing, may affirm, reverse or remand with recommendations, any decision, order, requirement or determination of said Boards.

b. Upon appeal from all other orders, requirements, decisions or determinations of an administrative official of the Village, the Board of Appeals, after hearing, may reverse or affirm, wholly or partially, or may modify an order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as in its opinion ought to be made in the matter, and to that end shall have all of the powers of the officer from whom the appeal was taken. (Rep & Rec Ord #547, 07/21/21)

6. Assistance. The Board may request assistance from other Village officers, commissions, committees, departments, or boards.

7. Oaths. The Village Clerk may administer oaths and compel the attendance of witnesses.

#### **7.1005 APPEALS AND APPLICATIONS**

A. Appeals to the Board of Appeals May be Taken by any Person aggrieved, or by any officer, department or Board of the said Village, affected by any decision of an administrative officer.

B. Appeals to the Board of Appeals from Actions of the Village Board relating to special use permits shall be taken within 20 days of the date of publication of the notice of the final action of the Village Board.

C. Appeals to the Board of Appeals from All Other Decisions of administrative officials or boards shall be taken within 20 days of the date of the decision of the administrative officer or board.

D. All Appeals to the Board of Appeals shall be perfected by filing a notice of appeal, specifying the grounds thereof, with the Village Clerk who shall thereupon notify the administrative officer or board rendering the decision appealed from as well as the Chair of the Board of Appeals.

E. The Officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

F. All Appeals to the Board of Appeals shall be accompanied by a filing fee of Three Hundred Dollars (\$300.00). (Ord. 485, 1/20/04)

**7.1006 STAY OF PROCEEDINGS** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals (after the notice of appeal has been given him) that by reason of facts stated in the

certification, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order, which may be granted by the Board of Appeals or by a court of record, on application upon notice to the officer from whom the appeal is taken and on due cause shown.

#### **7.1007 HEARINGS**

A. Public Notice of the hearing on the appeal shall be given by the Board of Appeals in accordance with Section 7.1200.

B. Each Appeal shall be heard within 60 days from the time in which notice of the appeal is filed with the Board. Hearings shall be held in the Village Hall or other designated place. All appeals shall be decided by the Board of Appeals within 30 days after the hearing thereon. If the Board of Appeals shall fail to make its findings and issue its Order within the time herein prescribed, the appeal shall stand denied.

**7.1008 FINDINGS** No variance to the provisions of this Ordinance shall be granted by the Board unless it finds that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

A. Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or special use in that particular district.

B. Exceptional Circumstances: There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

C. Economic Hardship and Self-Imposed Hardship Not Grounds for Variance: No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

D. Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

**7.1009 DECISION** The Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector, and Village Board of Trustees.

A. Conditions may be placed upon any building permit ordered or authorized by this Board.

B. Variances, Substitutions, or Use Permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.

**7.1010 REVIEW BY COURT OF RECORD** Any person or persons aggrieved by any decision of the Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Appeals.

## **SECTION 7.1100 CHANGES AND AMENDMENTS**

**7.1101 AUTHORITY** Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Village Board may, by Ordinance, change the district boundaries or repeal, repeal and recreate, or amend the regulations established by this Ordinance or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Village Plan Commission. In the event that the Village Board does not receive the recommendations and report of the Plan Commission within 60 days of the first meeting of the Plan Commission following the referral of the petition from the Village Board to the Plan Commission, the Village Board may hold a public hearing without first receiving the recommendations and report of the Plan Commission.

**7.1102 PETITIONS.** Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Board, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use, and have attached the following:

A. Plot Plan drawn to a scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.

B. Owners Names and Addresses of all properties lying within 300 feet of the area proposed to be rezoned.

C. Additional Information required by the Village Plan Commission or Village Board.

D. Deposit. A deposit in the amount of One Thousand Dollars (\$1,000.00) to cover engineering and legal expenses, publishing expenses, plus ten (10%) percent of such expenses for Village overhead. Any excess of said deposit over such expenses shall be refunded and all such expenses above the deposit shall be paid by the petitioner.

**7.1103 PLAN COMMISSION REVIEW.** Upon referral from the Village Board, the Village Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified and granted, or denied.

**7.1104 HEARINGS.** Hearings shall be held in accordance with Section 7.1200.

**7.1105 PROTEST.** In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of 20 percent or more of the areas of the land included in such proposed change, or by the owners of 20 percent or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such change or amendment shall not become effective except by the favorable vote of three-fourths (3/4) of the Village Board members present and voting.

