

# Village of Adell Zoning Ordinance

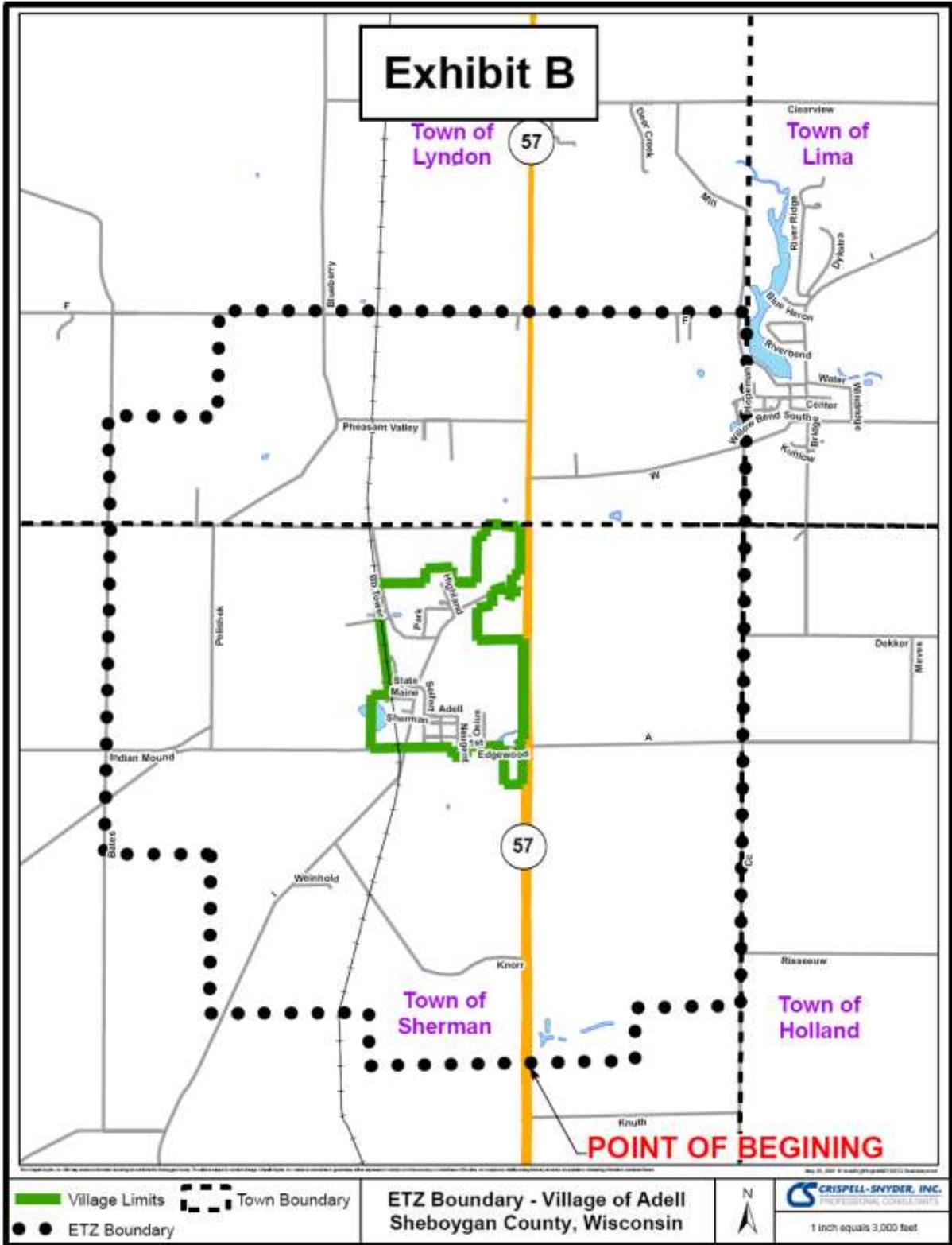
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Municipality Code: 59-101

#2005-06

VILLAGE OF ADELL

AN ORDINANCE TO ENACT ZONING CODE OF ORDINANCES

STATE OF WISCONSIN  
Village of Adell  
Sheboygan County

SECTION I – PURPOSE

The purpose of this ordinance is to enact the Village of Adell Code of Ordinances Related to Chapter 13 Zoning Code that has been prepared and authorized by the village board.

SECTION II – AUTHORITY

The village board of the Village of Adell, Sheboygan County, Wisconsin, has the specific authority under s. 66.0103, Wis. Stats., to prepare and enact a zoning code of part of its general ordinances by enacting an ordinance that incorporates the code by reference.

SECTION III – ADOPTION OF ORDINANCE

The village board, by this ordinance, adopted on proper notice, with a quorum and roll call vote of the village board present and voting, provides the authority for the Village of Adell to prepare and enact a zoning code of part of its general ordinances by enacting an ordinance that incorporates the code by reference.

SECTION IV – ENACTMENT AND INCORPORATION OF CODE OF ORDINANCES

The code of ordinances in book form entitled, "Village of Adell Code of Ordinances" Related to Chapter 13 Zoning, having been placed on file and open to public inspection in the office of the village clerk for a period of two weeks commencing, July 13, 2005, pursuant to s. 66.0103, Wis. Stats., is hereby adopted as the partial code of ordinances in and for the Village of Adell, Sheboygan County, Wisconsin. The partial code is incorporated in this ordinance by reference.

SECTION XII – EFFECTIVE DATE

This Ordinance is effective on publication.

The Village Clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. Stats.

Adopted this 13 day of July 2005.

\_\_\_\_\_  
Andy Schmitt, Village President

\_\_\_\_\_  
Village Trustee

\_\_\_\_\_  
Village Trustee

\_\_\_\_\_  
Village Trustee

Attest: \_\_\_\_\_  
Rhonda Klatt, Village Clerk/Treasurer

# Chapter 1

## Article A: Introduction; Definitions

### ***Section 13-1-1 Authority***

These regulations are adopted under the authority granted by Secs. 61.35 and 62.23(7), Wis. Stats.

### ***Section 13-1-2 Short Title***

This Chapter shall be known as, referred to or cited as the “Zoning Code, Village of Adell, Wisconsin”.

### ***Section 13-1-4 Intent***

It is the general intent of this Chapter to regulate and restrict the use of all structures, lands and waters; 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, sanitations, and drainage;
- b) **Regulate Population Density and Distribution** so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities;
- c) **Regulate Parking, Loading and Access** so as to lessen congestion in and promote the safety and efficiency of street and highways;
- d) **Secure Safety** from fire, flooding, pollution, contaminations, and other dangers;
- e) **Stabilize and Protect** existing and potential property values;
- f) **Preserve and Protect** the beauty of the Village of Adell;
- g) **Prevent and Control Erosion**, sedimentation, and other pollution of the surface and subsurface waters;
- h) **Further the Maintenance** of safe and healthful water conditions;
- i) **Provide for and Protect** a variety of suitable commercial and industrial sites;
- j) **Protect** the traffic-carrying capacity of existing and proposed arterial streets and highways;
- k) **Implement** those municipal, county, watershed, and regional comprehensive plans or components of such plans adopted by the Village of Adell;

- l) **Provide** for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

### ***Section 13-1-5 Abrogation and Greater Restrictions***

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

### ***Section 13-1-6 Interpretation***

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

### ***Section 13-1-7 Effective Date***

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

### ***Section 13-1-8 Definitions***

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

- 4) **Acre, Net.** The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within forty-three thousand five hundred sixty (43,560) square feet.
- 5) **Advertising Sign, Outdoor.** A structural poster panel or painted sign, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
- 6) **Advertising Structure, Outdoor.** Anything constructed or erected, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
- 7) **Alley.** A special public right-of-way affording only secondary access to abutting properties.
- 8) **Apartment.** A suite of rooms or a room in a multiple dwelling which suite or room is arranged, intended, or designed to be occupied as a residence of a single family, individual, or group of individuals, with separate facilities and utilities which are used or intended to be used for living, sleeping, cooking and eating.
- 9) **Apartment House.** See "Dwelling, Multiple."
- 10) **Arterial Street.** A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.
- 11) **Authority.** A person, committee, or board to whom the power to issue a permit, or make a determination, decision or judgment has been delegated.
- 12) **Automobile Wrecking/Salvage Yard.** Any premises on which two (2) or more self-propelled vehicles not in running order or operating condition are stored in the open.
- 13) **Basement or Cellar.** A story partly underground but having at least one-half (1/2) of its height, or five (5) or more feet, below the mean level of the adjoining ground. See COMM Chapters 20, 21 and 22.
- 14) **Bed and Breakfast Establishment.** An owner-occupied, single-family dwelling unit at which overnight sleeping accommodations are offered to travelers by the owner.
- 15) **Boardinghouse.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
- 16) **Building.** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.
- 17) **Building, Alterations Of.** Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.
- 18) **Building Area.** The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.
- 19) **Building, Detached or Accessory.** A building surrounded by open space on the same lot.
- 20) **Building, Front Line Of.** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
- 21) **Building, Height Of.** The vertical distance from the mean elevation of a finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip or gambrel roofs.

- 22) **Building, Principal.** A building in which the principal use of the lot on which it is located is conducted.
- 23) **Buffer Zone.** A designated neutral area designed to separate conflicting land uses. A natural vegetative screening of trees, shrubs or other plantings is usually employed in such a designated area.
- 24) **Buildable Lot Area.** The portion of a lot remaining after required yards have been provided.
- 25) **Business.** An occupation, employment, or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.
- 26) **Carport.** Automobile shelters having one or more sides open.
- 27) **Clinic.** A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or nonboarding basis only.
- 28) **Clothing Repair Shops.** Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but not employing over five (5) persons.
- 29) **Clothing Stores.** Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery and millinery shops.
- 30) **Club.** A building owned, leased or hired by an association of persons who are bona fide members, the use of which is restricted to said members and their guests.
- 31) **Commercial Feed Lot.** Confinement of two hundred (200) or more head of livestock on a farm or other site for the purpose of intensive feeding prior to slaughter or shipment in such concentration that ground vegetation is substantially destroyed where:
  - a) The farm or site does not produce a minimum of sixty percent (60%) of the feed necessary to sustain the herd;
  - b) The farm or site is insufficient in size to provide for the disposal of all animal waste in a manner that they will not run off, seep, percolate, or wash into surface or subsurface waters.
- 32) **Community Living Arrangement.** The following facilities licensed or operated, or permitted under the authority of Wisconsin Statutes: Child welfare agencies under Sec. 48.60, Wis. Stats., group foster homes for children under Sec. 48.02(7m), Wis. Stats., and community-based residential facilities under Sec. 50.01, Wis. Stats.; but does not include nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformity with applicable sections of the Wisconsin Statutes, including Secs. 46.03(22), 59.97(15), 62.23(7) (i), and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.
- 33) **Conditional Uses.** Uses of a special nature as to make impractical their predetermination as a principal use in a district, allowed only under conditions specified under this Chapter.
- 34) **Conforming Use.** Any lawful use of a building or lot which complies with the provisions of this Chapter.
- 35) **Court.** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.
- 36) **Curb Break.** Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.
- 37) **Curb Level.** The level of the established curb in the front of the building measured at the center of such front.

- 38) **Day Care Center.** A place or home which provides care for four (4) or more children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Sec. 48.65, Wis. Stats.
- 39) **Development.** Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to building, other structures, or accessory^ uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.
- 40) **District.** A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and buildings are uniform.
- 41) **District, Basic.** A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and building are uniform.
- 42) **District, Overlay.** Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the stricter of the conflicting requirements shall apply.
- 43) **Double Wide Mobile Home.** A double wide mobile home is a mobile home consisting of two (2) mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement.
- 44) **Drive-in Restaurant.** An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises.
- 45) **Dwelling.** A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.
- 46) **Dwelling, Efficiency.** A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
- 47) **Dwelling, One-Family.** A detached building designed, arranged or used for and occupied exclusively by one (1) family, whether attached, detached or semi-attached. Shall include specially designed buildings covered by earth and manufactured homes.
- 48) **Dwelling, Two-Family.** A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
- 49) **Dwelling, Multiple.** A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, attached townhouses and condominiums, with the number of families in residence not to exceed the number of dwelling units provided.
- 50) **Dwelling Unit.** A building or portion thereof used exclusively for human habitation, including single-family, two- family and multi-family dwellings, but not including hotels, motels or lodging houses.
- 51) **Emergency Shelters.** Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.
- 52) **Essential Services.** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage

tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

- 53) **Family.** One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family, or not to exceed more than four (4) persons if not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Chapter if he is dwelling for the purpose of adoption or for a foster care program.
- 54) **Farm.** Land consisting of five (5) acres or more on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale.
- 55) **Floor Area.** The sum of the gross horizontal areas of the several floors of a dwelling unit, exclusive of porches, balconies, garages, basements and cellars, measured from the exterior faces of the exterior walls or from the center lines of walls or portions separating dwelling units. For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.
- 56) **Floor Area (Business and Manufacturing Buildings).** For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.
- 57) **Foster Family Home.** The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under Sec. 48.62, Wis. Stats., and amendments thereto.
- 58) **Frontage.** The smallest dimension of a lot abutting a public street measured along the street line.
- 59) **Garage.** A building or portion thereof used exclusively for parking or temporary storage of self-propelled vehicles.
- 60) **Garage, Public.** A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.
- 61) **Gasoline Station.** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.
- 62) **Gift Stores.** Retail stores where items such as art, antiques, jewelry, books, and notions are sold.
- 63) **Grade.** When used as a reference point in measuring height of building, the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.
- 64) **Group Foster Home.** Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.

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

- 81) **Lot, Zoning.** A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.
- 82) **Machine Shops.** Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.
- 83) **Marquee or Canopy.** A roof-like structure of permanent nature which projects from the wall of a building.
- 84) **Manufactured Home.** A structure certified and labeled as a manufactured home fewer than 42 USC Sees. 5401-5426, which, when placed on the site:
- a) Is set on an enclosed continuous foundation in accordance with Sec. 70.43(1), Wis. Stats., and COMM 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
  - b) Is installed in accordance with the manufacturer's instructions;
  - c) Is properly connected to utilities;
  - d) Has an area of at least nine hundred sixty (960) square feet of living space, with a minimum of twenty (20) square feet in width, and is used exclusively as a single-family residence; and
  - e) Meets other applicable standards of this Chapter.
- 85) **Minor Structures.** Any small, movable accessory erection or construction, such as birdhouses; tool houses; pet houses; play equipment; arbors; and walls and fences under four (4) feet in height.
- 86) **Mobile Home.** A manufactured home that is HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (U.S.C. Title 42, Chapter 70). A mobile home is a structure, which is, or was originally constructed, designed to be transportable in one or more sections, which in traveling mode, is eight (8) body feet or more in width or forty (40) body feet in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein and any additions, attachments, annexes, foundations and appurtenances. Excluded from this definition are certified manufactured homes.
- 87) **Mobile Home Lot.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- 88) **Mobile Home Park.** A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation, and Where individual lots are rented to individual mobile home users. A mobile home park is also any lot on which two (2) or more mobile homes are parked for the purpose of permanent habitation, regardless of whether or not a charge is made for such accommodation, and including any associated service, storage, recreation and other community service facilities designed for the exclusive use of park occupants.
- 89) **Mobile Home Subdivision.** A land subdivision, as defined by Ch. 236, Wis. Stats., and any Village Land Division Ordinance, with lots intended for the placement of individual mobile

home units. Individual home sites are in separate ownership as opposed to the rental arrangements in mobile home parks.

- 90) **Motel.** A building containing lodging rooms having adjoining individual bathrooms, and where each room has a doorway opening directly to the outdoors, and more than fifty percent (50%) of the lodging rooms are for rent to transient tourists for a continuous period of less than thirty (30) days.
- 91) **Motor Freight Terminal.** A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.
- 92) **Motor Vehicle.** Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.
- 93) **Nonconforming Uses or Structures.** Any structure, use of land, use of land and structure in combination, or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.
- 94) **Nursery.** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.
- 95) **Nursery School.** Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.
- 96) **Nursing Home.** Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.
- 97) **Other Officially Approved Access.** A private road or easement extending from a private property to a component of the public street system which the Village Plan Commission or Village Board has approved as a primary means of access.
- 98) **Parking Area, Semi-Public.** An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.
- 99) **Parking Lot.** A structure or premises containing ten (10) or more parking spaces open to the public.
- 100) **Parking Space.** An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways, appurtenant thereto and giving access thereto.
- 101) **Parties in Interest.** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- 102) **Party Wall.** A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.
- 103) **Place.** An open unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.
- 104) **Places of Assembly.** Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.
- 105) **Planned Residential Development.** A tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.
- 106) **Property Lines.** The lines bounding a platted lot as defined herein.

- 107) **Public Way.** Any sidewalk, street, alley, highway or other public thoroughfare.
- 108) **Professional Home Offices.** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed the standards in Section 13-1-72 and only one (1) nonresident person is employed.
- 109) **Railroad Right-of-Way.** A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds warehouses, car or locomotive shops, or car yards.
- 110) **Recreational Vehicle.** Any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:
- a) Is not used as the permanent residence of the owner or occupant;
  - b) Is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;
  - c) Is towed or self-propelled on public streets or highways incidental to such recreations or vacation activities;
- Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pickup campers, camping buses, and self contained, self-propelled truck chassis mounted vehicles providing living accommodations.
- 111) **Recreational Vehicle Camp.** Apart, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or accommodations for any recreational vehicles as defined herein, and upon which said recreational vehicles are parked.
- 112) **Roadside Stand.** A structure having a ground area of not more than three hundred (300) square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises.
- 113) **School, Private.** An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not including a school for the mentally handicapped or a college or other institution of higher learning.
- 114) **School, Commercial.** A school limited to special instruction such as business, art, music, trades, handicraft, dancing or riding.
- 115) **Seat.** Furniture upon which to sit having a linear measurement not less than twenty-four (24) inches across the surface used for sitting.
- 116) **Setback.** The minimum horizontal distance between the lot line and the nearest point of the building or structure. Uncovered steps shall not be included in measuring the setback.
- 117) **Sign, Awning.** A sign that is mounted or painted on, or attached to an awning, canopy, or marquee.
- 118) **Sign, Copy.** The message or advertisement, and any other symbols on the face of a sign.
- 119) **Sign, Face.** The area or display surface used for the message.
- 120) **Sign, Ground.** Any sign placed upon or supported by the ground independent of any other structure.
- 121) **Sign, Portable.** A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable.
- 122) **Sign, Projecting.** A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

- 123) **Sign, Roof.** A sign that is mounted on the\* roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
- 124) **Sign, Wall.** A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.
- 125) **Sign, Window.** A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window.
- 126) **Story.** That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.
- 127) **Story, Half.** A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.
- 128) **Street.** A public or private thoroughfare which affords the principal means of access to abutting property.
- 129) **Street Yard.** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof excluding uncovered steps. Where the street line is an arc, the street yard shall be measured from the arc. In some ordinances, the street yard is also called a setback.
- 130) **Structure.** Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.
- 131) **Structural Alterations.** Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.
- 132) **Temporary Structure.** A movable structure not designed for human occupancy or for the protection of goods or chattels and not forming an enclosure, such as billboards.
- 133) **Trailer Park.** Any lot on which are parked two (2) or more house trailers or mobile homes for longer than forty-eight (48) hours.
- 134) **Use.** The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this Chapter.
- 135) **Use, Accessory.** A subordinate use on the same lot which is incidental and customary in connection with the principal use.
- 136) **Use, Nonconforming.** Any use of a building or premises which the effective date of this Chapter does not, even though lawfully establish, comply with all of the applicable use regulations of the zoning district in which such building or premise is located.
- 137) **Use, Principal.** The main use of land or building as distinguished from a subordinate or accessory use.
- 138) **Use, Permitted.** A use which may be lawfully established in a particular district or districts, provided it conforms to all requirements, regulations and performance standards, if any, of such districts.
- 139) **Utilities.** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations,

telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plans, municipal incinerators, warehouses, shops, storage yards and power plants.

- 140) **Vending Machine.** A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.
- 141) **Village.** The Village of Adell, Sheboygan County, Wisconsin.
- 142) **Vision Setback Area.** An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets or at the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersecting highway, street or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from the intersection as specified in this Chapter.
- 143) **Yard.** An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted. The front and rear yards extend the full width of the lot.
- 144) **Yard, Corner Side.** A side yard which adjoins a public street.
- 145) **Yard, Front.** A yard extending along the full length of the front lot line between the side lot lines.
- 146) **Yard, Interior Side.** A side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.
- 147) **Yard, Rear.** A yard extending along the full length of the rear lot line between the side lot lines.
- 148) **Yard, Side.** A yard extending along a side lot line from the front yard to the rear yard.
- 149) **Yard, Street.** Yard abutting a street.
- 150) **Yard, Transitional.** That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.
- 151) **Zero Lot Line.** The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.
- 152) **Zoning District.** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

**Sections 13-1-9 through 13-1-19 Reserved for future use.**

## **Article B: General Provisions**

### **Section 13-1-20 Jurisdiction and Compliance**

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

### **Section 13-1-21 Use Restrictions**

The following use restrictions and regulations shall apply:

- a) **Principal Uses.** Only those principal uses specified for a district, their essential services and the following shall be permitted in that district:
- b) **Performance Standards.** Performance standards listed in Article H shall be complied with by all uses in all districts.
- c) **Conditional Uses.** Provisions applicable to conditional uses generally:
  - 1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Village Board, upon the recommendation of the Plan Commission, in accordance with Article D of this Chapter excepting those existent at time of adoption of the Zoning Code.
  - 2) Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption of this Code require no action by the Plan Commission to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.
  - 3) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Village Board, upon the recommendation of the Plan Commission in accordance with Article D.
  - 4) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Village Board, upon the recommendation of the Plan Commission, in accordance with Article D.
  - 5) Conditional uses authorized by the Village Board, upon the recommendation of the Plan Commission shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
  - 6) Conditional uses authorized by the Village Board, upon the recommendation of the Plan Commission, shall not be subject to substitution with other conditional uses, whether similar type or not, without Board approval and the procedures required in Article D.
- d) **Uses Not Specified in Code.**

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

### ***Section 13-1-22 Reduction of Joint Use***

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

### ***Section 13-1-23 Site Regulations***

- a) Site Suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Village Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Village Board, in applying the provisions of the Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/she so desires. Thereafter, the Village Board may affirm, modify, or withdraw its determination of unsuitability.
- b) Street Frontage. All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of forty (40) feet at the street edge, ninety (90) feet at the building setback line; however, to be buildable, the lot shall comply with the frontage requirements of the Zoning District in which it is located.
- c) Principal Structures. All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. Except in any residential lot, the Village Board, upon the recommendation of the Planning Commission, may permit as a conditional use more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Village Board, upon the recommendation of the Planning Commission, may impose additional yard

requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.