## **SECTION 7.1200 PUBLIC HEARINGS**

**7.1201 PURPOSE** In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by the provisions of this Ordinance.

**7.1202 PROCEDURE** Notice of any public hearing which the Village Board, Plan Commission or Board of Appeals is required to hold under the terms of this Ordinance shall specify the date, time and place of hearing, and the matter to be presented at the hearing. The notice shall be published as required by law.

## **SECTION 7.1300 DEFINITIONS**

**7.1301 GENERAL DEFINITIONS** For the purpose of this Ordinance, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Words used in the present tense in this Ordinance include the future. The word “person” includes a firm, association, partnership, trust, company, or corporation as well as an individual. The word “he” includes the word “she”. The word “shall” is mandatory, the word “should” is advisory, and the word “may” is permissive. Any words not defined in this Section shall be presumed to have their customary dictionary definitions, unless they are defined in the “Zoning Ordinance of the Village of River Hills.”

### **7.1302 SPECIFIC WORDS AND PHRASES**

Accessory Structure: A subordinate structure, the use of which is customarily incidental to the permitted use of the principal structure, and which is located on the same lot or parcel of land as the principal structure.

Accessory Use. (See “Use, Accessory”)

Adult Family Home. A place where up to 4 unrelated adults reside, each of which has a developmental disability, and in which care and maintenance above the level of room and board, but not including nursing care, are provided.

Antenna. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

Antenna, Earth Station Dish. A dish-shaped antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communication satellites.

Antenna, Terrestrial. Any antenna designed to receive television and radio signals relayed from one ground location to another ground location. Such antennas are typically mounted on a tower or support on the rooftop of a structure, or on free-standing towers.

Arterial Street. A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways in the Village of River Hills are Brown Deer Road, Good Hope Road, Range Line Road, Green Bay Road, Green Tree Road, and Bradley Road from Green Bay Road to Range Line Road.

Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials.

Building Height. Building height is measured from the first floor line, which shall not be located greater than 2 feet above the average finished grade of the front wall of said building.

Bulkhead Line. A boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the State Department of Natural Resources.

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

Commercial Wireless Telecommunication Services. Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

District, Basic. A part or parts of the Village for which the regulations of this Ordinance governing the use and location of land and buildings are uniform.

Dwelling. A structure or portion thereof which is used exclusively for human habitation.

Dwelling, Single-Family. A detached building designed for or occupied exclusively by one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

Environmental Control Facility. 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 or thermal pollution, radiation or other



pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

Family. An individual, or 2 or more persons related by blood, marriage, or legal adoption, living together as a single non-profit housekeeping unit residing in a single-family dwelling as their domicile; or, a number of persons not related, but not exceeding 2 living together as a single non-profit housekeeping unit residing in a single-family dwelling as their domicile. The definition of family is exclusive of compensated domestic help, servants, or caretakers and is not intended to prevent compensated domestic help, servants, or caretakers from residing on the parcel or lot either in the single-family dwelling or an accessory structure.

Floodplain. Those floodlands, excluding the floodway, subject to inundation by the one-hundred (100) year recurrent interval flood, as delineated on large scale flood hazard maps prepared by the Southeastern Wisconsin Regional Planning Commission under the Milwaukee River Watershed study with the use of topographic maps prepared by the Village of River Hills.

Flood Profile. A graph showing the relationship of the flood water surface elevation for a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

Flood-Proofing. Measures designed to prevent or reduce flood damage for those uses which cannot be removed from, or which of necessity must be erected on floodplains ranging from structural modifications through installation of special equipment or materials to operation and management safeguards, such as the following: under-pinning of floors; permanent sealing of all exterior opening; use of masonry construction; erection of permanent water-tight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable utilities; use of waterproof cement; adequate fuse protection; anchoring of buoyant tanks; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal-type windows and doors; installation of wire-reinforced glass; location and elevation of valuable items waterproofing, disconnecting, elevation ore removing of all electrical equipment; the avoidance of the use of flood-vulnerable areas; operation of emergency pump equipment; closing of back-water sewer valves; placement of plugs in floor drain pipes; placement of moveable water-tight bulkheads; counter floorings; erection of sandbag levees; and the shoring of weak walls or other structures.

Flood Stage. The elevation of the flood water's surface above an officially established datum plane, which on the large-scale flood hazard maps is Mean Sea Level, 1929 adjustment.

Floodway. The channel of a river or stream and those portions of the floodplain adjoining the channel which are required to carry and discharge the flood flows of the Milwaukee River associated with the regional (100 year) flood. The floodway is designated as those lands inundated by the 10-year recurrence interval flood provided that development and filling are prohibited in the floodplain.

Foster Home. A licensed facility that provides care and maintenance for no more than 4

children unless the children are siblings.

Grid-intertie Solar energy System. A solar energy system that is connected to an electric circuit served by an electric utility company. (Ord 557, 03/09/22)

Ground-mount. A solar energy system mounted on a rack or pole that rests or is attached to the ground. (Ord. 557, 03/09/22)

Lot. A parcel of land occupied or to be occupied by one building and its accessory buildings and uses, having sufficient width and depth to include the open spaces required under this ordinance.

Lot Area. The area of the lot shall be measured to the established center line of the highway, as shown on the official map of the Village of River Hills, and upon which said land abuts or may abut; provided, however, that not more than 122 feet of said highway shall be included in computing the area of a lot, and provided further that no lands lying within the established right-of-way of a non-access state trunk highway shall be included in computing the area of a lot in those instances where said lands were not a part of the original parcel of land before the establishment of said highway.

Lot, Corner. A lot abutting 2 or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

Navigable Water, as defined in Sec. 281.31(2)(d) Stats. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.

Nonconforming Lot. A lot, the area, dimensions, or location of which was lawful prior to the adoption or amendment of this Ordinance, but which fails by reason of such adoption or amendment to conform to the present requirements of the Zoning Ordinance. Vacant nonconforming lots may also be referred to as substandard lots.

Nonconforming Structure. A building or structure lawfully existing at the time of adoption of the Zoning Ordinance or amendment thereto which houses a use which is permitted in the district, but which does not comply with all the applicable area, height, and yard requirements of the district in which it is located.

Nonconforming Use. Any use of land, water, or buildings in combination, lawfully existing at the time of adoption or amendment of the Zoning Ordinance, which does not comply with the use regulations for the district in which it is located. A use permitted by a special use permit is not a non-conforming use.

Off-grid Solar Energy System. A Solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company. (Ord. 557, 03/09/22)

Ordinary Highwater Mark. A point on the bank or shore of a body of water 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.

Pierhead Line. A line established along any section of the shore of any navigable waters by a municipal ordinance approved by the State Department of Natural Resources.

Reach. A longitudinal segment of a stream generally including those flood lands wherein flood stages are primarily and commonly controlled by the same man-made or natural obstructions to flow.

Roof-mount. A solar energy system mounted on a rack that is fastened to or ballasted on a structured roof. (Ord. 557, 03/09/22)

Setback. The minimum horizontal distance between a lot line or the centerline of the street and the regulated structure or object.

Setback, Front Yard. A yard extending the full width of the lot between a lot line which abuts a street or streets and the nearest part of the structure, except when Section 7.0503 applies in which case the setback shall be measured from the centerline of the street.

Setback, Rear Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the structure. This yard is opposite the front yard or one of the front yards on a corner lot.

Setback, Side Yard. A yard extending from the front yard to the rear yard between the structure at the finished grade line and the side line of the lot.

Shorelands. Lands lying within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream, or to the landward side of the floodplain, whichever distance is greater. Shorelands shall not include those lands adjacent to farm drainage ditches where:

- a. Such lands are not adjacent to a navigable stream or river;
- b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching or had no previous stream history; and
- c. Such lands are maintained in nonstructural agricultural use.

Sign. Any outdoor advertising sign, display, device, notice, figure, painting, drawing, message, placard, poster, used to advertise or inform.

Solar Energy System. A system including all of the related components for mounting and

using mechanical, electrical, chemical or other methods that is intended to convert solar energy into thermal, mechanical or electrical energy. (Ord. 557, 03/09/22)

Solar Mounting Devices. Racking, frames, poles or other devices that allow the mounting of a solar energy system onto a building, roof surface, or the ground. (Ord. 557, 03/09/22)

Special Exception. The use of property, including the use and location of buildings, the size of lots, and the dimensions of required yards, otherwise not allowable under the terms of this Ordinance, or for which a special permit may be issued by the Village Board or the Board of Appeals under conditions specified in this Ordinance.

Special Use Permit. A permit granted by the Village Board conditionally permitting the use of land and/or buildings, otherwise not allowable under the terms of this Chapter, which the Village Board may permit by reason of special provisions and under certain conditions and safeguards. The use of the land and/or buildings allowed by a special use permit does not constitute a non-conforming use; however, the specified use permitted may be continued so long as the permit holder is in full compliance with all the terms, conditions, restrictions or limitations imposed by the Village Board upon the use permitted, and has not discontinued such use.