- d) Dedicated Street. No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- e) Lots Abutting More Restrictive Districts. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. This does not apply to adjacent residential districts. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
- f) Preservation of Topography. In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Village Board, following a recommendation from the Plan Commission; or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- g) Decks/Porches. For purposes of this Chapter, particularly regarding setbacks, decks and/or porches shall be considered a part of the principal building or structure being served.
- h) Double-Frontage Lots. Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets are complied with.

**Sections 13-1-24 though 13-1-39 Reserved for future use.**

## **Article C: Zoning Districts**

### ***Section 13-1-40 Zoning Districts Designated***

For the purpose of this Chapter, the Village of Adell is hereby divided into the following fourteen (14) districts:

- 1) R-1 Single-Family Residential District (Low Density)
- 2) R-2 Single-Family Residential District (Medium Density)
- 3) R-3 Multiple-Family Residential District
- 4) R-4 Mobile Home Park Residential District
- 5) R-5 Residential Estate District
- 6) C-1 Conservancy District
- 7) B-1 General Commercial District
- 8) B-2 Highway Commercial District
- 9) B-3 Business Park District
- 10) I-1 Industrial District
- 11) A-1 Agricultural District
- 12) WP Wellhead Protection Overlay District
- 13) AEO Adult Entertainment Overlay District
- 14) E-1 Mineral Extraction or Landfill Overlay District

### ***Section 13-1-41 District Boundaries***

- a) **Zoning Map.** The boundaries of the district enumerated in Section 13-1-40 above are hereby established as shown on a map entitled "Zoning Map, Village of Adell, Wisconsin", as amended, which is adopted by reference and made a part hereof. The map shall bear upon its face the attestation of the Village President and the Village Clerk/Treasurer and shall be available to the public in the office of the Village Clerk/Treasurer.
- b) **Boundary Lines.** The boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property lines; center lines of streets, highways, alleys, easements and railroad rights-of-way; or such lines extended unless otherwise noted on the Zoning Map. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines and where the designations on the Zoning Map are approximately bounded by lot lines, such lot line shall be construed to be the boundary of the district.
- c) **Vacation.** Vacation of public street and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

- d) **Annexations and Consolidations.** Annexations to or consolidations with the Village subsequent to the effective date of this Chapter shall be placed in the A-1 Agricultural District unless the annexation ordinance places the land in another district.

### ***Section 13-1-42 R-1 Single Family Residential District (Low Density)***

- a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of primarily single-family detached dwelling units at a low dwelling unit per acre density. The primary emphasis of the District is new development areas.
- b) **Permitted Uses.** The following uses of land are permitted in the R-1 District:
- 1) Single-Family detached dwellings, served by public sewer, excluding all mobile homes constructed on a frost wall or full basement; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
  - 2) Manufactured homes complying with all of the following requirements and limitations:
    - a) The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length. The building area shall be at least 1200 square feet.
    - b) The home shall be installed on a frost wall or full basement foundation system. The wheels and axles must be removed. The foundation shall be approved by the Building Inspector and/or Village Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
    - c) The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
    - d) The home shall be covered by a roof pitched at a minimum slope of three (3) inches in twelve (12) inches, which is permanently covered with non-reflective material.
    - e) The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Adell.
  - 3) One (1) attached private garage with not more than three (3) stalls for each residential parcel, per Section 13-1-140 spec. All homes in the R-1 District shall have, at a minimum, a two-stall attached garage.
  - 4) Accessory uses and buildings as follows:
    - a) Gardening, tool and storage sheds incidental to the residential use, not to exceed four hundred (400) square feet.
    - b) Off-street parking facilities.
    - c) Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.

- d) Signs as permitted by Village Ordinances.
- 5) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- c) **Conditional Uses.** The following are permitted as conditional uses within the R-1 District:
  - 1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
  - 2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
  - 3) Bed and breakfast inns (See Sec. 13-1-70.)
  - 4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops.
  - 5) Public utility structures, except those incompatible with the characteristics of the district.
  - 6) Parks and playgrounds.
  - 7) Planned residential developments.
  - 8) Golf courses and private clubs.
  - 9) Nursery schools.
  - 10) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
  - 11) Foster family care.
  - 12) Home occupations and professional home offices. (See Sec. 13-1-71.)
  - 13) Family day care, limited to eight (8) children. Family day care homes shall be subject to state licensing requirements.
  - 14) Two-family dwellings (duplex).
- d) **Area, Height and Yard Requirements.**
  - 1) **Lot.**
    - a) **Area:** Minimum fifteen thousand (15,000) square feet.
    - b) **Width:** Minimum one hundred (100) feet; one hundred fifty (150) feet.
  - 2) **Building Height.** Maximum thirty-five (35) feet.
  - 3) **Building Area.** One thousand two hundred (1,200) square foot minimum, a minimum of twenty-four (24) feet wide.
  - 4) **Yards.**
    - a) **Street:** Minimum twenty-five (25) feet.
    - b) **Rear:** Minimum twenty-five (25) feet.
    - c) **Side:** Minimum ten (10) feet each side.
  - 5) **Maximum Ground Coverage by All Structures and Improvements.** No more than forty percent (40%) coverage of a lot may be covered by structures (measured at roofline), driveways, decks, pools, accessory buildings and impervious surfaces.

***Section 13-1-43 R-2 Single-Family Residential District (Medium Density)***

- a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of primarily single-family detached dwelling units at a medium dwelling unit per acre density. It particularly reflects older neighborhoods in the Village.
- b) **Permitted Uses.** The following uses of land are permitted in the R-2 District:
  - 1) Single-family detached dwellings constructed on a frost wall or full basement and served by public sewer, excluding all mobile homes; for purposes of this Chapter, manufactured homes are included in the definition of single-family dwelling.
  - 2) Manufactured homes complying with all of the following requirements and limitations:
    - a) The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length. The building area shall be at least 1200 square feet.
    - b) The home shall be installed on a frost wall or full basement foundation system. The wheels and axles must be removed. The foundation shall be approved by the Building Inspector and/or Village Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
    - c) The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
    - d) The home shall be covered by a roof pitched at a minimum slope of three (3) inches in twelve (12) inches, which is permanently covered with non-reflective material.
    - e) The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Adell.
  - 3) One (1) attached private garage with not more than three (3) stalls for each residential parcel, per Section 13-1-140 specs. All homes in R2 shall have at a minimum a two-stall attached garage.
  - 4) Accessory uses and buildings as follows:
    - a) Gardening, tool and storage sheds incidental to the residential use, not to exceed three hundred (300) square feet.
    - b) Off-street parking facilities.
    - c) Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
    - d) Signs as permitted by Village Ordinances.
  - 5) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
  - 6) Foster family care.
  - 7) Home occupations and professional home offices. (See Section 13-1-71.)
  - 8) Family day care limited to eight (8) children. Family day care homes shall be subject to state licensing requirements.
  - 9) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.

- c) **Conditional Uses.** The following are permitted as condition uses within the R-2 District:
  - 1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
  - 2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
  - 3) Bed and breakfast inns (See Sec. 13-1-70.)
  - 4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops.
  - 5) Public utility structures, except those incompatible with the characteristics of the district.
  - 6) Parks and playgrounds.
  - 7) Planned residential developments.
  - 8) Golf courses and private clubs.
  - 9) Nursery schools.
  - 10) Two-family dwellings (duplex).
- d) **Area, Height and Yard Requirements.**
  - 1) **Lot.**
    - a) **Area:** Minimum twelve thousand (12,000) square feet, sixteen thousand (16,000) square feet for duplex lots.
    - b) **Width:** Minimum ninety (90) feet.
  - 2) **Building Height.** Maximum thirty-five (35) feet.
  - 3) **Building Area.** One thousand two hundred (1,200) square foot minimum, a minimum of twenty-four (24) feet wide.
  - 4) **Yards.**
    - a) **Street:** Minimum twenty-five (25) feet.
    - b) **Rear:** Minimum twenty-five (25) feet.
    - c) **Side:** Minimum ten (10) feet each side.
  - 5) **Maximum Ground Coverage by All Structures and Improvements.** No more than forty-five percent (45%) coverage of a lot may be covered by structures (measured at roofline), driveways, decks, pools, accessory buildings and impervious surfaces.

### ***Section 13-1-44 R-3 Multi-Family Residential District***

- a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of multiple-family dwelling units at varying dwelling units per acre densities.
- b) **Permitted Uses.**
  - 1) Two-family dwellings (duplex).
  - 2) Multiple-family dwellings.
- c) **Conditional Uses.**
  - 1) Parks and playgrounds.
  - 2) Professional home offices and home occupations.

- 3) Planned residential developments.
  - 4) Golf courses and private clubs.
  - 5) Barbering and beauty culture.
  - 6) Utilities.
  - 7) Schools and churches.
  - 8) Government, cultural, and public uses such as fire and police stations, community centers, libraries, public emergence shelters and museums.
  - 9) Nursery Schools.
  - 10) Retirement homes.
  - 11) Colleges and fraternities.
  - 12) Day care centers (state licensed).
- d) **Area, Height and Yard Requirements.**
- 1) **Lot.**
    - a) **Area:**
      - (1) Two-family dwellings: Eight thousand (8,000) square feet per family.
      - (2) Multi-family (over two): Minimum area of fourteen (14,000) square feet, with no less than two thousand five hundred (2,500) square feet for one-bedroom units and no less than three thousand five hundred (3,500) square feet for two-bedroom units.
    - b) **Width:** Minimum one hundred (100) feet.
  - 2) **Building Height.** Maximum forty-five (45) feet.
  - 3) **Building Area.** One thousand two hundred (1,200) square foot minimum, a minimum of twenty-four (24) feet wide.
  - 4) **Yards.**
    - a) **Street:** Minimum twenty-five (25) feet.
    - b) **Rear:** Minimum thirty (30) feet.
    - c) **Side:** Minimum twelve (12) feet each side.
  - 5) **Maximum Ground Coverage by All Structures and Improvements.** No more than fifty percent (50%) coverage of a lot may be covered by structures (measured at roofline), driveways, decks, pools, accessory buildings and impervious surfaces.
- e) **Other Development Regulations.**
- 1) A site development plan, prepared in accordance with Section 13-1-174 of the Chapter shall be submitted before a permit can be granted for any use in this District.
  - 2) No outdoor storage of any material shall be permitted in this District except within enclosed containers.
  - 3) No lighting shall be permitted which would glare from this District onto any street right-of-way or onto any adjacent property.

### ***Section 13-1-45 R-4 Mobile Home Park Residential District.***

- a) **Purpose.** The District is established to provide a regulatory framework for mobile home parks.

- b) **Permitted Uses.** Land may be used for the location of mobile homes and buildings or structures may be erected, altered, enlarged or used for one (1) or more of the following purposes:
- 1) Mobile home parks subject to the requirements of the Wisconsin Administrative Code.
  - 2) One (1) private garage for each mobile home.
  - 3) Playgrounds and recreational areas.
  - 4) Uses customarily accessory to any of the preceding permitted uses.
- c) **Area and Height Regulations.** No mobile home shall be located and no building shall be erected or structurally altered unless the following area requirements and yards are provided; no structure shall exceed the maximum height specified:
- 1) The minimum parcel size per mobile home shall not be less than six thousand five hundred (6,500) square feet for each unit.
  - 2) There shall be a rear yard of not less than ten (10) feet. Accessory buildings and structures may be placed in the rear yard, but not less than ten (10) feet from the rear property line.
  - 3) There shall be a front yard of not less than twenty-five (25) feet from the right-of-way line.
  - 4) There shall be a side yard provided on each side of the lot of not less than ten (10) feet except that private garages shared by two (2) parcels may straddle the lot line.
  - 5) No building or structure shall exceed a height of thirty-five (35) feet in this District.
- d) **Other Development Regulations.**
- 1) A site development plan, prepared in accordance with Section 13-1-174 of this Chapter, shall be submitted before a permit can be granted for any use in this District.
  - 2) No outdoor storage of any material shall be permitted in this District except within enclosed containers.
  - 3) Wrecked, damaged or dilapidated mobile homes shall not be kept or stored in a mobile home park or upon any premises in the Village. The Village Inspector or Village Board shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. Such mobile homes are hereby declared to be a public nuisance. Whenever the Building Inspector so determines, he/she shall notify the licensee or landowner and owner of the mobile home in writing that such public nuisance exists within the park or on lands owned by him/her giving the findings upon which his/her determination is based and shall order such home removed from the park or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time, but not less than thirty (30) days.
  - 4) All mobile homes in mobile home parks shall be skirted unless the unit is placed within one (1) foot vertically of the stand with soil or other material completely closing such space from view and entry by rodents and vermin.

Areas enclosed by such skirting shall be maintained free of rodents and fire hazards.

- 5) No person shall construct, alter or add to any structure, attachment or building in a mobile home park or on a mobile home space without a permit from the Building Inspector. Construction on, or addition or alteration to the exterior of a mobile home shall be of the same type of construction and materials as the mobile home affected. This Subsection shall not apply to the addition of awnings, antennas or skirting to mobile homes. Accessory structures on mobile home spaces shall comply with all setbacks, side yard and rear yard requirements for mobile home units.
- 6) Storage under mobile homes is prohibited.
- 7) Mobile home parks shall meet the following criteria:
  - a) Where a mobile home park is to be established or expanded for the development of a single mobile home community, the minimum area shall be two (2) acres. The minimum number of lots or spaces completed and ready for occupancy before first occupancy is permitted shall be established as twenty-five percent (25%) of total units permitted on the site.
  - b) Off-street parking shall be provided at the rate of two spaces for each mobile home.
  - c) All streets, drives, walks and ways located within the boundaries of a mobile home park shall remain private streets and any specifications set forth herein for streets, drives, walks or ways shall not be misconstrued as being applicable to public streets nor that such streets are to be used or maintained as public streets, drives, walks or ways.
  - d) For purposes of this Section, a manufactured home is not a mobile home.
  - e) No person shall park, locate or place any mobile home outside of a licensed mobile home park in the Village of Adell except:
    - (1) Unoccupied mobile homes may be parked on the lawfully situated premises of a licensed mobile home dealer for the purposes of sale display; the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs; the premises leased or owned by the owner of such mobile home for purposes of sales display for a period not exceeding one hundred twenty (120) days, provided no business is carried on therein, or in an accessory private garage, building or rear yard of the owner of such mobile home, provided no business is carried on therein.
    - (2) Individual mobile homes may be allowed by the Village Board in other residential districts as temporary uses not to exceed one hundred twenty (120) days under exceptional circumstances, such as to provide temporary housing during reconstruction following a fire.
  - f) Existing mobile home parks are legal nonconforming uses but may not be expanded except in full compliance with this Section.
- e) **Nonconforming Use Outside Parks; Replacement.**

- 1) Mobile homes legally located and occupied on premises outside a licensed mobile home park prior to the enactment of this Section may be continued in such location, provided that such use and occupancy is otherwise in conformity with the applicable laws and regulations of the state and Village. Such nonconforming use shall automatically terminate upon discontinuance for any reason for twelve (12) consecutive months or if the total structural repairs and alterations to the mobile home exceed fifty percent (50%) of the net value.
  - 2) Nothing herein shall prevent the owner of a mobile home under Subsection (e) (l) hereof from replacing the mobile home with a model of better physical condition, as determined by Village officials, provided that the replacement unit meets all applicable standards of construction in the industry existing as of the date of replacement, not at the date of manufacture of the replacement unit.
- f) **Temporary Placement.** It shall be unlawful for any person to park, store or locate any mobile home in the Village of Adell at any site other than a licensed mobile home park complying with the requirements of this District, except that the Village Board may authorize temporary parking or storing of a mobile home outside of a mobile home park until such time as a proper parking space is available in an authorized mobile home park within the Village. At such time, the owner or occupant of such mobile home shall relocate the mobile home to the mobile home park within one hundred twenty (120) days. Persons temporarily locating a mobile home outside of a mobile home park pursuant to this Subsection shall, as a condition to such placement, enter into a contract with the Village agreeing to fully comply with the requirements of this Subsection.

### ***Section 13-1-46 R-5 Residential Estate District***

- a) **Purpose.** The R-5 Residential Estate District is intended to provide for a single-family residential countryside estate development, at low densities.
- b) **Permitted Uses.** The following uses are permitted in the R-5 District:
  - 1) Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
  - 2) Manufactured homes complying with all of the following requirements and limitations:
    - a) The home shall be at least twenty-four (24) feet in width and thirty-six (36) feet in length. The building area shall be at least 1200 square feet.
    - b) The home shall be installed on a frost wall or full basement foundation system. The wheels and axles must be removed. The foundation shall be approved by the Building Inspector and/or Village Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.

- c) The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
  - d) The home shall be covered by a roof pitched at a minimum slope of three (3) inches in twelve (12) inches, which is permanently covered with non-reflective material.
  - e) The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Adell.
- 3) All homes in the R-5 district shall have, at a minimum, a two-stall attached garage.
- 4) Accessory uses and buildings as follows:
- a) Gardening, tool and storage sheds incidental to the residential use, not to exceed four hundred (400) square feet.
  - b) Off-street parking facilities.
  - c) Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
  - d) Signs as permitted by Village Ordinances.
- c) **Conditional Uses.**
- 1) Utility substations.
  - 2) Solar collectors erected as an accessory structure.
  - 3) Community living arrangements which have a capacity for nine (9) or more persons.
  - 4) Single-family dwelling units meeting the requirements of this Section served by private sewer and water systems where the Village determines public service is impractical.
- d) **Area, Height and Yard Requirements.**
- 1) **Lot.**
- a) **Area.** Lots shall be a minimum of two (2) acres in area and shall be not less than one hundred twenty five (125) feet in width at front setback.
  - b) **Height.** No building or parts of a building shall exceed thirty-five (35) feet in height.
  - c) **Building Area.**
    - (1) The total floor area of a dwelling shall be not less than one thousand six hundred (1,600) square feet.
    - (2) **Maximum Ground Coverage by All Structures and Improvements.** No more than thirty-five percent (35%) of a lot may be covered by structures, (measured at roofline), driveways, decks, pools, accessory buildings and impervious surfaces.
- 2) **Yards.**
- a) **Street.** There shall be a minimum building setback of thirty-five (35) feet from the street right-of-way.
  - b) **Side.** There shall be a side yard on each side of all buildings not less than twenty (20) feet in width.
  - c) **Rear.** There shall be a rear yard of not less than fifty (50) feet.

- e) **Other Development Standards.** Livestock such as, but not limited to, cattle, swine, horses, ponies, poultry and other fowl, may only be allowed in the R-5 District following issuance of a conditional use permit valid for one year. As a general policy guideline, the R-5 District is not intended to be used for intensive raising or boarding of livestock or fowl. A conditional use permit for livestock or fowl may only be issued if such use is compatible with the neighborhood.

### ***Section 13-1-47 C-1 Conservancy District***

- a) **Purpose.** The purpose of this District is to preserve, protect, and maintain the natural environment and character of areas exhibiting significant natural resource features which contribute to the productive, recreational, or aesthetic value of the community.
- b) **Permitted Uses.**
- 1) Farming and related agricultural uses when conducted in accordance with conservation standards.
  - 2) Forest and game management.
  - 3) Fishing and hiking.
  - 4) Parks and recreation areas; arboreta; botanical gardens; greenways.
  - 5) Stables.
  - 6) Utilities.
  - 7) Non-residential buildings used solely in conjunction with the raising of water, fowl or fish.
  - 8) Harvesting of wild crops.
  - 9) Recreation related structures not requiring basements.
- c) **Conditional Uses.**
- 1) Animal hospitals, shelters and kennels.
  - 2) Archery and firearm ranges, sports fields and skating rinks.
  - 3) Land restoration, flowage, and ponds.
  - 4) Golf courses and clubs.
  - 5) Ski hills and trails.
  - 6) Yacht clubs and marinas.
  - 7) Recreation camps.
  - 8) Public and private campgrounds.
  - 9) Riding stables.
  - 10) Sewage disposal plants.
  - 11) Governmental, cultural and public buildings or uses.
  - 12) Utilities.
  - 13) Hunting and fishing clubs.
  - 14) Farm structures
- d) **Area, Height and Yard Requirements.**
- 1) **Lot.**
    - a) **Area:** Minimum one and one-half (1 ½) acres.
    - b) **Width:** Minimum one hundred fifty (150) feet.

- 2) **Building Height.** Maximum thirty-five (35) feet.
- 3) **Other Structures Height.** Maximum one-half (1/2) the distance from the structures nearest lot line.
- 4) **Yards.**
  - a) **Street:** Minimum twenty (20) feet.
  - b) **Rear:** Minimum twenty (20) feet.
  - c) **Side:** Minimum twenty (20) feet except structures used for the housing of shelters of animals must be one hundred (100) feet from lot lines.