Structural Alterations. Any enhancement, upgrading, change, or modification in the supporting members of a building such as bearing walls, columns, partitions, beams, or girders.

Structure. Anything framed, constructed, or assembled out of component parts and which is erected or relocated so as to be fastened to, or rest on, a permanent foundation or the ground, or which constitutes a structural alteration or addition to an existing structure, for any occupancy or use whatsoever, including permanent fences, and excluding removable signs showing names and/or street numbers, and mail boxes.

Substantial Improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. This term does not include (1) any improvement of a structure to comply with state or village health, sanitary or safety codes, (2) any alteration of a structure or site documented as deserving preservation by the Wisconsin Historical Society or listed on the National Register of Historical Places, or (3) ordinary maintenance repairs.

Tower. Any ground or roof mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Treatment Foster Home. A licensed facility that provides to no more than 4 children care, maintenance, and structured, professional treatment by trained individuals, including the treatment foster parents.

Use, Accessory. A use customarily incidental to the principal permitted use of a lot or

building and located upon the same lot as the principal use.

Use, Principal. The main use of land or buildings as distinguished from a subordinate or accessory use.

Variance. A departure from the terms of this ordinance as applied to a specific building, structure or parcel of land, which the Board of Appeals may permit contrary to the regulations of this ordinance for the zone in which such building, structure or parcel of land is located, where the Board finds that a literal application of such regulations will affect a limitation on the use of the property which does not generally apply to other properties in the same zone, and for which there is no compensating gain to the public health, safety, or welfare.

Village Board. Village of River Hills Board of Trustees.

Vision Clearance Triangle. A triangular shaped portion of land established at street intersections in which nothing is erected, place, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Wetland, as defined in Sec. 23.32(1) Stats. Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

Wetland Alteration. Any filling, flooding, draining, dredging, tiling, excavating, temporary water level stabilization measures, or dike and dam construction in a wetland area.

Wireless Communications Facility. Any structure, equipment or property including but not limited to electronic and other appurtenances used or to be used to transmit, receive, distribute, provide or offer wireless telecommunications services.

Yard. An open space on a lot upon which a building is situated, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

## A P P E N D I X

ILLUSTRATION NO. 1

70

VISION CLEARANCE TRIANGLE  
(CROSS-SECTIONAL VIEW)

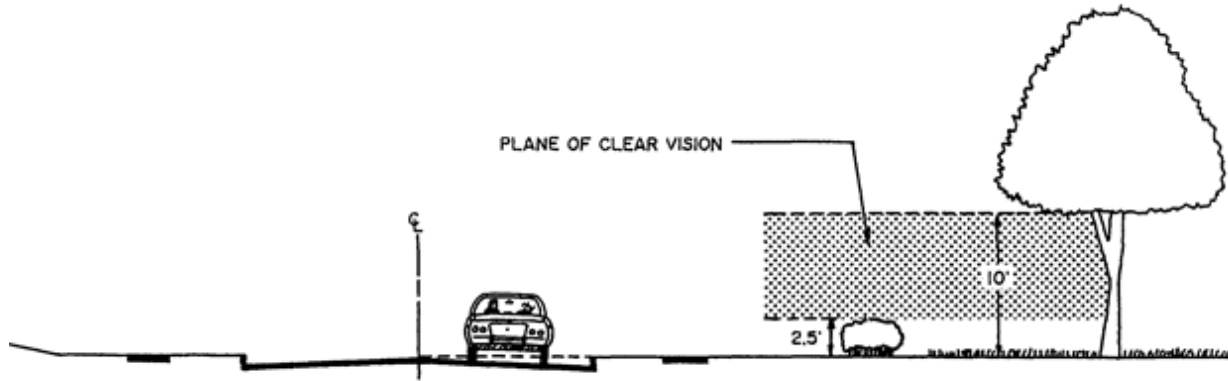
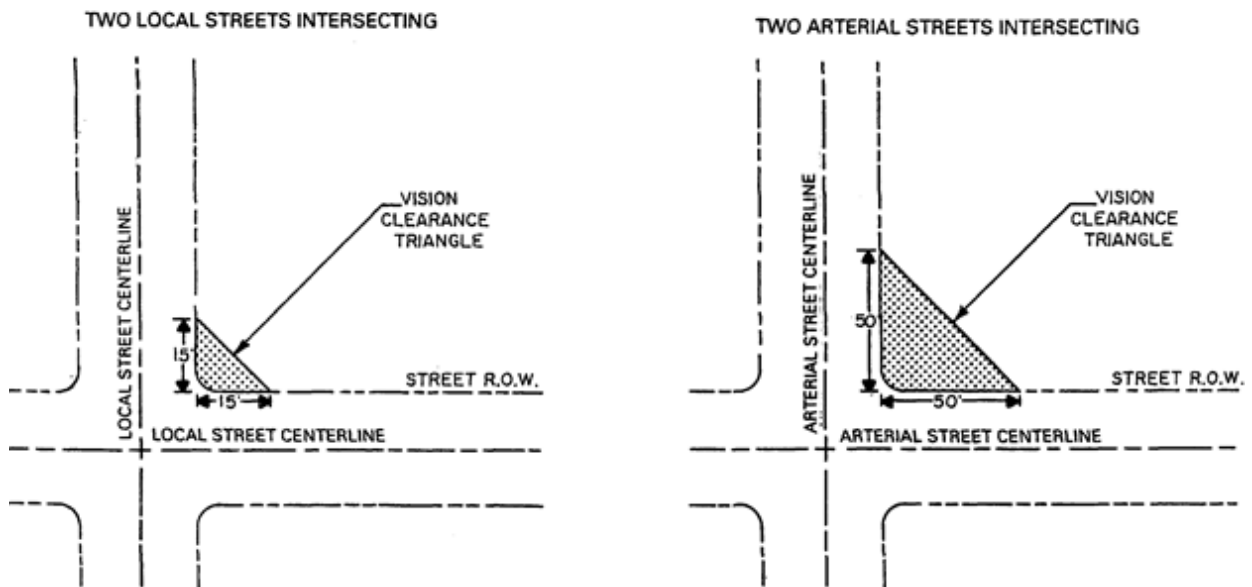