### ***Section 13-1-48 B-1 General Commercial District***

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

- 24) Wholesale merchandise establishments, only for retail items listed above; e.g. #19 would allow wholesale cameral sales.
  - 25) Banks and other financial institutions.
  - 26) Offices of insurance companies, agents, brokers and service representatives.
  - 27) Offices of real estate agents, brokers, managers and title companies.
  - 28) Miscellaneous business offices.
  - 29) Heating and plumbing supplies
  - 30) Retail laundry and dry cleaning outlets, including coin-operated laundries and dry cleaning establishments, commonly called Laundromats and launderettes. Tailor shops, dressmaker's shops, and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments.
  - 31) Photographic studios and commercial photography establishments.
  - 32) Barbershops, beauty shops and hairdressers.
  - 33) Shoe repair shops and shoe shine parlors.
  - 34) Trade and contractor's offices (office only).
  - 35) Advertising agencies, consumer credit reporting, news agencies, and employment agencies.
  - 36) Duplicating, blueprinting, photocopying, addressing, mailing, mailing list and stenographic services; small print shops.
  - 37) Computer services.
  - 38) Commercial parking lots, parking garages, parking structures.
  - 39) Watch, clock and jewelry repair services.
  - 40) Motion picture theaters, not including drive-in theaters.
  - 41) Miscellaneous retail stores.
  - 42) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrists and chiropractors, but not veterinarian's offices.
  - 43) Law offices.
  - 44) The offices, meeting places, churches, and premises of professional membership associations; civic, social, and fraternal associations; business associations, labor unions and similar labor organizations; political organizations; religious organizations; charitable organizations; or other non-profit membership organizations.
  - 45) Engineering and architectural firms or consultants.
  - 46) Accounting, auditing and bookkeeping firms or services.
  - 47) Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations.
  - 48) The offices of governmental agencies and post offices.
  - 49) Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages.
  - 50) Telephone and telegraph offices.
- c) **Conditional Uses.** The following are permitted as conditional uses in the B-I District; provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from motor-driven equipment,

unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances; and provided that where operations necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers, or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Village Board with regard to such matters.

- 1) Miscellaneous repair shops and related services.
- 2) Garment pressing establishments, hand laundries, hat cleaning and blocking shops and coin-operated dry cleaning establishments.
- 3) Establishments engaged in the publishing and printing of newspapers, periodicals or books.
- 4) Residential units, provided that no dwelling shall be permitted below the second floor and business uses are not permitted on any floor above the ground floor, except in those buildings or structures where dwelling units are not established.
- 5) Farm supplies, wholesale trade.
- 6) Establishments engaged in the retail sale of automobiles, trailers, mobile homes, or campers; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances.
- 7) Stores for the sale and installation of tires, batteries, mufflers or other automotive accessories; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances.
- 8) Gasoline service stations; provided, further, that all gasoline pumps, storage tanks and accessory equipment must be located at least thirty (30) feet from any existing or officially proposed street line; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances.
- 9) Establishments engaged in the daily or extended-term rental or leasing of house trailers, mobile homes or campers; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances.
- 10) Establishments engaged in daily or extended-term rental or leasing of passenger automobiles, limousines or trucks, without drivers, or of truck trailers or utility trailers; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances.
- 11) Establishments for the washing, cleaning or polishing of automobiles, including self-service car washes; provided that any inoperable vehicles or vehicles awaiting repair be maintained in a way that does not constitute a nuisance and remains in full compliance with Village ordinances.

- 12) Hotels, motor hotels, motels, tourist courts, tourist rooms, etc.
  - 13) Farm implements sales.
  - 14) Mini-warehouses.
  - 15) Veterinarian's offices/clinics.
- d) **Lot, Yard and Building Requirements.**
- 1) **Lot Frontage:** Minimum forty (40) feet.
  - 2) **Lot Area:** Minimum three thousand (3,000) square feet.
  - 3) **Principal Building:**
    - a) Front Yard: None for older pre-existing structures; otherwise twenty-five (25) feet.
    - b) Side Yard: Minimum ten (10) feet; if side yard is necessary to be compatible with neighborhood.
    - c) Rear Yard: Minimum twenty-five (25) feet.
- NOTE:** Pre-existing structures may be nonconforming. In blocks in the business districts which are already developed, the dimensional requirements of this Chapter can be modified if in the opinion of the Board of Appeals, such action would be in keeping with the purpose of this Code where a practical difficulty or hardship would result from a literal enforcement of the requirements.
- 4) **Building Height:** Maximum thirty-five (35) feet.
  - 5) **Percent of Lot Coverage:** Maximum ninety percent (90%).
  - 6) **Alley Setback:** Minimum fifteen (15) feet.
- e) **Other Development Regulations.**
- 1) A site development plan, prepared in accordance with Section 13-1-72, shall be submitted before a permit can be granted for any expanded or all new use in this District.
  - 2) No outdoor storage of any material shall be permitted in this District except within enclosed containers.

***Section 13-1-49 B-2 Highway Commercial District.***

- a) **Purpose.** The purpose of the B-2 District is to encourage the growth and development of business activities and establishments which require highway frontage and exposure due to their automobile and vehicular orientations.
- b) **Permitted Uses.** All uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article D.
- c) **Conditional Uses.** The following are specific conditional uses in this Chapter:
  - 1) Amusement activities.
  - 2) Automobile and truck retail services.
  - 3) Automobile repair services.
  - 4) Bars and taverns.
  - 5) Candy, nut and confectionery sales.
  - 6) Gasoline service stations.
  - 7) Gift, novelty and souvenir sales.

- 8) Hotels, motels and tourist courts.
  - 9) Night clubs and dance halls.
  - 10) Restaurants.
  - 11) Sales, service and installation of tires, batteries and accessories.
  - 12) Residential dwelling units.
  - 13) Animal hospital shelters and kennels.
  - 14) Yachting clubs and marinas.
  - 15) Public assembly uses.
  - 16) Commercial recreation facilities.
  - 17) Off-season storage facilities.
  - 18) Lodges and fraternal buildings.
  - 19) Nursing homes.
  - 20) Nursery and day care centers.
  - 21) Retirement homes.
  - 22) Drive-in food and beverage establishments.
  - 23) Drive-banks.
  - 24) Drive-in theaters.
  - 25) Vehicle sales and service.
  - 26) Public parking lots.
  - 27) Taxi stands.
  - 28) Sewage disposal plants.
  - 29) Governmental, cultural, and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
  - 30) Utilities.
  - 31) Schools and churches.
  - 32) Mobile home sales.
  - 33) Log stacks are a conditional accessory use in the B-2 District, provided that they are located a minimum of sixty (60) from the center of adjacent public road right-of-ways.
  - 34) Farm implements sales.
  - 35) Other uses similar to or customarily incident to any of the above uses.
- d) **Area, Height and Yard Requirements.**
- 1) **Lot.**
    - a) **Area:** Eight thousand (8,000) square feet.
    - b) **Width:** Minimum sixty (60) feet.
  - 2) **Building Height.** Maximum thirty-five (35) feet.
  - 3) **Yards.**
    - a) **Street:** Minimum forty (40) feet (may include parking)
    - b) **Rear:** Minimum twenty (20) feet.
    - c) **Side:** Minimum twenty (20) feet each side.

***Section 13-1-50 B-3 Business Park District***

- a) **Purpose.** The B-3 Business Park District is established to provide an aesthetically attractive working environment exclusively for and conducive to the development and protection of offices, non-nuisance type manufacturing operations and research and development institutions.
- b) **Permitted Uses.** The following uses of land are permitted in the B-3 District:
  - 1) State-classified manufacturing operations.
  - 2) Warehousing or distribution operations, not including predominantly retail sales to customers on site.
  - 3) Offices of construction firms, shops, display rooms and enclosed storage.
  - 4) Laboratories, research, development and testing, and manufacturing and fabrication in conjunction with such research and development and operations.
  - 5) Service uses, including computer and data processing services, miscellaneous business services, offices (business and professional) and communication services.
  - 6) Telecommunications facilities.
- c) **Conditional Uses.** The following are permitted as conditional uses within the B-3 District:
  - 1) Public utilities and public services.
  - 2) Conference centers and hotel facilities.
  - 3) Ancillary retail sales and service operations that serve employees within the business park.
- d) **Lot, Yard and Building Requirements.**
  - 1) **Lot Frontage:** Minimum one hundred (100) feet.
  - 2) **Lot Area:** Minimum twenty-one thousand seven hundred eighty (21,780) square feet.
  - 3) **Front Yard:** Minimum twenty-five (25) feet.
  - 4) **Side Yard:** Minimum fifteen (15) feet.
  - 5) **Rear Yard:** Minimum thirty (30) feet.
  - 6) **Building Height:** Maximum thirty-five (35) feet.

\*Requirements may be modified by conditional use permit.

- e) **Other Requirements.**
  - 1) No building or improvement shall be erected, placed or altered on any lands in the B-3 District until the plans for such building or improvement including site, landscaping and building plan and specifications, have been approved by the Village Board.
  - 2) Design standards in the B-3 District shall include as a minimum the following standards:
    - a) All uses shall comply with Village performance standards.
    - b) All business, servicing or processing, except off-street parking and loading and outside storage areas regulated by restrictive covenants, shall be conducted within completely enclosed buildings.
    - c) The building coverage on any zoning lot shall not exceed fifty-five percent (55%).

- d) All areas not covered by buildings or parking lots shall be landscaped subject to detail requirements of restrictive covenants.
- e) All zoning lots abutting residentially zoned districts shall be screened.

### ***Section 13-1-51 I-1 Industrial District***

- a) **Purpose.** This District is intended to provide an area for manufacturing, marketing, and industrial and agribusiness activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions, or which for these or other reasons may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.
- b) **Permitted Uses.** The following uses of land are permitted in the I-1 District:
  - 1) Public utilities and public services.
  - 2) Governmental, cultural and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums
  - 3) Schools and churches
- c) **Conditional Uses.** The following are permitted as conditional uses within the I-1 District. Such use shall be subject to the consideration of the Village Board and Plan Commission with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors:
  - 1) Manufacturing establishments, usually described as factories, mills or plants, in which raw materials are transformed into finished products, and establishments engaged in assembling component parts of manufactured products.
  - 2) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
  - 3) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening.
  - 4) Railroads, including rights-of-way, railroad yards, and structures normally incident to the operation of railroad, including station houses, platforms, and signal towers, but not including warehouses owned by companies other than railroad companies or road terminal companies.
  - 5) Wholesale establishments and warehouses.
  - 6) Building construction contractors.
  - 7) Highway passenger and motor freight transportation.
  - 8) Light Industry and Service Uses:
    - a) Automotive body repair

- b) Automotive upholstery
  - c) Cleaning, pressing, dyeing
  - d) Commercial bakeries
  - e) Commercial greenhouses
  - f) Distributors
  - g) Food locker plants
  - h) Printing and publishing
  - i) Trade and contractor's facilities
  - j) Offices
  - k) Painting services
  - l) Retail sales and service facilities such as retail and surplus outlet stores, and restaurants and food service facilities when established in conjunction with a permitted manufacturing or processing facility.
  - m) Recreation vehicle, boat and miscellaneous storage
- 9) Public Facilities and Uses:
- a) Airports, airstrips and landing fields
- 10) Agriculture Related Industry and Service Uses:
- a) Production of natural and processed cheese
  - b) Production of shortening, table oils, margarine and other edible fats and oils.
  - c) Production of condensed and evaporated milk
  - d) Wet milling of corn
  - e) Production of creamery butter
  - f) Drying and dehydrating fruits and vegetables
  - g) Preparation of feeds for animal and fowl
  - h) Pea venteries
  - i) Creameries and dairies
  - j) Production of flour and other grain mill products; blending and preparing of flour
  - k) Fluid milk processing
  - l) Production of frozen fruits, fruit juices, vegetables and other specialties
  - m) Fruit and vegetable sauces and seasoning, and salad dressing preparation
  - n) Production of sausages and other meat products providing that all operations be conducted within an enclosed building.
  - o) Corn shelling, hay baling and threshing services.
  - p) Grist mill services
  - q) Horticultural services
  - r) Canning of fruits, vegetables, preserves, jams and jellies
  - s) Canning of specialty foods
  - t) Grain elevators and bulk storage of feed grains
  - u) Fertilizer production, sales, storage, mixing and blending
  - v) Sales or maintenance of farm implements and related equipment
  - w) Animal hospitals, shelters and kennels
  - x) Veterinarian services
  - y) Sawmills

- d) **Prohibited Uses.**
  - 1) Specifically excluded from this designation and expressly prohibited is any use or business which would create a public nuisance.
  - 2) All residential uses are expressly prohibited.
  - 3) Also specifically excluded and expressly prohibited is any use or business involving the wrecking of automobiles, junk yards, scrap yards, garbage removal or the slaughter of animals or poultry.
- e) **Lot, Yard and Building Requirements.**
  - 1) Lot Frontage. No minimum.
  - 2) Lot Area. Minimum fifteen thousand (15,000) square feet
  - 3) Front Yard. Minimum twenty-five (25) feet
  - 4) Side Yards. Minimum twenty (20) feet\*
  - 5) Rear Yard. Minimum twenty (20) feet\*
  - 6) Building Height. Maximum sixty (60) feet
  - 7) Percentage of Lot Coverage. Maximum seventy percent (70%)

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

### ***Section 13-1-52 A-1 Agricultural Transitional District***

- a) **Purpose.** The A-I Agricultural Transitional District is intended to provide for the continuation of general farming and related uses in those areas of the Village that are not yet committed to urban development.
- b) **Permitted Uses.**
  - 1) General farming, including agriculture, floriculture, forestry, hay, orchards, truck farming and viticulture (grape growing).
  - 2) Forestry, orchards, and truck farming.

- 3) In-season roadside stands for the sale of farm products produced on the premises.
  - 4) Customary home occupations.
  - 5) Woodlots and tree farms.
  - 6) Production of forest crops, including tree plantations.
- c) **Permitted Accessory Uses.**
- 1) Attached or detached private garages and carports accessory to permitted or permitted accessory uses.
  - 2) General farm buildings including barns, silos, sheds, and storage bins.
  - 3) One (1) farm dwelling. The only residences allowed as permitted uses on newly established parcels are those to be occupied by a person who or a family at least one (1) member of which earns a substantial part of his or her livelihood from farm operations on the parcel or is related to the operator of the larger farm parcel from which the new parcel is taken. Preexisting residences located in areas subject to zoning under this Section which do not conform to this paragraph may be continued in residential use. The minimum parcel size to establish a residence or a farm operation is thirty-five (35) acres. No structure or improvement may be built on the land unless consistent with agricultural uses.
  - 4) Private garages and parking space.
  - 5) Private swimming pool and tennis court.
  - 6) Home occupation.
  - 7) Signs as regulated by the Village.
  - 8) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed time necessary for such constructing.
- d) **Conditional Uses.**
- 1) Airports, airstrips and landing fields provided that the site is not less than twenty (20) acres.
  - 2) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
  - 3) Utilities
  - 4) Public and parochial schools provided no building shall be located within fifty (50) feet of any lot line.
  - 5) Churches, including those related structures located on the same site which are an integral part of the church proper, convents or homes for persons related to a religious function on the same site, provided no more than ten (10) persons shall reside on the site and no building shall be located within fifty (50) feet of any lot line.
  - 6) Golf courses, country clubs, tennis clubs or public swimming pools serving more than one (1) family. The principal structure for any of the above listed uses shall be one hundred (100) feet or more from any abutting lot in a Residential District, and accessory structures shall be a minimum of fifty (50) feet from any lot line.
  - 7) Essential service structures, including but not limited to buildings such as telephone exchange stations, booster or pressure-regulating stations, wells, pumping stations, elevated tanks, lift stations and electrical power

substations, provided no building shall be located within ten (10) feet from any lot line of an abutting lot in a Residential District. Prior to granting such permit, it shall be found that the architectural design of service structures is compatible to the neighborhood in which it is to be located and thus will promote the general welfare.

- 8) Hospitals for human care, sanitariums, rest homes, and nursing homes, provided that all structures, except fences, shall be located One hundred (100) feet or more from the lot line of any abutting lot in a Residential District.
  - 9) Cemeteries.
  - 10) Greenhouses and other agricultural uses.
- e) **Lot, Yard and Building Requirements.**
- 1) Lot Frontage. Minimum two hundred (200) feet
  - 2) Lot Area. Minimum two (2) acres
  - 3) Principal Building:
    - a) Front Yard: Minimum eighty (80) feet
    - b) Side Yards: Minimum fifty (50) feet
    - c) Rear Yard: Minimum fifty (50) feet
  - 4) Accessory Building
    - a) Front Yard: Minimum eighty (80) feet
    - b) Side Yards: Minimum forty-five (45) feet
    - c) Rear Yard: Minimum forty-five (45) feet
    - d) Building Height: Maximum thirty-five (35) feet

### ***Section 13-1-53 WP Wellhead Protection Overlay District***

- a) **Purpose.** The users of the public water supply system located in the Village of Adell depend exclusively on ground water for safe drinking water. Certain land use practices and activities can seriously threaten or degrade ground water quality. The purpose of the Wellhead Protection Overlay District is to institute land use regulations and restrictions to protect the Village of Adell municipal water supply and wells, and to promote the public health, safety and general welfare of the residents of the Village of Adell.
- b) **Authority.** These regulations are established pursuant to the authority granted by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added ground water protection to the statutory authorization for municipal planning and zoning in order to protect the public health, safety and welfare.
- c) **Applicability.**
  - 1) The regulations specified in the Wellhead Protection Overlay District shall apply within the Village of Adell limits.
  - 2) No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered, and no development shall commence without full compliance with the terms of this Section and other applicable regulations.

- d) **Definitions.** As used in this Section:
- 1) **Aquifer.** A saturated, permeable, geologic formation that contains and will yield significant quantities of water.
  - 2) **Existing Facilities Which May Cause or Threaten to Cause Environmental Pollution.** Existing facilities which may cause or threaten to cause environmental pollution within the Village of Adell include, but are not limited to, the Department of Natural Resources' draft or current list of Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution, the Department of Commerce list of Underground Storage Tanks (UST), lists of facilities with hazardous, solid waste permits, and any facility which is considered a prohibited use under this Section, all of which are incorporated herein as if fully set forth.
  - 3) **Cone of Depression.** The area around a well, in which the water level has been lowered at least one-tenth (1/10) of a foot by pumping of the well.
  - 4) **Five Year Time of Travel.** The five (5) year time of travel is the recharge area up gradient of the cone of depression; the outer boundary of which it is determined or estimated that groundwater will take five (5) years to reach a pumping well.
  - 5) **Recharge Area.** The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.
  - 6) **Well Field.** A piece of land used primarily for the purpose of locating wells to supply a municipal water system.
  - 7) **Wellhead Protection Overlay District.** Shall be defined to include the following area:

The area of land which contributes water to the well starting at the well and continuing out to a line delineating the five (5) year time of travel to the well. Time of travel delineations must be based on accepted hydro geological research as outlined in the State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2 with Zone boundaries normalized (if practical) to road centerlines, railways, surface water features, the public land survey section lines, 1/2, 1/4, 1/8, or 1/16 section lines and property lines.
  - 8) **Zone of Saturation.** The saturated zone is the area of unconsolidated, fractured or porous material that is saturated with water and constitutes groundwater.
- e) **Supremacy of the District.** The regulations of this overlay district will apply in addition to all other regulations which occupy the same geographic area. The provisions of any zoning districts that underlay this overlay district will apply except when provisions of the Wellhead Protection Overlay District are more stringent.
- f) **Permitted Uses.** Permitted uses within the Wellhead Protection Overlay District are subject to the separation distance requirements set forth in Subsection (g), Separation Distance Requirements, the prohibition of uses,

activities or structures designated in Subsection (h), Prohibited Uses, and include:

- 1) Public and private parks and beaches provided there are no on-site wastewater disposal systems or holding tanks.
  - 2) Playgrounds
  - 3) Wildlife areas and natural areas
  - 4) Trails such as biking, hiking skiing, nature, equestrian and fitness trails
  - 5) Residential which is municipally sewered
  - 6) Agricultural activities which are conducted in accordance with USDA-SCS Wisconsin Field Office Technical Guide Specification 590 nutrient management standards.
  - 7) Commercial establishments which are municipally sewered
- g) **Separations Distance Requirements.** The following separation distances as specified in NR 811.16, Wis. Adm. Code, shall be maintained:
- 1) Fifty (50) feet between a public water supply well and a stormwater sewer main or any sanitary sewer main constructed of water main materials and joints which is pressure tested in place to meet current AWWA C600 specifications.
  - 2) Two hundred (200) feet between a public water supply well and any sanitary sewer main not meeting the above specifications, any sanitary sewer lift station or single-family residential fuel oil tank.
  - 3) Four hundred (400) feet between a public water supply well and a stormwater detention, retention, infiltration or drainage basin.
  - 4) The provisions of NR 811.16(4) (d) 4, 5, and 6, Wis. Adm. Code, are not listed here as uses, activities or structures contained therein are prohibited in the District.
- h) **Prohibited Uses.** The method of regulation by prohibition of certain uses is employed to provide the greatest assurance that inadvertent discharge of pollutants into the groundwater supply will not occur, since such an event would result in almost certain contamination of the public water supply, and costly mitigation or remediation for which liability is difficult or impossible to establish. The prohibited uses, activities or structures for the Wellhead Protection Overlay District include:
- 1) Above and below ground hydrocarbon or petroleum storage tanks.
  - 2) Cemeteries
  - 3) Chemical manufacturers (Standard Industrial Classification Major Group 28).
  - 4) Coal storage
  - 5) Dry cleaners
  - 6) Hazardous, toxic or radioactive materials transfer and storage under Title III or SARA planning.
  - 7) Industrial lagoons and pits
  - 8) Jewelry plating and metal plating
  - 9) Landfills and any other solid waste facility, except post-consumer recycling
  - 10) Machine or metal working shops
  - 11) Manure storage

- 12) Non-metallic earthen materials extraction or sand and gravel pits
- 13) Pesticide and fertilizer dealer, transfer or storage
- 14) Research labs, universities and hospitals
- 15) Railroad yards and maintenance stations
- 16) Rendering plants and slaughterhouses
- 17) Salt or deicing material storage
- 18) Salvage or junk yards
- 19) Seepage or sludge spreading, storage or treatment
- 20) Seepage, waste water, or sewage lagoons
- 21) Septic tanks, holding tanks or other on-site sewage treatment systems
- 22) Stockyards and feedlots
- 23) Stormwater infiltration basins without pre-treatment
- 24) Vehicular services, including filling and service stations, repair, renovation and body working
- 25) Wood preserving

i) **Requirements for Existing Facilities Which May Cause or Threaten to Cause Environmental Pollution.**

- 1) Existing facilities within the Wellhead Protection Overlay District at the time of enactment of such district which may cause or threaten to cause environmental pollution include, but are not limited to, the Wisconsin Department of Natural Resources' draft or current list of Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution, Wisconsin Department of Commerce's list of Underground Storage Tanks, lists of facilities with hazardous, solid waste permits, and all other facilities which are considered a prohibited use in Subsection (h), Prohibited Uses, all of which are incorporated herein as if fully set forth.
- 2) Such facilities as above which exist within the district at the time of enactment of a district shall provide copies of all federal, state and local facility operation approval or certificates and ongoing environmental monitoring results to the Village.
- 3) Such facilities as above which exist within the district at the time of enactment of a district shall provide environmental or safety structures/monitoring to include an operational safety plan, hazardous material containment, best management practices, stormwater runoff management and groundwater monitoring.
- 4) Such facilities as above which exist within the district at the time of enactment of a district shall replace equipment, or expand on the site or property of record associated with the facility at the time of enactment of a district, in a manner that improves the environment and safety technologies already being utilized.
- 5) Such facilities as above which exist within the district at the time of enactment of a district shall have the responsibility to devising, filing and maintaining, with the Village, a current contingency plan which details how they intend to respond to any emergency which occurs at their facility, including notifying municipal, county and state officials.

- 6) Such facilities as above cannot engage in or employ a use, activity, or structure listed in Subsection (h), Prohibited Uses, which they did not engage in or employ at the time of enactment of a district, and can only expand those present uses, activities, or structures on the site or property of record associated with the facility at the time of enactment of a district, and in a manner that improves the environmental and safety technologies already being utilized.
- j) **Conditional Uses.** Any individual, person, partnership, corporation, or other legal entity and/or facility may request that the Village Board grant a Conditional Use Permit for certain uses, activities and structures within the Wellhead Protection Overlay District.
  - 1) All requests shall be made in writing to the Plan Commission and shall include:
    - a) A site plan map with all building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, and two (2) foot ground elevation contours.
    - b) A business plan and/or other documentation which describes in detail the use, activities, and structures proposed.
    - c) An environmental assessment report prepared by a licensed environmental engineer which details the risk to, and potential impact of, the proposed use, activities and structures on groundwater quality.
    - d) An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring.
    - e) A contingency plan which addresses in detail the actions that will be taken should a contamination even caused by proposed use, activities, or structures occur.
  - 2) All Conditional Use Permits granted under this Section shall be subject to conditions that will include environmental and safety monitoring determined necessary to afford adequate protection of the public water supply, and/or bonds and/or sureties satisfactory to the Village. These conditions shall include, but not be limited to:
    - a) Provide current copies of all federal, state and local facility operation approval or certificates and ongoing environmental monitoring results to County Emergency Government and the Village of Adell.
    - b) Establish environmental or safety structures/monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management, and groundwater monitoring.
    - c) Replace equipment or expand in a manner that improves the environmental and safety technologies being utilized.
    - d) Devise, file and maintain a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county and state officials. Provide a current copy to County Emergency Government and the Village of Adell.

- 3) The individual, person, partnership, corporation, or other legal entity and/or facility making the request shall reimburse the Village for consultant fees and Plan Commission expenses associated with this review at the invoiced amount, plus administrative costs.
  - 4) The Village Board shall decide upon a request for a Conditional Use Permit only after full consideration of the recommendations made by the Village Plan Commission. Any condition above and beyond those specified in Subsection (j), Conditional Uses, that are recommendation by the Plan Commission or established by the Village Board may be applied to the granting of the Conditional Use Permit. (See Article D.)
- k) **Violations, Enforcement and Penalties.**
- 1) It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this Section. In case of any violation, the Village Board shall institute appropriate action or proceeding to enjoin a violation of this Section.
  - 2) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Section shall, upon conviction thereof, forfeit to the Village of Adell, a penalty as prescribed in Section 1-1-6. Each and every day of violation shall constitute a separate offense in addition to any penalties. Compliance with this Section is mandatory, and no building, structure or use shall be allowed without full compliance.
  - 3) In the event any individual, person, partnership, corporation, or other legal entity (hereinafter "individual") that owns an Existing Facility Which May Cause or Threaten to Cause Environmental Pollution, or any individual and/or facility possession a Conditional Use Permit under the provisions of Subsection (j), Conditional Uses, and that individual/facility causes, or is the site of, the release of any contaminants which endanger the municipal water supply associated with a Wellhead Protection Overlay District, the activity causing said release shall immediately cease and a cleanup satisfactory to the Village shall occur.
  - 4) The individual/facility shall be responsible for all cost of cleanup, Village consultant or outside contractor fees, fees at the invoice amount plus administrative costs for oversight, review and documentation, plus the following:
    - a) The cost of Village employees' time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the Village representing the Village's cost for expenses, benefits, insurance, sick leave, holidays, workman's compensation, holidays, overtime, vacation, and similar benefits.
    - b) The cost of Village equipment employed in the cleanup.
    - c) The cost of mileage incurred on Village vehicles used in any activity related to the cleanup, or of mileage fees reimbursed to Village employees attributed to the cleanup.

## ***Section 13-1-54 AEO Adult Entertainment Overlay District***

### **a) Authority.**

- 1) The Village Board has authority, to be liberally construed in favor of the Village, under its general police powers set forth in Ch. 61, Wis. Stats., to act for the good order of the municipality and for the health, morals, safety and welfare of the public; and may carry out its powers by regulation and suppression; and
- 2) The Village Board recognizes it lacks authority to regulated obscenity under Sec. 66.0107(3), Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing secondary effects of non-obscene, erotic dancing in bars and taverns; and
- 3) Adult establishments in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and
- 4) The Village Board recognizes the U.S. Supreme Court has held that material with adult content is within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and
- 5) However, the Village Board is aware, based on the experiences of other communities, that adult establishments may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Adell; and
- 6) Among these secondary effects are:
  - a) The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
  - b) The potential depreciation of property values in neighborhoods where adult establishments featuring nude dancing exist;
  - c) Health risks associated with the spread of sexually transmitted diseases; and
  - d) The potential for infiltration by organized crime for the purpose of unlawful conduct; and
- 7) The Village Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Village of Adell; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and

- 8) The Village Board has determined that the enactment of a zoning ordinance provision allowing adult establishments viable areas in which to exist within the Village while keeping those adult establishments separated from each other, residential areas, schools, churches, day care centers, or bars or taverns, promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such adult establishments.
- b) **Purpose.** The purpose of the AEO Adult Entertainment Overlay District is to create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments an opportunity to operate within the Village.
- c) **Definitions.** For purposes of this District, the following definitions shall be applicable:
  - 1) **Adult Establishment.** Shall include, adult book stores, adult motion picture theaters, adult novelty stores, and further means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display of specified sexual activities or specified anatomical areas.
  - 2) **Adult Bookstore.** An establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, videocassettes, magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
  - 3) **Adult Entertainment.** Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.
  - 4) **Adult Motion Picture Theater.** Any establishment for the presentation of motion pictures that as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, or specified anatomical areas for observations by patrons therein.
  - 5) **Adult Novelty Store.** Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
  - 6) **Specified Anatomical Areas.** Means either:

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

## **Section 13-1-55 E-1 Mineral Extraction or Landfill Overlay District**

- a) **Purpose.** The intent of this District is to provide a means of properly siting, regulating and reclaiming mineral extraction and landfill sites.
- b) **Conditional Uses.** Conditional uses in the District shall include all conditional uses listed in the underlying district. Conditional use procedures, as described in Article D, shall be adhered to as well as the requirements of this Section, with the more restrictive provision being applicable. In addition, the following are permitted conditional uses:
  - 1) Extension of legally existing mineral extraction operation or the creation of a new such extraction operation.
  - 2) New mineral extraction operations and the following: Landfills; solid waste management facilities, recycling centers; bio-remediation sites; and soil extraction or scraping for purposes of obtaining fill material for such large scale operations as landfill sealing, roadbed construction, etc; or similar uses. These uses shall be a conditional use in all zoning districts except in Residential Districts.
- c) **Basic District Standards.**
  - 1) **Basic Standards.** The basic standards in this District shall be controlled by those of the underlying district unless more restrictive standards are established in the conditional use approval. Also, excavations or fill areas within two hundred (200) feet from any right-of-way or property line shall not be permitted unless the Village Board determines that the operational plans adequately provide for:
    - a) Safety of abutting land uses and for safe ingress to, egress from and traffic flow past the site.
    - b) Aesthetic screening from abutting properties
    - c) Dust control from the operation and/or any stockpiling
    - d) Staging of the operation to produce a minimal time frame between commencing of operations and restoration within this two hundred (200) foot area.
  - 2) **Permit Validity; Operational Requirements.** The conditional use permit shall be in effect for a period not to exceed one (1) year and may be renewed upon application for a period not to exceed one (1) year; a shorter period may be established by Village Board action. There shall be an annual fee as prescribed by Section 1-3-1 for such permit. Modifications or additional conditions may be imposed upon application for renewal. Operational requirements shall include the following where applicable, and all require Village Board approval:
    - a) Fencing or other suitable barriers shall be erected as necessary to protect the public,
    - b) Machinery, roads and equipment used in the extractive operation shall be constructed, maintained and operated in such a manner as to minimize dust.

- c) Crushing, washing, refining or other processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit.
  - d) Planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Village and other applicable agencies.
  - e) Hours of operation may be established and enforced by the Village Board.
  - f) Other requirements deemed necessary by the Village Board.
- 3) **Plan of Reclamation.** A reclamation plan meeting the standards of NR 135, Wis. Adm. Code, shall be submitted and approved by all applicable agencies and the Village Board.
- d) **Renewal Permit.** Within one year after the original enactment date of this Section, any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this Section.
- e) **Plan of Operation.** All mineral extraction operations including those operations and activities which lawfully existed prior to the original adoption of this Section shall prepare a plan of operation for the site which shall include the following information:
- 1) Statement of ownership of the parcel and control of the operations
  - 2) A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right-of-way on or abutting the site; existing water bodies, water courses and drainage ways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.
  - 3) Cross sections of the site, drawn to scale, showing the vertical extent of existing and proposed excavations
  - 4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
  - 5) Methods of screening from adjacent properties and proximity to adjacent properties.
  - 6) Hours of operation and, if applicable, a phasing plan for future operations.
  - 7) Dust and noise control.
  - 8) Maximum depth.
  - 9) Blasting procedures.
  - 10) Location and height of stockpiles.
  - 11) Such other information the Village Board deems pertinent to the operation.
- f) **Gravel Crushing; Permit Required.** In addition to all other conditional use permit and other requirements prescribed in this Section, an annual permit is required for the placement or operation at any mineral extraction site of any portable or fixed gravel crushing equipment. Such gravel crushing operation permit shall be valid for one (1) year; the Village Board may attach

reasonable conditions to such permit. The annual fee for the permit shall be as prescribed in Section 1-3-1.

- g) **Definitions.** As used in this Section:
- 1) **Environmental Pollution.** Has the meaning specified under Sec. 144.01(3), Wis. Stats.
  - 2) **Nonmetallic Mining or Mineral Extraction Operation.** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
  - 3) **Nonmetallic Mining or Mineral Extraction Refuse.** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining or mineral extraction operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining or mineral extraction operation.
  - 4) **Nonmetallic Mining or Mineral Extraction Site.** The location where a nonmetallic mining or mineral extraction operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the mineral extraction operation by activities such as the construction or improvement of roads or haulage ways.
  - 5) **Operator.** Any person who is engaged in a mineral extraction operation or mineral extraction site reclamation or who applies for or holds a nonmetallic mining permit issued under this mineral extraction reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
  - 6) **Reclamation.** The rehabilitation of a mineral extraction site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
  - 7) **Replacement of Topsoil.** The replacement of the topsoil which was removed or disturbed by a mineral extraction operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.
- h) **Exempt Activities.** The reclamation of sites within this District shall not apply to the following activities:
- 1) Excavations or grading be a person solely for domestic use at his/her residence.

- 2) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
  - 3) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
  - 4) Excavations for building construction purposes.
  - 5) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94 Wis. Stats.
  - 6) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.
- i) **Financial Assurance.** Before rezoning and a reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- 1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board.
  - 2) Guaranteed completion of the required reclamation within a period determined by the Village Board.
  - 3) Payment by the operator for all costs incurred by the Village for review and inspection. This would include preparation and review of plans and specifications by the Village Engineer and Attorney, as well as other costs of a similar nature.
  - 4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
  - 5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the Village Engineer's estimated cost of the required improvements.
  - 6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Village Board, at its option, may extend the bond period for additional periods.
- j) **Fences.** Prior to reclamation, mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- k) **Inspection.** An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.0119, Wis. Stats., in order to inspect

those premises and to ascertain compliance with this nonmetallic mining reclamation Section.

- l) **Prohibitions and Orders.** Mineral extraction mining operations within the Village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Section or if other requirements of this Section are not met.

*State Law Reference: NR 135 Wis. Adm. Codes.*

**Sections 13-1-56 through 13-1-59 Reserved for future use.**

## **Article D: Conditional Uses**

### ***Section 13-1-60 Statement of Purposes – Conditional Uses***

The development and execution of this Article is based upon the division of the Village of Adell into districts, within which districts the use of land and buildings, and build and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

### ***Section 13-1-61 Authority of the Plan Commission and Village Board; Requirements***

- a) A Conditional Use Permit may be issued by the Zoning Administrator only after approval by the Village Board. Before consideration by the Village Board, applications for Conditional Use Permits shall be reviewed by the Plan Commission in accordance with the procedures of this Chapter.
- b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The applicant shall request such review. Action by the Village shall await the highway agency's recommendation. If the highway agency

*Section 13-1-61 Authority of the Plan Commission and Village Board; Requirements*

has not provided a recommendation within twenty (20) days after request, the Village may proceed to act on the application.

- c) Conditions such as duration of the Conditional Use Permit, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board.
- d) Compliance with all other provisions of this Code of Ordinances shall be required of all conditional uses.

***Section 13-1-62 Initiation of Conditional Use***

Any person, firm, corporation or organization having an ownership interest in land in the Village may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

***Section 13-1-63 Application for Conditional Use***

An application for a conditional use shall be filed on a form prescribed by the Village, with fee payment as prescribed in Section 1-3-1. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter. The Village Board or Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

***Section 13-1-64 Hearing on Application***

All applications for conditional uses shall be filed with the Village Clerk-Treasurer. The Village Board may impose, or the Plan Commission may recommend, on its own motion, conditional uses when applications for rezoning come before it. All applications for conditional uses shall be referred to the Plan Commission for review and recommendation before action is taken thereon by the Village Board. Upon receipt of the Plan Commission's recommendation, the Village Board shall

hold a public hearing on each application for a conditional use at such time and place as shall be established by the Board. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Board shall, by rule, prescribe from time to time.

### ***Section 13-1-65 Notice of Hearing on Application; Determination***

- a) Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wisconsin Statutes in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within three hundred (300) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing.
- b) The Plan Commission shall report its action to the Village Board within forty-five (45) days after a matter has been referred to it, after which the Village Board shall take formal action.

### ***Section 13-1-66 Standards – Conditional Uses***

- a) **Standards.** No application for a conditional use shall be granted by the Village Board or recommended by the Plan Commission unless the Village Board or Plan Commission shall find all of the following conditions are present:
  - 1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
  - 2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
  - 3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - 4) That adequate utility, access roads, drainage and other necessary site improvements have been or are being provided.
  - 5) That adequate measure has been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
  - 6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.

- 7) That the proposed use does not violated flood plain regulations governing the site.
  - 8) That adequate measure has been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- b) **Application of Standards.** When applying the above standards to any new construction of a building or an addition to an existing building, the Village Board or Plan Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- c) **Additional Considerations.** In addition, in passing upon a Conditional Use Permit, the Village Board or Plan Commission shall also evaluate the effect of the proposed use upon:
- 1) The maintenance of safe and healthful conditions.
  - 2) The prevention and control of water pollution including sedimentation.
  - 3) Existing topographic and drainage features and vegetative cover on the site.
  - 4) The location of the site with respect to floodplains and floodways of rivers and streams.
  - 5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
  - 6) The location of the site with respect to existing or future access roads.
  - 7) Its compatibility with uses on adjacent land.
  - 8) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

### ***Section 13-1-67 Conditions and Guarantees***

The following conditions shall apply to all conditional uses:

- a) **Conditions.** Prior to the granting of any conditional use, the Plan Commission may recommend and the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Village shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:
- 1) Landscaping
  - 2) Type of construction
  - 3) Construction commencement and completion dates
  - 4) Sureties
  - 5) Lighting
  - 6) Fencing

- 7) Dust control
  - 8) Hours of operation
  - 9) Traffic circulation
  - 10) Deed restrictions
  - 11) Access restrictions
  - 12) Setbacks and yards
  - 13) Noxious odor
  - 14) Specified sewage disposal and water supply systems
  - 15) Planting screens
  - 16) Noise limitations
  - 17) Increased parking
  - 18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- b) **Site Review.** In making its recommendation, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
  - c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Village Board, following review by the Plan Commission.
  - d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Village Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
  - e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

### ***Section 13-1-68 Validity of Conditional Use Permit***

Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within twenty-four (24) months of the date of the approval unless the use is commenced or construction is underway. Forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Village Board may extend such permit for a period of ninety (90)

days for justifiable cause, if application is made to the Village at least thirty (30) days before the expiration of said permit.

### ***Section 13-1-69 Complaints Regarding Conditional Uses***

The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Village Board may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefore.

### ***Section 13-1-70 Bed and Breakfast Establishments***

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

## ***Section 13-1-71 Home Occupations/Professional Home Offices***

- a) **Intent.** The intent of this Section is to provide a means to accommodate a small family home-based business or professional home office as a conditional use without the necessity of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- b) **Restrictions on Home Occupations/Professional Home Office.** Except as provided in Subsection (c) below, home occupations and professional home offices are a permitted use in all Residential Districts and are subject to the requirements of the District in which the use is located, in addition to the following:
- 1) The occupation or profession shall be carried on wholly within the enclosed areas of the principal building or other structure accessory thereto, but it shall utilize no more than forty percent (40%) of the gross floor area of the building.
  - 2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
  - 3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation/profession shall be visible outside any structure located on the premises. There shall not be outside storage of any kind related to the home occupation/profession.
  - 4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
  - 5) Only one (1) sign may be used to indicate the type of occupation or business as allowed by Article G of this Chapter. Such sign shall not be illuminated and shall comply with district sign regulations.
  - 6) The home occupation shall not involve the use of commercial vehicles, other than those owned by the applicant for delivery of products or materials to and from the premises. This shall not be interpreted to include delivery and/or pickup services such as United Parcel Service, Federal Express, etc., in the conduct of their normal operations.
  - 7) No traffic shall be generated by such home occupation/profession in greater volumes than would normally be expected in a residential neighborhood.
  - 8) There shall be no demand for parking beyond that which is normal to the neighborhood. In no case shall the home occupation cause more than two (2) additional vehicles to be parked on or near the premises.
  - 9) The home occupation is restricted to a service-oriented business; the manufacturing of items or products or the retail sale of items or products on the premises is prohibited.

10) The types and number of equipment or machinery may be restricted by the Village Board.

c) **Permitted Home Occupations/Professions.** Permitted home occupations/professions include, but are not necessarily limited to, the following examples:

- 1) Artists or sculptors
- 2) Authors or composers
- 3) Home crafts such as model making, rug weaving and cabinet making
- 4) Office facility of a minister, rabbi, or priest
- 5) Office facility of an attorney, architect, professional engineer, surveyor, landscape architect, insurance agent or real estate agent
- 6) Private tutoring limited to three (3) pupils at any one time
- 7) Musical instruction limited to two (2) pupils at a time
- 8) Dressmaking or tailoring
- 9) Computer-oriented support services, such as consulting, clerical services, claims processing, internet-related businesses, etc.

d) **Home Occupations/Professions Not Permitted.** The following uses, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations/professions and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, home occupations not permitted include, but are not necessarily limited to, the following:

- 1) Tattoo parlors
- 2) Antique shops
- 3) Stables and kennels
- 4) Automobile repair or body/paint work

**Sections 13-1-72 through 13-1-79 Reserved for future use.**

## **Article E: Nonconforming Uses, Structures and Lots**

### ***Section 13-1-80 Existing Nonconforming Uses***

- a) **Continuation.** Except as otherwise specially provided in this Chapter, the lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter, provided however:
- 1) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this Chapter.
  - 2) The total lifetime structural repairs or alterations shall not exceed fifty percent (50%) of the assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this Chapter.
  - 3) Substitution of new equipment may be permitted by the Village Board if such equipment will reduce the incompatibility of the nonconforming use with the neighboring use.
- b) **Abolishment or Replacement of Existing Nonconforming Use.** Abolishment or Replacement of Existing Nonconforming Use. If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land or water shall conform to the provisions of this Chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than fifty percent (50%) of its current assessed value, it shall not be restored except so as to comply with the use provisions of this Chapter. From the date of adoption of this Chapter, a current file of all nonconforming uses shall be maintained by the Zoning Administrator, listing the following:
- 1) Owner's name and address
  - 2) Use of the structure, land or water
  - 3) Assessed value at the time of its becoming a nonconforming use

### ***Section 13-1-81 Existing Nonconforming Structures***

The lawful nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Chapter. However, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.