ILLUSTRATION NO.2

VISION CLEARANCE TRIANGLE  
(PLAN VIEW)

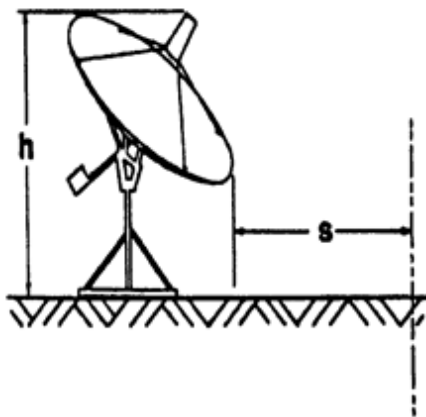


71

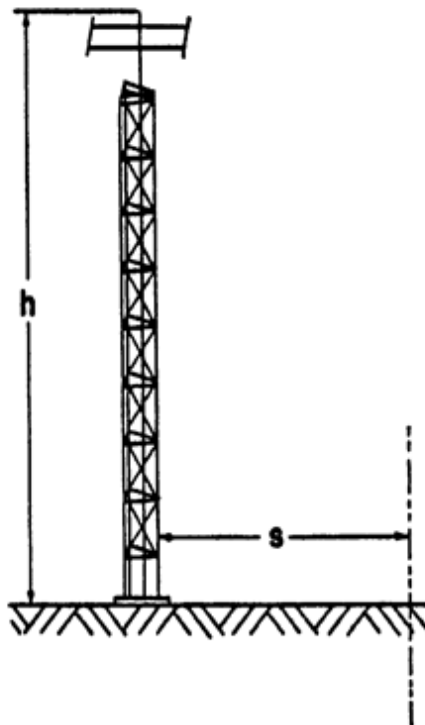
### ILLUSTRATION NO. 3

#### MEASURING HEIGHT AND SETBACK OF ANTENNAS

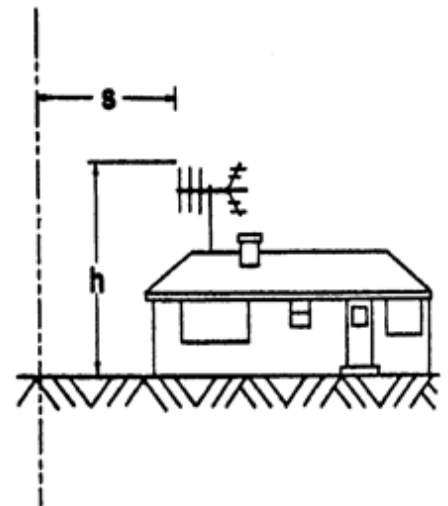
EARTH STATION DISH ANTENNA



TOWER MOUNTED ANTENNA



ROOF MOUNTED ANTENNA



s = setback

h = height