### ***Section 13-1-82 Changes and Substitutions***

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

### ***Section 13-1-83 Pre-Existing Substandard Lots***

In any residential district, structures may be erected on any legal lot of record prior to the original effective date of this Zoning Chapter provided that the area, the width and the depth of such existing lot shall be no less than seventy-five percent (75%) of the required minimums set forth in this Chapter. No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this Chapter.

### **Section 13-1-84 through 13-1-89 Reserved for future use**

## Article F: Traffic Visibility, Loading, Parking and Access

### Section 13-1-90 Traffic Visibility

- a) No obstructions, such as structures, parking or vegetation, shall be permitted in any district between the heights of two and one-half (2-1/2) feet and ten (10) feet above the plane through the mean curb grades within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from edge of pavement.
- b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

### Section 13-1-91 Loading Requirements

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

Gross Floor Area of Building In Square Feet	Number of Spaces
5,000 to 24,999	1
25,000 to 49,999	2
50,000 to 99,000	3
100,000 to 174,999	4
175,000 to 249,999	5

For each additional 75,000 square feet (or fraction thereof) of gross floor area, one (1) additional loading and unloading space shall be provided.

- b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, the off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- c) **Location.** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street. Each loading and unloading space shall have access to a public dedicated street or alley or

other approved access. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

- d) **Design Standards.** Each off-street loading space shall have a width of at least twelve (12) feet, a length of at least forty (40) feet, and a vertical clearance of at least fifteen (15) feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to ten (10) feet in width, twenty-five (25) feet in length, and eight (8) feet in vertical clearance. All loading berths shall be completely screened from residential properties by building walls or a uniformly painted solid fence, wall or door, or any combination thereof, not less than eight (8) feet in height.
- e) **Surfacing.** Surfacing. All open off-street loading berths shall be improved with a compacted gravel base, not less than seven (7) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.
- f) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any Residence District.
- g) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- h) **Central Loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:
  - 1) Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.
  - 2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
  - 3) No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.

### ***Section 13-1-92 Parking Requirements***

All new parking lots and all alterations of existing lots shall be subject to the approval of the Village Board, after a recommendation from the Plan Commission. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts there shall be provided at the time of any use or building is erected, enlarged, extended or increased off-street parking stalls for all vehicles in accordance with the following:

- a) **Access.** Adequate access to a public street or other approved access shall be provided for each parking space.

- b) **Design Standards.** Each required off-street parking space shall have a stall width of at least nine (9) feet and a stall length of at least eighteen (18) feet. Such space shall have a vertical clearance of at least six and one-half (6-1/2) feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Aisles shall be not less than twenty-four (24) feet wide for ninety (90) degree parking, eighteen (18) feet wide for sixty (60) degree parking, fifteen (15) wide for forty-five (45) degree parking (angle shall be measured between centerline of parking space and centerline of aisle), and twelve (12) feet wide for parallel parking. For parallel parking, the minimum length of the parking space shall be increased to twenty-three (23) feet. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five (5) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.
- c) **Location.**
- 1) Locations to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
  - 2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than ten (10) feet to a side lot line, right-of-way line or rear lot line, without prior Village Board approval under Section 13-1-174 [a five (5) foot minimum shall be maintained under any circumstance.]
  - 3) Off-street parking in the single-family and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to the requirements in Sections 6-3-1 and 6-3-2. Parking stalls for single- and two-family residences may be place one behind the other.
- d) **Surfacing.** All open off-street parking areas, except a single parking space accessory to a single-family dwelling, shall be surfaced with a dustless all-weather material as per Village Engineering specifications. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.
- e) **Landscaping Requirements.**
- 1) **Landscaping.** All public and private off-street parking areas which serve five (5) vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Code shall be provided with accessory landscape areas totaling not less than ten percent (10%) of the surfaced area. The minimum size of each landscape area shall not be less than one hundred (100) square feet.
  - 2) **Location.** Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Village Board.
  - 3) **Plans.** All plans for such proposed parking areas, at the discretion of the Village Board, shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The

preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.

- 4) **Special Residential Requirements.** Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density, or other effective means, built and maintained a minimum height of five (5) feet from said lot line. Said fence shall be located a minimum of three (3) feet from the said lot line.
- 5) **Street Setback Area.** No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
- 6) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in association with unenclosed parking facilities provided in residence districts.
- 7) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) foot candles measured at the lot line.
- f) **Curbs and Barriers.** Curbs or barriers shall be installed a minimum of four (4) feet from a property line so as to prevent the parked vehicles from extending over any lot lines.
- g) **The Following Guide Specifies the Minimum Number of Parking Spaces Required.** The reference herein to “the work shift with the largest number of employees” means the maximum number of full-time or part-time employees present at the facility at any one (1) time. For example, the largest work shift may be a particular day of the week, or a lunch or dinner period in the case of a restaurant. The reference herein to “maximum capacity” means the maximum number of persons which may be accommodated by the use as determined by its design or by applicable building code regulations, whichever is greater. In the case of structures or uses not specified herein, the number of spaces specified for a use which is similar shall apply. In developments involving the establishment of two (2) or more uses on one (1) lot or parcel, the number of spaces required for each use shall determine the total number of spaces required.
  - 1) **Residential Uses.**
    - a) Single-family, two-family and multiple-family dwelling – two (2) spaces per dwelling unit.
    - b) Mobile homes – two (2) spaces per unit.
    - c) Housing for the elderly – 0.75 space per dwelling unit.
  - 2) **Retail Sales and Customer Service Uses, and Places of Entertainment,** except as specifically set forth below: One (1) space per one hundred fifty (150) square feet of gross floor area of customer sales and service, plus one (1) space per two hundred (200) square feet of

storage and/or office gross floor area, or if the use has at least eighty thousand (80,000) square feet of gross floor area, one (1) space per two hundred (200) square feet of gross floor area. Other retail sales and customer service uses and places of entertainment:

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

(including salespersons) for the work shift with the largest number of employees.

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

**5) Industrial and Related Uses.**

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

**6) Institutional and Related Uses.**

- a) Churches: One (1) space per three (3) seats based on the maximum capacity of the facility.
- b) Libraries: One (1) space per two hundred fifty (250) square feet of gross floor area or one (1) space per four (4) seats of maximum capacity, whichever is greater, plus one (1) space per employee for the work shift with the largest number of employees.
- c) Museums: One (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee for the work shift with largest number of employees.
- d) Rooming and boarding houses, fraternity and sorority houses, dormitories and rectories: One (1) space per bed.
- e) Convents and monasteries: One (1) space per three (3) residents, plus one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per five (5) chapel seats of the public may attend.
- f) Nursing homes: One (1) space per three (3) patient beds, plus one (1) space per employee for the work shift with the largest number of employees.
- g) Hospitals: Two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee for the work shift with the largest number of employees.
- h) Schools:
  - (1) Elementary schools and high schools: One (1) space for each teacher and staff member, plus one (1) space for each ten (10) students sixteen years of age and older.
  - (2) Colleges, universities and trade schools: One (1) space for each teacher and staff member during the highest class attendance period, plus one (1) space per two (2) students during the highest attendance period.
  - (3) Children's nursery schools or day schools: One (1) space per employee for the work shift with the largest number of employees,

plus one (1) space per six (6) students at the highest class attendance period.

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

- ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the Village Attorney.
- 2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance of the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.
  - 3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
  - 4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

### ***Section 13-1-93 Storage and Parking of Recreational Vehicles***

- a) **Definition.** For the purpose of this Ordinance, a recreational vehicle shall include, but not limited to, boats including a trailer, motor homes, motor coaches, pop-up campers, camping trailers, travel trailers, fifth wheel trailers, large utility trailers, race cars, snowmobiles, jet skies, all-terrain vehicles, sports aircraft, canoes, kayaks, tent campers, folding camper, utility trailers, carnival equipment, cases or boxes used to transport recreational vehicles or equipment, and similar vehicles and equipment. While a boat or similar recreational vehicle is atop of a trailer, the trailer shall not count as an additional vehicle.
- b) **General Rules.**
  - 1) A recreational vehicle shall be located not closer than five (5) feet to any lot line (front, side and rear lot lines) and 5 feet to an alley right-of-way line.
  - 2) The recreational vehicle shall be maintained and be in good condition and safe for effective performance for the function for which it was intended. The exterior of the vehicle shall be intact.
  - 3) Recreational vehicles shall be roadworthy or readily transportable. Vehicles that require a license shall be properly licensed.
  - 4) No recreational vehicle or equipment shall be parked or stored in any open space outside a building unless such vehicle or equipment is wholly owned by the property owner who shall be in residence at the property in question. If the property is rented, such parking or storage shall be permitted for the tenant only provided that such vehicle or equipment is owned by the tenant and permission has been granted by the landlord.
  - 5) All parking or storage of recreational vehicles or equipment may be required to be located on an improved surface such as gravel, concrete, or asphalt.
  - 6) All recreational vehicles and equipment shall be parked or stored as inconspicuously as possible on the property. The area around the vehicle

or equipment shall be kept free of weeds and accumulation of other storage material. NOTE: if said area is not properly maintained, the Village may order the removal of such vehicle or equipment, or the placement of an improved surface as stated.

- 7) The recreational vehicle or equipment shall not be parked more than 6 months in the same location.
- 8) The body of the recreation vehicle or boat must be at least fifteen (15) feet from the face of any curb.
- 9) Parking is permitted only for storage purposes. Recreational vehicles shall not be:
  - a) Used for dwelling purposes, except for overnight sleeping for a maximum of ten (10) days in any one calendar year. Cooking is not permitted at any time.
  - b) Permanently connected to sewer lines, water lines or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
  - c) Used for storage of good, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- c) **Outside Parking or Storage of Recreational vehicles and equipment for longer than 24 hours is subject to the following provisions:**
  - 1) No more than 2 recreational vehicles shall be parked or stored outside a fully enclosed structure in any yard area on the lot.
  - 2) Additional recreational vehicles and equipment shall be parked or stored on the lot only within a fully enclosed structure.
  - 3) No recreational vehicle shall be parked or stored in the front yard except in the driveway serving the residence.
- d) **Parking or Storage of Additional Vehicles.** The Planning Commission and Village Board may, by conditional use permit, permit the outdoor parking or storage of more than 2 recreational vehicles or alter other criteria as specified within this Ordinance when it determines that the lot is large enough to accommodate such additional vehicles; when such recreational vehicles are appropriately screened from view by neighboring properties; and when the Village Board determines that the recreational vehicle parking or storage will not adversely affect the use and enjoyment of neighboring properties. Parking or storage of recreational vehicles shall be limited to recreational vehicles owned and used by the property owner or tenant.

### ***Section 13-1-94 Outside Storage of Vehicles over 12,000 pounds, Machinery, Equipment and other Miscellaneous Vehicles***

No person, firm or corporation shall park, keep or maintain (or allow to be parked, kept or maintained) outside on properties and/or streets zoned as residential or multiple residential dwellings, the following types of vehicles, machinery or

equipment; semi-tractors and/or trailers, landscaping equipment, dump trucks, tractors, agricultural equipment (such as farm tractors, plows, farm plows, seeders, combines, cultivators, accessories, trucks owned and used by the farmer in the operation of the farm, etc.), ~~Semi-tractors and/or trailers, landscaping equipment, dump trucks,~~ auto wreckers, road machinery, school buses, passenger coaches and other vehicles, **machinery, or equipment** of similar size which are not included in definition of recreational vehicles under section 13-1-93.

**Sections 13-1-95 through 13-1-99 Reserved for future use.**

## **Article G: Signs, Canopies, Awnings and Billboards**

### ***Section 13-1-100 Purpose of Sign, Canopy and Awning Regulations***

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

### ***Section 13-1-101 Signs, Canopies, Awnings and Billboards – Definitions***

- a) The following definitions are used in this Article: (Note: Not all types of signs defined herein are permitted under this Article):
- 1) **Abandoned Sign.** A sign which no longer correctly advertises a bona fide business, owner, landlord/tenant, product or activity conducted, or product available on the premises where the sign is displayed or elsewhere.
  - 2) **Animated Sign.** Any sign or part of a sign which changes physical position by movement or rotation, or gives the illusion of such change of physical position.
  - 3) **Area of Copy.** The entire area within a single continuous perimeter composed of squares or rectangles which encloses the extreme limits of an advertising message, announcement, or decoration.

- 4) **Area of Sign.** The area is the perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface.
- 5) **Awning.** A movable hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure. For purposes of this Article, an "awning sign" is any awning. Decorative awnings without lettering or imagery are not considered signs.
- 6) **Banner.** A banner sign is generally constructed of a flexible non-rigid material (i.e. canvas, cloth, plastic, etc.) upon which goods, events or advertising has been placed, mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
- 7) **Billboard.** A flat surface, as of a panel, wall or fence on which signs are posted advertising foods, products, facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.
- 8) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.
- 9) **Building Front.** The horizontal, linear dimension of that side of a building which faces a street, a parking area, a mall, or other circulation area open to the general public; and having either a main window display of the enterprise or a public entrance to the building. (In industrial districts a building side with an entrance open to industrial employees also shall qualify as a building front.)
- 10) **Bulletin Board.** A sign used for the purpose of notification to the public of an event or occurrence of public interest, such as a church service, political rally, civic meeting or other similar event.
- 11) **Canopy.** Any structure of canvas, other fabric, plastic, metal or wood or other material, which is permanently attached to any exterior building wall in any manner, intended to shield any wall, window, door, sidewalk or roadway from sun, rain or any other element, and which is not retractable such as an awning.
- 12) **Canopy Sign.** Any sign attached to or constructed in, on or under a canopy for the purpose of this Article, canopy signs shall be controlled by the rules governing projecting signs.
- 13) **Changeable Message Sign.** A sign such as a manual, electronic or electric controlled time and temperature sign message center, or reader board, whether electronic or manual, where copy changes. Any sign may be, or include as part of it, a changeable message sign.
- 14) **Copy Area.** The geometric area in square feet that encloses the actual copy message of the sign.

- 15) **Directional Sign.** Any sign that directs the movement or placement of pedestrian or vehicular traffic on a lot and does not contain any advertising copy.
- 16) **Directly Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
- 17) **Directory Sign.** Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories. Directory signs shall be encouraged for use with advertising of multiple-occupied commercial and industrial buildings.
- 18) **Display Surface or Face.** The display surface is the area made available by the sign structure for the purpose of displaying the advertising message, or which is intended to draw attention to the advertising message.
- 19) **Distance of Sign Projection.** The distance from the exterior wall surface of the building to the outer extremity of a sign attached to a building.
- 20) **Electric Sign.** Any sign containing internal electrical wiring which is attached, or intended to be attached, to an electrical energy source.
- 21) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.
- 22) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- 23) **Flat Sign/Flush Mounted.** See definition for "Wall Signs."
- 24) **Freestanding (Ground and/or Pylon Sign).** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
- 25) **Grade.** The elevation or level of the sidewalk closest to the sign to which reference is made. If no sidewalk is present, then grade shall be defined as the elevation or level of the street at the same point, measured at the street's centerline.
- 26) **Gross Area.** The area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas will be totaled. If the modules are formed in the shape of letters or symbols, the rules for Area of Copy apply.
- 27) **Ground Sign.** A sign supported by poles, uprights or braces extending from the ground or an object on the ground but not attached to any part of any building. Also known as a "freestanding sign."
- 28) **Height of Sign.** The vertical distance measured from the mean centerline street grade to the highest point of the sign. If sign and sidewalk are not in essentially parallel planes, then measured vertically at the horizontal midpoint of the sign.

- 29) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.
- 30) **Illuminated Awning.** An internally illuminated awning fabricated from a translucent material, or one which is back lighted as to appear to illuminate the awning sign. An illuminated awning may be used for an awning sign when other requirements are met.
- 31) **Illuminated Canopy.** An internally illuminated canopy or one which is back lighted as to appear to illuminate the canopy sign.
- 32) **Illuminated Sign.** A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.
- 33) **Indirectly Illuminated Sign.** A sign that is illuminated from a source outside of the actual sign.
- 34) **Joint Identification Sign.** A sign which serves a common or collective identification for two or more businesses or industrial uses on the same lot. Such sign may contain a directory to said uses as an integral part thereof.
- 35) **Legal Non-Conforming Sign.** Any sign which was already in existence and displayed on the effective date of this Article, which met code requirements when originally installed, but not meeting the requirements and limitations of this Article.
- 36) **Marquee.** A permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.
- 37) **Marquee Sign.** Any sign attached to or constructed in a marquee.
- 38) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.
- 39) **Off-Premises Third Party Sign.** Any sign, device or display which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the sign is located.
- 40) **On-Premises Sign.** A sign identifying or advertising a business, person, activity, goods, products or services located on a premise where the sign is installed and maintained.
- 41) **Painted Wall Signs.** Signs painted directly onto a building wall.
- 42) **Political Sign.** Any sign displaying a candidate for an election, or a current referendum's or election's subject matter.
- 43) **Portable Sign/Message Boards.** Any sign not permanently attached to the ground or a building which is designed to be easily moved from one location to another.
- 44) **Projecting Sign.** A sign other than a wall sign which projects from a wall or roof and is supported by a wall or roof of a building. (See "Wall Sign".)
- 45) **Pylon Sign.** Any freestanding sign mounted on a pole or other pylon.
- 46) **Real Estate Sign.** Any sign which are used to offer for sale, lease or rent the property upon which the sign is placed.

- 47) **Roof Line.** The highest point on any building where an exterior wall encloses usable floor area including roof area provided for housing mechanical equipment.
- 48) **Roof Sign.** A sign erected upon or above the roof line or parapet of the building or structure.
- 49) **Sandwich Sign.** A hinged or unhinged A-frame portable sign which are generally temporary in nature and placed near the roadway.
- 50) **Sign.** Any object or device or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs; symbols, fixtures, colors, motion, illumination or projected images.
- 51) **Sign Contractor.** Any person, partnership or corporation engaged in whole or in part, in the business of erection or maintenance of signs, excluding the business which the sign advertises.
- 52) **Sign Inspector.** That person charged with the responsibility to see that signage in the community is installed and maintained in compliance with this Article. In the Village of Adell, the Sign Inspector will be the Zoning Administrator or Building Inspector.
- 53) **Sign Permit.** A building permit issued for the erection, construction, enlargement, alteration, moving, improvement, removal, conversion or demolition of any sign, issued pursuant to this Article and the Building Code of the Village of Adell.
- 54) **Sign Structure.** Any supports, uprights, braces and framework of the sign which does not include any portion of the sign message.
- 55) **Subdivision Identification Sign.** A sign identifying a subdivision wherein only the name of the subdivision is specified.
- 56) **Swinging Sign.** A sign installed on an arm or mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole to limit or prevent free swinging.
- 57) **Temporary Sign.** Any sign which is erected or displayed for a limited period of time not to exceed thirty (30) consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed thirty-two (32) square feet in area. Examples of temporary signs include banners and decorative-type displays. For purposes of this Article, a portable sign is not a temporary sign.
- 58) **Time and Temperature Sign.** An electrically controlled sign displaying time and temperature for public service information and may be incorporated into a business identification sign.
- 59) **Third Party Sign.** Any sign which advertises or directs attention to a business, commodity, service or activity conducted, sold or offered elsewhere than on the lot on which said sign is located.
- 60) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than sixteen (16) inches from such wall.

- 61) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way. For purposes of this Article a window sign shall not include any sign permanently attached in the window or directly painted on the glass.

### ***Section 13-1-102 Required Permits for Signs, Canopies, Awnings and Billboards***

a) **Permit Required.**

- 1) Except those specified in Section 13-1-103, no sign, billboard, awning or canopy, as defined in this Article, shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Article.
- 2) Signs also shall meet all other structural requirements of other applicable codes and ordinances of the Village of Adell.
- 3) Signs shall not be erected or altered until a permit has been issued by the Zoning Administrator. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.
- 4) The required sign permit fee shall accompany each sign application and shall be required for all new signs and any modifications of any existing sign face or sign structure.
- 5) Any sign permit granted hereunder may not be assigned or transferred to any other sign or modified sign face or sign structure.

b) **Application for a Permit.** Any person, firm, corporation or organization desiring to place, erect, alter or relocate a sign, as herein defined, except an exempt sign, shall make application to the Zoning Administrator and shall provide in writing the following information:

- 1) The name, address and telephone number of the applicant.
- 2) The name and address of the owner or owners of the premises upon which the sign is to be attached or erected, including written proof of consent from the property owner upon which the sign(s) are to be erected and maintained.
- 3) The street number and street name or tax parcel number of the land upon which the sign is to be attached or erected.
- 4) A legible scaled drawing with description and dimensions of the sign(s) to be erected or maintained under that permit and the sign's proposed location on the building or site.
- 5) The basic materials to be used in the construction of the sign.
- 6) The name, address and telephone number of the owner of the sign if he or she is neither the applicant nor the owner of the premises on which the sign is to be attached or erected.
- 7) A description of all electrical equipment if the sign is to be lighted or illuminated.

- 8) Proof of payment of the appropriate sign permit fee, when required.
  - 9) Any other item of information that may be reasonably required by the Zoning Administrator or other Village officials for the purpose of application evaluation.
- c) **Plan Commission Application Review.** If the application is complete and the sign conforms to the basic requirements of this Article, the following actions shall be taken:
- 1) If the sign is less than six (6) square feet in area, the Zoning Administrator may issue a permit.
  - 2) If the sign is larger than six (6) square feet, the sign shall be reviewed by the Plan Commission, except those signs designated in Section 13-1-106.
  - 3) The Plan Commission shall review all applications within thirty (30) days of submittal. The Plan Commission shall review the applications and apply the established Sign Design Review Guidelines prescribed in Subsections (d) and (e). If the Plan Commission cannot act to approve, deny or to agree with the applicant to extend the time within the thirty (30) day review period, the Zoning Administrator shall be authorized to act on the application using the established Sign Design Review Guidelines.
- d) **Basis for Granting.** In reviewing a sign permit application, the Zoning Administrator and/or Plan Commission may consider the following factors in deciding whether or not to grant the issuance of a sign permit [see also Subsection (e) below]:
- 1) Whether the sign is designed, installed, and maintained to promote the surrounding environment desired by the general public, pursuant to the objectives of proper design and zoning criteria.
  - 2) Whether the sign is designed, constructed, installed, or maintained in such a manner that it does not endanger public safety or traffic safety.
  - 3) Whether the sign is legible, readable, and visible in the circumstances in which it is to be used.
  - 4) Whether the sign, including size, height, illumination and location, is respectful of reasonable rights of other advertisers whose messages are displayed in the area.
  - 5) Whether the sign is in compliance with the provisions of this Article.
  - 6) Whether the sign is in compliance with the provisions of this Code of Ordinances relating to traffic safety, traffic visibility setbacks, historic preservation and zoning.
- e) **Sign Design Review Guidelines.** In addition to the criteria established in Subsection (d) above, the following Sign Review Guidelines shall be used by the Plan Commission in acting on sign permit applications and by the Zoning Board of Appeals in acting on appeals or variance requests:
- 1) Any signage affixed to a building should be dimensioned and located in such a manner that it fits the building's architectural features and proportions.
  - 2) All signs should be designed to fit the zoning and status character of the surrounding area. Special consideration should be made where proposed signage is located on or adjacent to locally identified historic structures or

publicly owned recreation and conservancy areas. Signage in special planning areas, such as the downtown, or historic preservation areas, will be required to conform to the planned dominant architectural theme of the area. Signage in or abutting residential properties should be designed and located so as not to create a residential nuisance.

- 3) As a general guidelines and where feasible, ground mounted, free standing signs larger than six (6) square feet shall be located at least one hundred (100) feet apart.
  - 4) Signs illuminated by floodlight or spotlights must be positioned in such a manner that none of the light spills over onto an adjoining property or glares or shines into the eyes of motorists or pedestrians, and may not exceed three (3) foot candles at the lot line.
  - 5) As a general guideline, the number of colors and materials should be kept to a minimum.
  - 6) Landscape features will be encouraged as part of all ground mounted signs. Landscape plantings or other landscape materials will not be counted as part of the allowable signage area.
- f) **Permit Issuance/Denial.**
- 1) All sign permit applications shall be reviewed by the Zoning Administrator who shall deny or grant such applications or refer the application to the Plan Commission, within ten (10) business days of receipt of the complete application and payment of fee. If the sign meets the requirements of this Article, all other ordinances of the Village and the approval of the Plan Commission as established herein, the Zoning Administrator shall issue a permit therefore.
  - 2) If the sign permit is denied by the Zoning Administrator or Plan Commission, within five (5) days, a written notice of the denial shall be provided to the applicant, together with a brief written statement of the reasons for the denial.
  - 3) No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.
- g) **Inspection.** The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Zoning Administrator who may inspect the premises to inspect whether the sign complies with the regulations of this Article.
- h) **Appeal of Denial of Sign Permit.**
- 1) Any decision of the Plan Commission or Zoning Administrator under this Article may be appealed to the Board of Appeals. A request for an appeals hearing shall be made in writing to the Zoning Administrator within thirty (30) days of the date of permit denial.
  - 2) A majority vote of the Board of Appeals is required to modify the earlier determination of the Zoning Administrator or Plan Commission.
- i) **Permit Revocation; Appeal.**

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

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

## ***Section 13-1-103 Signs Not Requiring a Permit***

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

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

telephone numbers, posting the sign. Such signs shall be removed within thirty (30) days after sale, rental or lease of the property.

- k) **Signs in Display Windows.** Signs in the display window of a business which relate to services or products offered therein. This display sign exception is only permitted for properties in the following zoning districts: B-1 General Commercial District and B-2 Highway Commercial District. The window sign must direct attention to a business or profession conducted on the premises or to a product, service or entertainment sold or offered on said premises. Window signs shall be placed only on the inside of commercial buildings and shall not exceed thirty-five percent (35%) of the glass area of the pane upon which the sign is displayed.
- l) **On Premise Symbols or Insignia.** Religious symbols, commemorative plaques of recognized historic agencies, or identification emblems of religious orders or historical agencies.
- m) **On-Premise Temporary and Portable Signs in Residential Districts.** Temporary or portable signs under twenty (20) square feet for the purpose of an on-site open house, model home demonstration, special event such as a birthday or anniversary, and for five (5) days thereafter, but may not exceed a total period of thirty (30) days per twelve (12) month period.
- n) **Civic Temporary Signs.** Temporary off-premises signs not exceeding four (4) square feet in residential or public lands districts, or thirty-two (32) square feet in the B-1, B-2, B-3 and 1-1 Districts, pertaining to drives or events of civic, philanthropic, educational, religious, or non-profit organizations, provided such signs are posted not more than thirty (30) days before said event and removed within seven (7) days after the event.
- o) **Political Signs.** Political message, public election or referenda signs during an election campaign, as defined in Sec. 12.04(1); Wis. Stats., limited to one (1) per premises per candidate or referenda question. Political signs may be posted sixty (60) days before an election and must be removed within seven (7) days after said election. Said sign shall be a maximum of sixteen (16) square feet.
- p) **Rummage/Garage Sale Signs.** Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale. Rummage or garage sale signs may only be located on the day of the garage sale within street right-of-way lines between the private property line and the pavement edge with the permission of the adjoining private property owner or renter in a location which does not create a visibility or traffic hazard (as determined by the Zoning Administrator or a law enforcement officer).
- q) **Open/Close Signs.** Illuminated and non-illuminated signs not exceeding ten (10) square feet in area announcing that a business is open or closed.

### ***Section 13-1-104 Residential Signs Requiring a Permit***

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

a) **Temporary Signs Accessory to Subdivision Developments or Other Permitted Improvements in Residential Districts.**

- 1) **Content.** The signs shall be only for the purpose of identification of homes for sale or rent in the subdivision under construction, of lots for sale, or for the identification of other nonresidential uses under construction.
- 2) **Area, Number and Setback.** Such signs shall not exceed two (2) in number for each subdivision nor fifty (50) square feet each in area. They shall observe the front yard requirement of the principal use and shall be located at least fifty (50) feet from all other boundaries of the site.
- 3) **Height.** No sign shall project higher than eight (8) feet above curb level.
- 4) **Time Limitations.** The sign or signs shall be removed by the applicant or property owner within two (2) years of the date of the issuance of a sign permit or when the parcels being advertised are sold, whichever occurs first.

b) **Permanent Subdivision Identification Signs.** Subject to the following:

- 1) **Content.** The signs shall bear only the name of the subdivision or development.
- 2) **Area and Number.** There shall be not more than two (2) signs located at each entrance to a subdivision. No sign shall exceed thirty-two (32) square feet in area. Such identification signs shall only be erected after review and approval by the Zoning Administrator.
- 3) **Height.** No sign shall project higher than twelve (12) feet above curb level.
- 4) **Location.** The location of any such sign shall be at the discretion of the Zoning Administrator based upon the character of the area, the type and purpose of the sign.

c) **Non flashing, Illuminated Church Bulletins.** Subject to the following:

- 1) **Area and Number.** There shall be not more than one (1) sign per lot, except that on a corner lot, two (2) signs (one facing each street) shall be permitted. No sign shall exceed thirty-two (32) square feet in area nor be closer than five (5) feet from any lot line.
- 2) **Projection.** No sign shall project beyond the property line into the public right-of-way.
- 3) **Height.** No sign shall project higher than one (1) story or fifteen (15) feet above the curb level, whichever is lower.

d) **Bed and Breakfast Signs.** Subject to the following:

- 1) **Content.** The sign shall bear only the name, address and other pertinent information regarding the bed and breakfast establishment.
- 2) **Area and Number.** There shall not be more than one (1) sign per lot street frontage. No sign shall exceed sixteen (16) square feet in area.

Such sign shall have a ten (10) feet setback from a public right-of-way or lot line.

- 3) **Projection.** No sign shall project beyond the property line into the public right-of-way.
  - 4) **Height.** No sign shall project higher than six (6) feet above the street level.
- e) **Home Occupation/Professional Home Office.** Subject to the following:
- 1) **Content.** The sign shall bear only the name, address, hours and other pertinent information regarding the on-site home occupation or professional home office maintained in compliance with the Village's Zoning Code.
  - 2) **Area and Number.** There shall not be more than one (1) sign per lot. No sign shall exceed six (6) square feet in area. Such sign shall have a ten (10) foot setback from a public right-of-way or lot line.
  - 3) **Projections.** No sign shall project beyond the property line into the public right-of-way.
  - 4) **Height.** No sign shall project higher than six (6) feet above the street level.

### ***Section 13-1-105 Commercial and Industrial Signs Requiring a Permit***

- a) **Permitted Signs.** The following signs shall require a permit to be issued by the Village of Adell. Signs may be permitted in specific zoning categories, subject to the following restrictions.
- b) **Height and Setback Requirements.** In commercial or industrial zoning districts where setbacks are required for building construction, no part of any sign shall extend over the property line. In zoning districts where no front yard setbacks are required, a sign must be attached to the building and shall project no more than four (4) feet over the abutting public sidewalk or established street grade.
- c) **Number of Signs Permitted.**
  - 1) **Total Number.** No more than two (2) signs of any type shall be located at any business, except that premises occupied by a shopping center may, as an alternative, have one (1) detached directory sign plus one (1) wall sign for each place of business located in said shopping center, provided that the aggregate total area of all signs located on any premises so occupied shall not exceed the total area permitted for one (1) detached sign and one (1) flat sign as set forth in this Article.
  - 2) **Corner Lots.** Businesses with streets fronting both sides shall be allowed two (2) types of signs for each street frontage; no street frontage buildings shall be allowed two (2) of the same type of sign for that particular business.
- d) **Types of Signs, Maximum Size, Number and Location.**

- 1) **Directory Signs.** Directory signs advertising a business or activity conducted, an area of interest, or a service available at a specific location are permitted in the B-1, B-2, B-3 and 1-1 Districts when a part of a Village-sponsored directory sign program. Such signs shall be not more than twenty-four (24) square feet in gross area. There shall not be more than two (2) such signs relating to any one (1) such use in the approaching direction along any one (1) highway. Such signs may be placed at the right-of-way line of the highway. A larger number of signs may be permitted by the Plan Commission if the Plan Commission shall find it necessary for directing the traveling public. The Plan Commission shall designate a uniform sign design for such directory signs.
- 2) **Wall Signs.** Wall Signs are permitted in the B-1, B-2, B-3 and 1-1 Districts. Wall signs placed against the exterior walls of buildings shall not extend more than sixteen (16) inches outside of a building's wall surface, nor extend above or beyond the wall itself. Total sign area (including multiple business/tenant signs on a single property) shall not exceed one (1) square foot for each lineal foot of the building parallel with the main street frontage. Rear or side entrance signs are subject to the same size restrictions as that found at the principal (front/main) entrance to the building. Signs on other building facades (i.e. non-entrance side facades) are limited to one-half (1/2) square foot per lineal foot of such facade. All signs attached or affixed to a building shall not exceed twenty (20) feet in height above the mean centerline street grade.
- 3) **Projecting Signs.** Projecting signs fastened to, suspended from, or supported by a building or structure, shall not exceed in gross area for any one (1) premise: forty (40) square feet on each of two (2) faces in the B-2 Highway Commercial District or B-3 Business Park District, and forty (40) square feet on each of two (2) sides in an Industrial District. With the exception of existing marquee signs of historic interest, permits shall not be issued for new projecting signs in the B-1 General Commercial District. Such signs shall not extend into any public right-of-way; shall not exceed a height of twenty (20) feet above the mean centerline street grade; and shall not be less than ten (10) feet above a pedestrian walk or less than fifteen (15) feet above an alley or driveway.
- 4) **Ground Signs.** Ground signs and their supporting structure shall comply with all setback requirements of the District in which they are located, except that ground signs in a B-2 Highway Commercial District may be located up to a public right-of-way. Ground signs shall not exceed in gross area for any one (1) premise: forty (40) square feet on each side in a B-1 General Commercial District; one hundred twenty (120) square feet on each side in a B-2 Highway Commercial District; or one hundred sixty (160) square feet on each side in an 1-1 or B-3 Industrial District. Such signs shall not exceed at their highest point twenty (20) feet in height above mean centerline street grade. One (1) ground sign is permitted on a street frontage provided there is no pylon sign on that side. Any ground sign in a B-2 Highway Commercial District, B-3 Business Park District or I-

- 1 Industrial District shall have a minimum landscaped area of sixteen (16) square feet around the base of the ground sign.
- 5) **Pylon Signs.** Pylon signs shall not exceed thirty (30) feet in height in a B-2 or B-3 Business District or 1-1 Industrial District. Pylon signs shall not be placed in the B-1 General Commercial District. Height is measured above the mean centerline of street grade. The sign shall be completely within the property upon which it is located. One (1) pylon sign per street frontage is permitted. Size is limited to one hundred (100) square feet for one (1) side, or two hundred (200) feet for all sides. When there exists a property zoned in a B-2 Highway Commercial District with continuous road/highway frontage in excess of three hundred (300) feet, the size is limited to two hundred (200) square feet per side or four hundred (400) square feet for all sides. Any pylon sign shall have a minimum landscaped area of sixteen (16) square feet around the base of the pole.
  - 6) **Off-Premises Third Party Signs.** Off-premise--third party signs are prohibited except that a business in a B-2 Highway Commercial District may have an off-premise pylon or ground sign shared with a physically adjacent business on the adjacent business' property. Such a shared sign shall comply with the dimensional requirements of Subsections (d) (4) and (5) above, except that the secondary sign's dimensions shall not exceed fifty percent (50%) of the primary sign's maximum allowable dimensions. Such signs shall share the same pylon or ground sign mountings.
  - 7) **Shopping Center/Industrial Park Directory Signs.** In a shopping center or industrial park, one (1) free-standing identification/directory sign for each street upon which the development fronts may be permitted showing the name of said center or park and represented business or industries. - Directory signs for shopping centers or industrial parks are permitted as an alternative to ground signs or projecting signs for individual stores in the shopping center or business in the industrial park. The top of a directory sign shall not exceed thirty-two (32) feet in height above the mean centerline street grade and the bottom of the sign shall not be less than ten (10) feet above the sidewalk and not more than sixteen (16) feet above a driveway or alley. Double supporting pylons shall not be greater than ten (10) feet apart. That portion of the directory sign which advertises the shopping center or industrial park name shall not exceed one hundred (100) square feet for one (1) side and a total of two hundred (200) square feet for all sides. That portion of the directory sign which advertises the individual store/business name shall not exceed sixteen (16) square feet for one (1) side and a total of thirty-two (32) square feet for all sides. Directory signs shall meet all yard requirements for the zoning district in which they are located.

### **Section 13-1-106 Special Sign Requirements**

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

- 1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.
  - 2) Segmented messages must be displayed for not less than one-half (1/2) second and more than ten (10) seconds.
  - 3) Traveling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.
- b) **Portable Signs/Message Boards.** Such signs shall be limited in use to seven (7) days at a time following approval by the Zoning Administrator, provided, however, that the Zoning Administrator shall not give approval for placement of a portable sign/message board if it presents a vision obstruction; such signs shall not be displayed more frequently than four (4) times per calendar year at any one (1) location, not more than seven (7) days each time. The maximum size of a portable sign/message board shall be ten (10) square feet on each face, back to back. Portable signs/message boards shall not be located in any public right-of-ways and shall be securely fastened to prevent any hazardous condition.
  - c) **Search Lights.** The Zoning Administrator may permit the temporary use of a searchlight for advertising purposes in any district provided that the searchlight will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five (5) days in any six (6) month period.
  - d) **Sandwich Signs.** In instances where the property owner or business tenant in a B-1 General Commercial District or B-2 Highway Commercial District wishes to erect a sandwich board, there is a limit of one (1) sandwich board per business tenant and such sign shall not exceed four (4) feet in height and eight (8) square feet per side display area. Sandwich signs may be placed only after issuance of a sign permit and shall be placed in a manner so as not to present a hazard.
  - e) **On-site Banner Signs.** On-site banner signs, whether permanent or temporary, shall not be erected for over sixty (60) days.
  - f) **Over-the-Street Banners.** Over-the-street banners are not permitted, except for civic activities.
  - g) **Neon Signs.** Exterior neon or gas illumination signs require a sign permit.

### ***Section 13-1-107 Awnings and Canopies***

- a) **Permitted Awnings.** No awnings shall be erected or maintained, except such awnings as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
  - 1) **Support.** Awnings shall be securely attached to and supported by the building and shall be without posts or columns beyond the setback line.

- 2) **Height.** All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the public sidewalk or public thoroughfare.
  - 3) **Awning Extension from Curb Line.** No entrance awning shall extend beyond a point eight (8) feet into the right-of-way.
  - 4) **Advertising.** No advertising shall be placed on any awning, except that the name and logo of the establishment within the building to which the awning is attached may be painted or otherwise permanently placed in a space not exceeding eight (8) inches in height on the front and side edges.
- b) **Permitted Canopies.** No canopies shall be erected or maintained, except such canopies as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
- 1) **Support.** The structural support of all canopies shall be properly designed and be approved by the Zoning Administrator as in compliance with the Building Code of the Village. All frames and supports shall be designed to withstand a wind pressure as provided in this Article. All canopies and awnings shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and/or awning and the sidewalk or ground below.
  - 2) **Height Above Sidewalk.** All canopies shall be constructed and erected so that the lowest portion thereof shall not be less than eight (8) feet above the level of the sidewalk or public thoroughfare.
  - 3) **Canopy Extension from Curb Line.** No entrance canopy shall extend beyond a point eight (8) feet from the face of a wall or building.
  - 4) **Advertising.** No advertising shall be placed on any canopy, except that the name and logo of the establishment may be painted or placed in a space not exceeding twenty-four (24) inches in average height on the front and side edges. Such name may be so painted or placed irrespective of any prohibition otherwise applicable hereunder, providing, however, that if such canopy shall contain more or other than the name of the establishment in letters more than eight (8) inches high on the front and side edges, it shall be considered as a sign and be subject to all the provisions hereof.

### ***Section 13-1-108 Prohibited Features***

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

## **Section 13-1-109 Prohibited or Restricted Signs**

- a) **Traffic Interference.** Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign, awning or canopy shall be placed so as to obstruct or interfere with traffic visibility.
- b) **Moving or Flashing Signs.** No sign shall be erected which has any flashing, rotating or brilliant intermittent parts or lights, bare reflecting-type bulbs, or utilizes a spot or beacon light to illuminate a sign, except those giving public service information such as time, date, temperature, weather or similar information. Public information display signs require approval by the Plan Commission. No signs, billboards or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.
- c) **Signs on Public Rights-of-Way.** Signs shall not be permitted on public rights-of-way, except for municipal traffic control, parking and directional signs and as otherwise specified in this Article.
- d) **Billboards.** No new billboards shall be permitted in the Village of Adell after the original effective date of this Article. Billboards located upon property annexed to the Village and existing as of the effective date of this Article are permitted to remain unless the owner structurally alters such billboard in any manner. If damaged, or if structural alteration is made/required, such billboard shall be permanently removed. However, any billboards existing as of the effective date of this Article must be removed permanently within three (3) years following annexation, and with such removal being agreed to in writing by the owner/lessor/lessee thereof in writing prior to such annexation.
- e) **Painted Wall and Other Prohibited Signs.** Painted wall signs are signs which are painted directly onto the surface of the building; painted wall signs are prohibited in the Village of Adell. No person shall paste or otherwise fasten any paper or other material, paint, stencil or write any number, sign, name or any disfiguring mark within any street right-of-way, on any sidewalk, curb, gutter, street, post, fire hydrant, pole or tree, any other sign, building, fence or other structure, nor shall any of said objects be defaced in any manner. No signage shall be used except those types specifically permitted by this Article.
- f) **Immoral Sign Subjects.** Signs which bear or contain statements, words, pictures, or symbols of obscene, pornographic or immoral subjects are prohibited.
- g) **Roof Signs.** Roof signs are prohibited in the Village of Adell.
- h) **Swinging Signs.** Swinging signs are prohibited.
- i) **Third-Party Signs.** Third-party signs and billboards are prohibited, except as provided in Section 13-1-105(d) (6).

- j) **Advertising Vehicle Sign Configuration.** No persons shall park any vehicle or trailer on a public right-of-way or on private properties so as to be seen from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purposes of providing advertisement of products or directing people to a business activity located on the same or nearby property or any other premise. Business vehicles containing typical business signage and which are actively used on a daily basis for business purposes are exempt from this prohibition.
- k) **Floodlighted and Illuminated Signs.** Signs may be floodlighted or illuminated, subject to the following restrictions:
  - 1) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled ways of a public right-of-way and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operations of a motor vehicle, are prohibited.
  - 2) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any residential property, and which are of such intensity or brilliance as to cause a public nuisance, are prohibited.
  - 3) No sign shall be so floodlighted or illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.
  - 4) Spotlights and beacons are restricted under Subsection (b) above.

### ***Section 13-1-110 Nonconforming Signs***

- a) **Nonconforming Signs.**
  - 1) **Nonconforming Sign Criteria.** Signs existing as of the effective date of this Article which do not conform to the provisions of this Article are nonconforming signs and shall be subject to the provisions of this Section. Nonconforming signs may be maintained. No nonconforming on-premise sign shall be altered or moved to a new location without being brought into compliance with the requirements of this Article. [Refer to Subsection (b) below.] Compliance is the responsibility of the property owner.
  - 2) **New Signs Not Permitted.** Business signs on the premises of a nonconforming use or building may be continued per this Section, but new signs for such uses shall not be allowed, nor shall expand in number, area, height, or illumination. New signs, not to exceed the maximum allowable aggregate sign area, may be erected only upon the complete removal of all other signs existing at the time of adoption of this Article.
  - 3) **Removal of Nonconforming Signs after Amortization Period.** The Village Board finds that the Village's development and increased competition among various businesses located in the Village has significantly increased the number of signs. The result has been an excessive number of signs, which tend to increase public confusion, interfere with other signs, distract operators of motor vehicles, and cause

visual blight. The Village Board has determined that it is in the public interest to eliminate legal nonconforming signs. The Village Board also recognizes that owners of signs may have property interests of value in such nonconforming signs that may be amortized over time and thus is adopting a reasonable phase-out period. All legal non-conforming signs which could not be erected under the standards of this Article shall be removed, at the cost of the property owner, within ten (10) years of the effective date of this Article.

- 4) **Removal Upon Business Termination.** Nonconforming signs shall be removed when the principal structure located on the premises undergoes a change of use, or shall be removed per Section 13-1-114. Closing businesses must remove their signs within thirty (30) days of closing.
- 5) **Change in Sign User.** Whenever there is a change in the sign user (excluding off-premise signs) or owner of the property on which the sign is located, the new sign user or new property owner shall forthwith notify the Zoning Administrator of the change. No new sign permit is required unless there is modification of the sign face or sign structure.

b) **Alterations of Signs.**

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

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

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

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

### ***Section 13-1-111 Dangerous and Abandoned Signs***

- a) **Removal of Dangerous Signs.** All signs shall be removed by the owner or tenant of the premises upon which the sign is located if in the judgment of the Zoning Administrator, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or tenant fails to remove it, the Zoning Administrator may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the decision of the Building Inspector to the Board of Appeals.
- b) **Abandoned Signs.** Except as otherwise herein provided, all sign messages shall be removed by the owner or lessee of the premises upon which an off-premise sign is located when the business it advertised is no longer conducted where advertised. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner sixty (60) days' written notice to remove said sign and thereafter upon the owner's or lessee's failure to comply may remove such sign, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Zoning Administrator may take any other appropriate legal action necessary to attain compliance.
- c) **Violations.** All signs constructed or maintained in violation of any of the provisions of this Sign Code after the date of adoption are hereby declared public nuisances within the meaning of the Village of Adell Code of Ordinances. In addition to the penalty provisions for violations of this Article, the Zoning Administrator or Village Board may bring an action to abate the nuisance in the manner set forth in the Wisconsin Statutes or Village ordinance.

### ***Section 13-1-112 Construction and Maintenance Regulations for Signs***

- a) **Installation.** All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector or Zoning Administrator.

b) **General Requirements.**

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

### ***Section 13-1-113 Variances or Exceptions***

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

### ***Section 13-1-114 Violations of Sign Code***

- a) **Construction without Permit.** Any person, firm or corporation who begins, erects, improperly alters, or completes the erection or construction of any sign, awning or canopy controlled by this Article prior to the granting of a sign permit shall pay a penalty double the amount of the permit otherwise required.
- b) **Compliance Notice.**
  - 1) If the Zoning Administrator finds any sign, awning or canopy regulated herein unsafe or insecure or is a menace to the public, or has been improperly erected, altered or maintained, it shall give written notice to the sign owner and to the property owner.
  - 2) If such sign, awning or canopy owner fails to remove or alter the sign, awning or canopy so as to comply with the standards herein set forth within five (5) days after such notice, the Zoning Administrator may cause such sign, awning or canopy to be removed or altered at the expense of the owner of the sign, awning or canopy or the owner of the property upon

which it is located so as to comply with the provisions of this Article, per Sec. 66.0627, Wis. Stats, (c) Violations;

- c) **Penalties.** Any person who shall violate any of the provisions of this Article shall be subject to a penalty which shall be as follows:
- 1) Any person found guilty of violating any part of this Article who has previously been notified of being in violation, upon conviction thereof, be subject to forfeiture as prescribed by Section 13-1-173.
  - 2) Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Article shall preclude the Village from also maintaining any appropriate action to prevent or remove a violation of any provision of this Article.

**Sections 13-1-115 through 13-1-119 Reserved for future use.**

## **Article H: Performance Standards**

### ***Section 13-1-120 Article Intent***

It is the intent of this Article to use performance standards for the regulation of uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects. This Chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used except in compliance with the district regulations and with the following environmental performance standards.

### ***Section 13-1-121 Noise***

- a) **I-1 District Noise.** No activity in an I-1 Industrial District shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

Octave Band Frequency (Cycles Per Second)	Sound Level (Decibels)
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59

600 to 1200	53
1200 to 2400	47
2400 to 4800	41
Above 4800	39

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

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

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

c) **Exempt Noises.** The following noises are exempt from the regulations:

- 1) Noises not directly under the control of the property owner.
- 2) Noises from temporary construction or maintenance activities during daylight hours.
- 3) Noises from emergency, safety or warning- devices.

### ***Section 13-1-122 Vibration***

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

Frequency (Cycles Per Second)	Displacement in Inches	
	Outside the Premises	Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and Over	.0002	.0001

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

### ***Section 13-1-123 Glare and Heat***

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

### ***Section 13-1-124 Odor***

No operation or activity shall emit any substance or combination of substances that create an objectionable odor.

### ***Section 13-1-125 Fire and Explosive Hazards***

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

### ***Section 13-1-126 Air Pollution***

- a) No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wisconsin Administrative Code.
- b) No activity or operation shall be established or maintained which by reason of its nature causes emission of any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or property. In no case shall any activity emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas, nor any color visible smoke equal to or darker than No. 2 on

the Ringlemann Chart described in the United States Bureau of Mines' Information Circular 7718 in any Industrial District.

### ***Section 13-1-127 Hazardous Pollutants***

- a) **Pollutants.** No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 154.19, Wisconsin Administrative Code.
- b) **Liquid or Solid Wastes.** No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply; can cause the emission of dangerous or offensive elements; can overload the existing municipal utilities; or can injure or damage persons or property.
- c) **Water Quality Protection.**
  - 1) No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant, or aquatic life.
  - 2) In addition, no activity shall withdraw water or discharge any liquid, or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards and those other standards and the application of those standards set forth in Ch. NR 102, Wis. Adm. Code.

### ***Section 13-1-128 Radioactivity and Electrical Disturbances***

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

### ***Section 13-1-129 Refuse***

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

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

## ***Section 13-1-130 Signal Receiving Antennas***

- a) **Purpose.** In order to secure uniformity and compliance with Federal Communications Commission rules (FCC 96-328) on over-the-air reception devices implementing Section 207 of the Telecommunications Act of 1996, this Section regulating the placement of signal receiving antennas and over-the-air reception devices is adopted to:
- 1) Provide uniform regulation where necessary of all signal receiving antenna devices;
  - 2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
  - 3) Preserve the integrity of historic preservation districts;
  - 4) Protect the public from injury from roof-mounted antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the roof-mounted antenna; and
  - 5) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.
- b) **Definitions.**
- 1) For purposes of this Section, a "signal receiving antenna" is defined as any outdoor apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas and over-the-air reception devices, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHP television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.
  - 2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his/her interest. The personal representative of at least one (1) owner shall be considered an owner.
- c) **Limited Permit Requirement.**
- 1) No owner shall, within the Village of Adell, build, construct, use or place any type of signal receiving antenna or over-the-air reception device that is roof-mounted or proposed to be located in a designated historic preservation district until a permit shall have first been obtained from the Zoning Administrator.

- 2) Application for a signal receiving antenna permit when required under Subsection (c) (l) shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a sufficient set of mounting plans and specifications to allow a determination to be made that the device can be safely roof-mounted, or, in the case of a historic preservation district, can be located in such a manner as to not seriously detract from the historic character of the district. There is no fee for such permit. If such application meets the requirements of this Section, the application shall be approved.
- d) **Main-Dish Exemption.** Signal receiving devices less than twenty-four (24) inches in diameter are exempt from the requirements of this Section, except for the requirements in Subsection (e) (l), (7), (9) and (12).
- e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the Village shall comply with the following provisions:
  - 1) **Setbacks.**
    - a) Any signal receiving antenna and its mounting post shall be located a minimum of five (5) feet from any side or rear property line. The purpose of setback regulations is to protect the aesthetics of the area and to preserve adequate access for emergency equipment and personnel.
    - b) Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property following compliance with Subsection (c) above. For corner lots, a side yard is only a yard that does not face a street.
    - c) If side yard, front yard or roof mounting is requested, the Zoning Board of Appeals shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.
  - 2) **Mounting.** Signal receiving antennas attached to the roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.
  - 3) **Diameter.** The diameter of the signal receiving antenna shall not exceed twelve (12) feet for the ground-mounted antenna and ten (10) feet for the roof-mounted antenna, except for stations used to provide community antenna television services.
  - 4) **Height.** A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may

not exceed fourteen (14) feet in height, as measured from the ground to the highest point of the dish.

5) **Roof-Mounted Antennas.**

a) In all residential zoning districts, roof-mounted antennas shall only be permitted subject to the provisions contained herein:

(1) Earth Station dish antennas exceeding thirty-six (36) inches in diameter shall not be permitted on the roof, unless allowed under Subsection (c)(2) above.

(2) A roof-mounted dish antenna shall not extend higher than fifteen (15) feet above the highest point of the roof, unless allowed under Subsection (c)(2) above.

b) In the commercial and industrial zoning districts, earth station dish antennas shall not extend more than twenty (20) feet above the height limit established for the district in which the structure is located.

6) **Wind Pressure.** All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.

7) **Electrical Installations.** To safeguard public safety, electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.

8) **Temporary Placement.** No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such temporary placement shall be in accordance with all provisions of this Section.

9) **Advertising.** No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.

10) **Interference with Broadcasting.** Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to

its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

11) **Compliance with Federal Regulations.** The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications; Policy Act of 1984 and regulations adopted there under, including Federal Communications Commission rules.

12) **Aesthetic Considerations.** Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.

f) **Enforcement.**

1) It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section, In the event of any violation, the Village Board, a Village enforcement official, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.

2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-6.

### ***Section 13-1-131 Conditional Use Permits Required – Wind Energy Systems***

a) **Approval Required.** No owner shall, within the Village of Adell, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.

b) **Separate Permit Required for Each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.

c) **Basis of Approval.** The Village Board shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.

d) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

### ***Section 13-1-132 Permit Procedure – Wind Energy Systems***

- a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the Village of Adell. The application shall include the following information:
- 1) The name and address of the applicant.
  - 2) The address of the property on which the system will be located.
  - 3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premise, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
  - 4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
  - 5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
  - 6) Any other information which the Zoning Administrator, Village Board or Building Inspector may deem to be necessary to the proper review of the application.
  - 7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Village Board.
- b) **Hearing.** Upon referral of the application, the Village Board shall schedule a public hearing thereof following the procedures for conditional use permits in Article D.
- c) **Determinations.** Following public hearing and necessary study and investigation, the Village Board shall, as soon as practical, render its decision and a copy be made a permanent part of the Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Village Board may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
- d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the

public welfare, the special grant may be terminated by action of the Village Board following a public hearing thereon.

- e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Village Board and if, in the opinion of the Village Board, such change or addition constitutes a substantial alteration, a public hearing before the Village Board shall be required and notice thereof be given.
- f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

### ***Section 13-1-133 Specific Requirements Regarding Wind Energy Systems***

- a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premise, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB (A) scale, measured at the lot line.
- e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the

district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.

- g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

### ***Section 13-1-134 Wireless Telecommunications Systems***

#### **a) Definitions.**

- 1) **Antenna.** Any structure or device for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.
- 2) **Village Engineer.** The Village Engineer of the Village of Adell.
- 3) **Entity.** Any individual, corporation, partnership, association or other legal entity which seeks to provide a Wireless Telecommunications System.
- 4) **FCC.** The Federal Communication Commission or its legally appointed successor.
- 5) **Permittee.** Any entity or its legal successor in interest who is issued a Wireless Telecommunications Permit and/or a Structure Location Permit in accordance with the provisions of this Chapter for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repair, rebuilding, or replacing of a Wireless Telecommunications System in the Village.
- 6) **Street.** Any area established for vehicular or public access use of the entire width between the property lines of every way publicly maintained when any part thereof is open for public purposes. "Street" includes, but is not limited to, a highway, avenue, road, alley, right-of-way, lane, boulevard, concourse, bridge, tunnel, parkways and waterways.
- 7) **Structure Location Permit.** A permit issued by the Zoning Administrator which authorizes the location of an Antenna or Tower at a particular geographic location.

- 8) **Total Gross Revenue.** All cash, credits or other property of any kind or nature reported as revenue items to the Permittee's audited financial statements arising from or attributable to the sale, lease, rental or exchange of Wireless Telecommunications Services or the equipment by the Permittee within the Village or in any way derived from the operation of its Wireless Telecommunications System, including, but not limited to, any interconnection between its system and the Village and any system whatsoever. This shall be the basis for computing the fee imposed pursuant to Subsection (b) (2). Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits or sales, service, occupation or other excise tax to the extent that such taxes are charged separately from normal services charges and are remitted by the Permittee directly to the taxing authority.
- 9) **Tower.** Any ground, building or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna.
- 10) **Wireless Telecommunications Permit.** The privilege granted by the Village by which it authorizes an entity to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, build or replace a Wireless Telecommunications System. Any permit issued in accordance herewith shall be a non-exclusive permit.
- 11) **Wireless Telecommunications Service.** A licensed commercial wireless telecommunications service including cellular, Personal Communication Services ("PCS"), Specialized Mobile Radio ("SMR"), Enhanced Specialized Mobilized Radio ("ESMR") paging, and similar services that are marketed to the general public.
- b) **License Requirements; Fees.**
- 1) No entity may construct, operate or continue to operate a Wireless Telecommunications System within the Village without having been issued a Wireless Telecommunications Permit by the Zoning Administrator.
  - 2) It shall be a term and condition of any Wireless Telecommunications Permit issued in accordance herewith and part of the consideration supporting the issuance of such Wireless Telecommunications Permit that the Permittee shall pay to the Village the sum of five percent (5%) of all Total Gross Revenue derived from the operation of Wireless Telecommunications System. Such payments shall be made annually within one hundred twenty (120) days after the close of the calendar year. All fee payments shall be subject to audit by the Village and assessment or refund if the payment is found to be in error. In the event that an audit by the Village results in an assessment of an additional payment to the Village, such additional payment shall be subject to interest at the rate of one and one-half percent (1-1/2%) per month retroactive to the date such payment originally should have been made. Such payment shall be due and payable immediately and shall include the costs of conducting said audit.

- 3) Structure Location Permit Fees.
    - a) All applicants for a Structure Location Permit shall pay to the Village a permit request fee as prescribed in Section 1-3-1 per site.
    - b) Any entity operating a Wireless Telecommunications System shall pay to the Village an annual Structure Location Permit Fee as prescribed in Section 1-3-1 per site.
  - 4) The request fee shall be paid to the Zoning Administrator at the time of making application for a Structure Location Permit. The annual Structure Location Permit Fee provided for in Subsection (c) above shall be paid to the Zoning Administrator annually on or before October 1 of each calendar year for the portion of the Wireless Telecommunications System within the Village right-of-way on January 1 of that year, and a prorated license fee, based upon the calendar quarter in which the application is filed, shall be paid at the time of the application for a Structure Location Permit. Such quarterly fees are due on January 1, April 1, July 1 and September 1.
  - 5) Fees not paid within ten (10) days after the due date shall incur interest at the rate of one and one-half percent (1-1/2%) per month from the date due until paid.
  - 6) The acceptance of any fee payment required hereunder by Village shall not be construed as an acknowledgment that the payment paid is the correct amount due, nor shall such acceptance of payment be construed as release of any claim which the Village may have for additional sums due and payable.
- c) **Conditions of Permit.**
- 1) Any Wireless Telecommunications Permit or Structure Location Permit issued by the Village shall be a non-exclusive permit for the use of those areas within the Village specified in the Wireless Telecommunications Permit or Structure Location Permit.
  - 2) Any Wireless Telecommunications Permit or Structure Location Permit issued by the Village shall continue in full force and effect so long as the Permittee is in compliance with this Chapter, all applicable federal, state and local ordinances and regulations and the space occupied is not deemed to be needed by the Village for any other public purpose.
  - 3) In the event any Wireless Telecommunications Permit or Structure Location Permit is revoked by the Village, the Wireless Telecommunications System shall, at the sole option of the Village, be removed within thirty (30) days at the sole expense of the Permittee.
- d) **Permit Locations and Conditions.** Antennas and towers authorized by a Structure Location Permit shall comply with the following requirements:
- 1) A proposal for a new antenna or tower shall not be approved unless the Village finds that the telecommunication equipment planned for a proposed antenna cannot be accommodated on an existing or approved tower within a one (1) mile radius of the proposed location due to one or more of the following reasons:
    - a) The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed

professional engineer and the existing unit or approved tower cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.

- b) The equipment would cause interference materially impacting the usability of other existing or approved equipment at the Tower as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
  - c) Existing or approved towers within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified and licensed professional engineer.
  - d) Other unforeseen reasons make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower.
- 2) Any proposed tower shall be designed in all respect to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height and for at least one (1) additional user if the tower is sixty (60) to one hundred (100) feet in height. Towers must be designed to allow for future rearrangements of antennas upon the tower and to accept antennas mounted at varying heights. All towers shall be erected and constructed in such a manner as to comply with all applicable Village ordinances. All towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Towers shall not be illuminated by artificial means and shall not display strobe lights except if such lighting is specifically required by the Federal Aviation Administration or other state or federal authority. Any Permittee seeking to operate a Wireless Telecommunications Systems shall provide the Village with a letter of intent signed by the tower owner committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet objectively reasonable terms and conditions for share use.
- e) **Use of Streets and Pole Attachments.**
- 1) Before commencing construction of a Wireless Telecommunications System in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the Village, the permittee shall first obtain the written approval of, and all other necessary permits from, all appropriate Village agencies, including, but not limited to, the Zoning Administrator and the Department of Public Works. Applicants for such approval shall be made in the form prescribed by the Village Engineer.
  - 2) Upon obtaining such written approval, the Permittee shall give the Village Engineer and any other appropriate agency written notice within a reasonable time for proposed construction, but in no event shall such

- notice be given less than ten (10) days before commencement of such construction, except for emergency repairs of existing lines and cables.
- 3) Any entity that submits a request for a Wireless Telecommunications Permit in accordance herewith shall include therein proposed agreements for the use of existing towers and antennas, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed Wireless Telecommunications System.
  - 4) It shall be unlawful for the Permittee or any other person or entity to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without first obtaining approval to do so after proceeding in the manner described in Subsection (e) (1) and (2). Violation of this Subsection shall subject the Permittee to all penalties and remedies prescribed herein and to all other remedies, legal or equitable, which are available to the Village.
  - 5) The Permittee shall restore any street or sidewalk it has disturbed in accordance with the provisions of the Village's standard specifications for streets and sidewalks, and shall at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured, by or on account of its activities, to as good as the condition such property was immediately prior to the disturbance, damage or injury, or pay the fair market value of such property to its owner(s), or shall make such other repairs or restoration as outlined in the approved permit.
  - 6) The Permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such street or other public place, any of its property when required to do so by the Village because of street or other public excavation, construction, repair, re-grading or grading, traffic conditions, installation of sewers, drains, water pipes, Village-owned power or signal lines, tracts, vacation or relocation of streets or any other type of construction or improvement of a public agency, or any type of improvement necessary for the public health, safety or welfare, or upon termination or expiration of the permit.
  - 7) The Permittee shall maintain all wires, conduits, cables or other real and personal property and facilities in good condition, order and repair. The Permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the Village Engineer governing the construction and installation of Wireless Telecommunications Systems.
  - 8) The Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the Village and shall furnish, as soon as they are available, two (2) complete copies of such maps and records, including as-built drawings, to the Village Engineer.
  - 9) The Permittee shall comply with all rules and regulations issued by the Village Engineer governing the construction and installation of Wireless Telecommunications Systems.

- f) **Violations and Penalties.** Any entity who shall carry on or conduct any business or occupation or profession for which a Wireless Telecommunications Permit or a Structure Location Permit is required by this Section without first obtaining such a permit shall be considered to be in violation of this Section and, upon conviction, shall be punished as provided in Section 13-1-173. Each day any violation continues shall be deemed a separate, chargeable offense. No tower or antenna may be sited on residential property within the Village. Placement of towers or antennas on such residentially-zoned property shall be a violation of this Section and shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) per day for each day that the tower or antenna is in place. Any other violation of this Section shall be punished as provided in Section 13-1-175.
- g) **Restrictions on Assignment, Transfer, Sale and Subleasing.**
- 1) The rights and privileges hereby granted are considered personal, and if the Permittee sells assigns, transfers, leases or pledges such rights or privileges, or both, in whole or in part, either directly or by operation of the law, then the Village shall have the right to terminate any and all permits issued hereunder for no other cause. The Village shall terminate such permits in writing, by certified mail, return receipt requested, to the Permittee, and such termination shall be effective sixty (60) days from said date of mailing. The rights and privileges hereby granted shall not be mortgaged or encumbered without the prior consent and approval of the Village given by written resolution.
  - 2) In addition to the provisions of termination provided for in Subsection (g) (l), the Village shall have the right to terminate any and all permits issued hereunder upon any actual or pending change in, or transfer of, acquisition by any other party, or control of Permittee. The word "control" as used in this context is not limited to major stockholders, but includes actual working control in whatever manner exercised. The Permittee shall annually submit to the Village a list of all shareholders and a list of all officers and directors. By acceptance of the Wireless Telecommunications Permit, the Permittee specifically agrees that any violation of this Section shall, at the Village's option, cause any and all permits granted the Permittee under this Section to be revoked.
- h) **Reports.**
- 1) Entities requesting a Wireless Telecommunications Permit may be required by the Village to submit evidence of financial capability to construct and operate a Wireless Telecommunications Permit. Such evidence may include, but is not limited to, previous years' audited financial statements for the entity, individual financial statements of principals or investors or such other financial information as the Village may desire.
  - 2) The Permittee shall provide the Village with a written statement from an independent certified public accountant within one hundred twenty (120) days after the close of the calendar year that such certified public

accountant has reviewed the books and records of the Permittee as they related to any permits issued under this Section, and based upon such review, the certified public accountant believes the payment received by the Village property reflects the fee due to the Village with respect to this Section. The Village shall have the right to reasonable inspection of the Permittee's books and records during normal business hours.

## **Sections 13-1-135 through 13-1-139 Reserved for future use**

# **Article J: Accessory Uses and Structures; Fences; Swimming Pools**

## ***Section 13-1-140 Accessory Uses or Structures***

- a) **Building Permit Required for Accessory Buildings.** No owner shall, within the Village of Adell, build, construct, use or place any type of an accessory building, including prefabricated accessory buildings, until a permit shall have first been obtained from the Building Inspector. Application for an accessory building permit shall be made in writing to the Building Inspector. With such application there shall be submitted the required fee and a complete set of plans and specifications, including a plat plan or drawing accurately showing the location of the proposed accessory building with respect to adjoining alleys, lot lines and buildings. If such application meets all requirements of the section, the application shall be approved.
- b) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- c) **Number of Permitted Garages and accessory Buildings on Residential Lots.**
  - 1) **Accessory Building Number Limits.** In any residential district, in addition to the principal building, **two (2) detached accessory buildings and one (1) not portable children's play structure may be placed on a lot.** ~~a detached garage or attached garage and one (1) additional accessory building and one (1) not portable children's play structure may be placed on a lot, except as otherwise limited by Subsections (c)(2), (d) and (e) below.~~

- ~~2) **Limitations on Number of Garages and Accessory Buildings.** One (1) detached accessory structure per parcel shall be permitted, provided the combined area of an attached garage and detached accessory structure does not exceed the maximum size limits set forth in Subsection (d) and the following number limits:~~
- ~~a) R-1, R-2, R-4 and R-5 parcels with a single garage attached to the dwelling are permitted to have an additional one (1) or two (2) car detached garage on the parcel. If a detached garage is erected, no other detached accessory buildings may be constructed or maintained on the parcel.~~
  - ~~b) R-1, R-2, R-4 and R-5 parcels with more than a one (1) stall garage attached to the dwelling are permitted to have an additional one (1) stall detached garage on the parcel. If a detached garage is erected, no other detached accessory buildings may be constructed or maintained on the parcel.~~
  - ~~c) Garages attached to dwelling shall be three (3) stalls or less. Dwellings with an attached three (3) stall garage are not permitted to have an additional detached garage on the parcel.~~
- d) **Size limits for Attached Residential Garages.** For residences with attached garages, one (1) attached garage per dwelling unit shall be permitted, and the dimensions of said attached garage shall be as follows:
- 1) The maximum square feet of attached garage floor area shall be limited to the smaller of either one thousand (1000) square feet or the first floor dwelling unit area in the case of a single family residence.
  - 2) The maximum square feet of attached garage floor area shall be limited to the smaller of either six hundred (600) square feet or the first floor dwelling unit area in the case of a duplex, two-family dwelling, or multi-family dwelling.
- e) **Height and Setback Requirements for Attached Accessory Buildings/Garages.**
- 1) Accessory buildings/garages which are attached to the principal building shall comply with the setback requirements for the principal building.
  - 2) When accessory buildings are attached to the principal building by a breezeway, passageway or similar means, they become part of the principal building and shall comply in all respects with the yard requirements and local building code requirements for the principal building.
- f) **Size Limits for Detached Residential Accessory Buildings/Garages.** The total of the footprints of detached accessory buildings/garages on any parcel in a residential zone shall not exceed any of the following:
- 1) Occupy more than 30% of the required rear yard.
  - 2) Have a footprint greater than that of the principal structure.
  - 3) In R-3, have a combined footprint greater than 500 sq. ft. per dwelling unit.
  - 4) In R-1, R-2, R-4 and R-5 have a combined footprint greater than 1200 sq. ft.

- g) **Height and Setback Requirements for Detach Residential Accessory Buildings/Garages.**
- 1) Garages and other detached accessory buildings shall be less than fifteen (15) feet in height. Detached garages' and accessory buildings' roof pitch shall not exceed the steepest pitch of the principal structure.
  - ~~2) In addition to the limitations of Subsection (c), the total of the footprints of detached accessory buildings/garages on any parcel in a residential zone shall not exceed any of the following:~~
    - ~~a) Occupy more than 30% of the required rear yard.~~
    - ~~b) Have a footprint greater than that of the principal structure.~~
    - ~~c) In R-3, have a footprint greater than 450 sq. ft. per dwelling unit.~~
    - ~~d) In R-1, R-2, R-4 and R-5 have a footprint greater than 900 sq. ft.~~
  - 3) No detached accessory building shall be located within **six (6)** ~~five (5)~~ feet of any other accessory building.
  - 4) Detached accessory buildings shall have an eight (8) foot setback from side lot lines and a six (6) foot setback from rear lot lines. Where a rear lot abuts an alley, accessory buildings not attached to the principal building shall not be closer than six (6) feet to the rear lot line.
  - 5) The dimensions of any swimming pool, detached garage, tennis court and other detached accessory buildings/structures shall be included in the determination of available lot area coverage for accessory structures.
  - 6) An accessory building shall not be nearer than **six (6)** ~~five (5)~~ feet to the principal structure unless the applicable building code regulations in regard to one (1) hour fire-resistive construction are complied with.
  - 7) In no event can a detached accessory structure be forward of the front line of the principal structure.
- h) **Use Restrictions for Residential Districts.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as permitted by Section 13-1-71 and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes. Under no circumstances may a tent or recreation vehicle be used as a dwelling or an accessory structure.
- i) **Placements Restrictions for Nonresidential Districts.** An accessory use or structure in a commercial or industrial district may be established in the rear yard or side yard and shall not be nearer then ten (10) feet to any side or rear lot line or be greater than twenty (20) feet in height. Detached accessory buildings and structures in commercial and industrial districts shall not occupy more than fifty percent (50%) of the rear and side lot areas.
- j) **Corner Lots.** When an accessory structure is located on the rear of a corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three (3) feet to the side line of the adjacent structure.
- k) **Landscaping Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light

standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.

- l) **Temporary Accessory Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- m) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:
- n) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties and shall not register more than one-half foot candles at the property line.
- o) **Lawn Accessories and Landscaping Uses.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sun dials, flag poles, ornamental light standards, lawn furniture, bird baths, trees, shrubs, flowers, gardens, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line,
- p) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls. See Section 13-1-144 for regulations regarding retaining walls.
- q) **Children's Play Structures.** For purposes of this Section, non-portable children's play structures, including play houses, tree houses or elevated play structures and climbing gyms, shall be considered accessory structures for purposes of complying with the setback requirements of this Sections, whether such play structures are placed on a foundation or not. Portable swing sets, slides, and sandboxes are not considered children's play structures for purposes of this Section. A building permit is not required for the construction of a play structure. Play structures shall not be used for storage or be constructed out of materials that would constitute a nuisance.
- r) **Terrance Area Restrictions.** In addition to the definitions and restrictions contained in Title 6, Chapter 2 of this Code of Ordinances, no person shall place any accessory structure or use, including landscaping ornaments, stones and basketball backboard/hoops, in the terrace area.
- s) **Offensive Uses Prohibited.** No accessory use shall be dangerous, obnoxious or offensive to persons residing in the vicinity, nor shall it impair the use, enjoyment or value of any property.
- t) **Prohibited Dwelling Use.** No accessory unit in any Residential District shall be used or let for living purposes, whether for compensation or not.
- u) ~~**Gardening.** Home gardening is a permitted accessory use on any dwelling lot or the principal use on any vacant lot or parcel.~~

- v) **Dog Houses/Runs.** Dog houses and/or runs shall comply with the setback requirements for accessory structures in that district.
- w) **Agricultural Structures.** Agricultural structures in properly zoned districts such as barns, silos and windmills shall not exceed in height twice their distance from the nearest lot line.

### ***Section 13-1-141 Outside Storage of Firewood***

- a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of fourteen (14) days from the date of its delivery.
- b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.
- c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of within fourteen (14) days and shall not be allowed to remain on the premises.
- d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- e) Not more than ten percent (10%) of the side or rear yard may be used for storage of firewood at any one (1) time.

### ***Section 13-1-142 Fences***

- a) **Fences Defined.** For the purpose of this Section, a “fence” is herein defined as an enclosed barrier intended as decorative purposes or to restrict ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.
- b) **Fences Categorized.** Fences shall be categorized into the following classifications:
  - 1) **Boundary Fence.** A fence placed on or within three (3) feet of the property lines of adjacent properties.
  - 2) **Protective Fence.** A fence constructed to enclose a hazard to the public health, safety and welfare.
  - 3) **Architectural or Aesthetic Fence.** A fence constructed to enhance the appearance of the structure or the landscape.
- c) **Height and Placement of Fences Regulated.**
  - 1) Residential fences six (6) feet or less in height are permitted in rear and side yards, but not closer than three (3) feet to the lot line. Residential

fences less than or equal to three (3) feet in height are permitted in the street yard setback area but shall not be closer than two (2) feet to any public right-of-way. All fences must be constructed and maintained in a good state of repair and appearance.

- 2) In order to provide adequate vision clearance on corner lots, no fence shall be erected or maintained within the triangular space formed by two (2) intersecting street, alley, or driveway (public or private) property lines and a line joining points on such property lines (or projections thereof) located less than:
  - a) A minimum of twenty (20) feet from the intersection of the two street property lines;
  - b) A minimum of fifteen (15) feet from the intersection of the two alley property lines; or
  - c) A minimum of ten (10) feet from the intersection of the two driveway property lines.

Street or alley property lines are measured from the right-of-way or easement lines establishing such street or alley. Driveway lines are measured from the easement establishing such driveway, or in the case of no easement, from the edge of the driveway surface.

- 3) In any residential district or on any lot or premises, the principal use of which is for residential purposes, no fence or other lengthwise barrier or obstruction shall be erected, placed, installed or reinstalled in any area where there is a distance between main residential buildings of ten (10) feet or less.
- 4) No fence or wall shall be erected, placed or maintained along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.
- d) **Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed eight (8) feet in height.
- e) **Prohibited Fences.**
  - 1) No fence shall be constructed of barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are eight (8) feet above the ground and project toward the fenced property and away from any public area.
  - 2) No chicken wire, hardware cloth or light weight design fences shall be permitted. Fences utilizing a chain link design are permissible in all districts.
  - 3) No wood-slat
- f) **Fences to be repaired.**
  - 1) All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
  - 2) Any fences which do not conform to the requirements of this Section or which are damaged, or in need of repair to the extent that exceeds fifty percent (50%) of the then value of the fence shall either be completely

dismantled or reconstructed in compliance with the provision of this Section.

- 3) All fences shall be maintained in such a manner so as not to allow rust, dents or deterioration to take place. If a fence needs repair and maintenance, said fence shall be painted or stained in only neutral colors. Failure to maintain a fence in good condition and repair will result in the Village issuing an order to the property owner to take whatever steps are necessary to correct the condition. Said notice shall set forth a reasonable time for compliance and shall set forth a notice that failure to comply will result in a violation and with a penalty set forth in Section 1-1-6.
- g) **Temporary Fences.** Seasonal or temporary fences such as garden fences, snow fences, erosion control barriers and construction fences shall be permitted, but shall be removed when the condition or season for the fence no longer exists. There shall be no fee or permit for any seasonal or temporary fence.
- h) **Visibility; Open Spacing Requirement for Fences.**
  - 1) In any non-residential area, fences shall be of such type and construction that shall allow people outside the fence to see through it without hindrance. However, if a residence exists in a non-residential zone, a fence may be constructed pursuant to the requirements of Subsection (h) (2) below. In an industrial area where barbed wire is used, the lowest strand shall be a minimum of seven (7) feet above the grade.
  - 2) All fences hereafter erected or constructed shall provide openings for a passage of air equivalent to twenty-five percent (25%) of the surface area of the fence and shall have the structural components thereof facing the side of the property for and on which the same are erected. In residential areas, privacy fences with less than such twenty-five percent (25%) open spacing may be erected, provided such fence may not extend farther than twenty-five percent (25%) from the rear lot line of such residence. Fences shall not be constructed of smooth or corrugated metal materials.
- i) **Special Purpose Fences.** Fences for confining dogs, etc., shall not exceed six (6) feet in height, and shall be no larger than necessary for such purpose and shall conform to the building setbacks of this Chapter. Swimming pool and hot tub fences shall comply with the requirements of Section 13-1-143.
- j) **Height Determination.** The height of any fence erected under this Section shall be determined by the measurement from the uppermost point of the fence to the existing ground level of the property.
- k) **Nonconforming Fences.** Any fence existing on the effective date of this Chapter and not in conformance with this Section may be maintained until 12/31/2014, but alterations, modifications or improvements of more than fifty percent (50%) of said fence shall require the owner to bring the fence into compliance with this Section. No nonconforming fence shall be permitted on or after 01/01/2015.
- l) **Fence Permit Required.** No person shall erect a fence in the Village without first obtaining a fence permit from the Village and paying the required permit

fee. The applicant shall provide the Zoning Administrator with accurate design information for the proposed fence, except for fences covered by Section 13-1-142(g).

- m) **Location Determination.** The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his/her property.

### ***Section 13-1-143 Swimming Pools and Hot Tubs***

- a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than two (2) feet located above or below the surface of ground elevation, having a footprint greater than one hundred fifty (150) square feet, used or intended to be used solely by the owner, operator or lessee thereof and his/her family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum cross-section of fifteen (15) feet and a maximum wall height of twenty-four (24) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.
- c) **Permit; Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Zoning Administrator, the Zoning Administrator shall not issue a permit for construction or installation of a swimming pool or hot tub unless the following construction requirements are observed and the fee as prescribed in Section 1-3-1 is paid:
- 1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements for pool or hot tub installation shall be in accord with all state regulations and with any and all Ordinances of the Village now in effect or hereafter enacted.
  - 2) All plumbing work shall be in accordance with all applicable Ordinances of the Village and all state codes. Every private or residential swimming pool or hot tub shall be provided with a suitable draining method and, in no case, shall waters from any pool or hot tub be drained into the sanitary sewer system, or onto lands of other property owners. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Plumbing Inspector.
  - 3) All electrical installations used in conjunction with a private swimming pool or hot tub shall be in conformance with the state laws and Village Ordinances regulating electrical installations.
- d) **Setbacks and Other Requirements.**

- 1) Private swimming pools or hot tubs shall be erected or constructed on rear or side lots only. No swimming pool or hot tub shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot are occupied by a principal building.
  - 2) No swimming pool or hot tub shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building and in no case shall the water line of any pool or hot tub be less than six (6) feet from any lot line.
  - 3) Swimming pools and hot tubs shall not be constructed in the front yard or in a required corner side yard.
  - 4) Swimming pools shall be considered accessory buildings for purposes of calculating the maximum area permitted in a required rear yard.
- e) **Enclosure.**
- 1) **Fence; In-Ground Pools.** All outdoor, below grade swimming pools shall have a fence or other solid structure not less than four (4) feet in height completely enclosing the pool with no opening therein (other than doors or gates) larger than three (3) inches square. All gates or doors opening through the enclosure shall be kept securely closed and locked at all times when not in actual use and shall be equipped with a self-closing and self-latching device designed to keep and be capable of keeping such door or gate securely locked at all times when not in actual use.
  - 2) **Above-Ground Pools; Pool Wall Barrier.**
    - a) An approved barrier shall consist of a solid wall of durable material of which the pool itself is constructed and shall extend directly above the vertical water enclosing wall of the pool. Such walls shall extend more than three (3) feet above the level of the ground immediately adjacent to the pool. Such a solid pool wall barrier shall not be located within six (6) feet of any other wall or fence or other structure which can be readily climbed by children. Every entrance to a pool, such as a ladder, must be secured or adequately safeguarded to prevent unauthorized entry into the pool.
    - b) The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top.
  - 3) **Miscellaneous Requirements.**
    - a) Swimming pools and hot tubs surrounded in whole or in part by a deck which has steps leading to the swimming pool or hot tub shall be equipped with a gate a minimum of four (4) feet in height and capable of being latched and locked with a combination lock or by a lock worked by a key to secure access to the swimming pool or hot tub when not in use.
    - b) Service gates and gates which are part of a fence or wall enclosing a swimming pool or hot tub which are located across a driveway shall be kept closed and latched at all times by the property owner or occupier

when not in use for ingress or egress. When such areas are not in use, such gates shall be locked with a combination lock or by a lock worked by a key.

- f) **Filter System Required.** All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.
- g) **Dirt Bottoms Prohibited.** All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

### ***Section 13-1-144 Retaining Walls***

- a) **Purpose.** The purpose of this Section is to protect public and private property from the effects of poorly designed and constructed retaining walls,
- b) **Permit Required.** A permit shall be required for all retaining walls constructed that exceed twenty-four (24) inches in height, including terraced retaining wall projects where the total height of all walls exceeds twenty-four (24) inches, and are closer than fifteen (15) feet to a property line.
- c) **Application.** Application shall be made to the Zoning Administrator on forms provided and shall include a site plan and a set of construction plans. Plans sealed by a professional engineer registered in the State and/or other information necessary to adequately review the proposed retaining wall shall also be required by the Zoning Administrator.
- d) **Performance Standards.** A retaining wall shall be designed to resist the lateral pressure of the retained material in accordance with accepted engineering practice. Walls retaining drained earth may be designed for pressure equivalent to that exerted by an equivalent fluid weighing not less than thirty (30) pounds per cubic foot and having a depth equal to that of the retained earth. Any surcharge shall be in addition to the equivalent fluid pressure.
- e) **Setbacks.** Setbacks for retaining walls shall be the same as for accessory buildings as established under Section 13-1-140(f).

**Sections 13-1-145 through 13-1-149 Reserved for future use.**

## Article K: Modifications

### *Section 13-1-150 Height Modifications*

This District height limitations stipulated elsewhere in this Chapter are subject to the following:

- a) **Architectural Projections.** Architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this Chapter.
- b) **Special Structure Height Limitations.** Special structures such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smokestacks are exempt from the height limitations of this Chapter.
- c) **Essential Services Height Limitations.** Essential services, utilities, water towers, and electric power and communication transmission lines are subject to conditional use permit.
- d) **Communications Structures Height Restrictions.** Communications structures such as radio and television transmission and relay towers, aerial and observation towers shall not exceed in height three (3) times their distance from the nearest lot line.
- e) **Agricultural Structures Height Restrictions.** Agricultural structures such as barns, silos and water windmills shall not exceed in height twice their distance from the nearest lot line.
- f) **Public Facilities Height Restrictions.** Public or semi-public facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations may be erected to a height of sixty (60)

feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the District's maximum height requirement.

### ***Section 13-1-151 Yard Modifications***

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

- a) **Uncovered Stair Restrictions.** Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than six (6) feet to any lot line.
- b) **Architectural Projection Restrictions.** Architectural projections such as chimneys, flues, sills, belt courses and ornaments may project into any required yard (setback requirements), but such projection shall not exceed two (2) feet.
- c) **Cul-de-Sac and Curve Restrictions.** Residential lot frontage on cul-de-sacs and curves may not be less than forty-five (45) feet provided the width at the building setback line is at least sixty (60) feet and the street frontage is no less than forty-five (45) feet.
- d) **Essential Services Exemptions.** Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.
- e) **Average Street Yard Restrictions.** The required street yards may be decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side, but in no case less than fifteen (15) feet in any residential district and five (5) feet in any business district, except the B-I General Commercial District.
- f) **Corner Lots.** Structures shall provide a street yard as required by this Chapter on the street that the structure faces. A second street yard shall be provided on the side of the structure abutting a second public or private street.

**Sections 13-1-152 through 13-1-169 Reserved for future use.**

## **Article L: Administration**

### ***Section 13-1-170 Zoning Administrator***

**General Duties.** The Zoning Administrator is hereby designated as the primary administrative officer for the provisions of this Chapter. The Zoning Administrator shall be appointed by motion of the Village Board. The duty of the Zoning

Administrator shall be to interpret and administer this Chapter and to issue all permits required by this Chapter. The Zoning Administrator shall further:

- a) Issue all zoning certificates, maintain permanent and current records of this Chapter, including but not limited to all maps, amendments, condition uses, variances, appeals and applications therefore; which records shall be maintained in the Village hall.
- b) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this Chapter.
- c) Provide public information relative to all matters arising out of this Chapter.
- d) Receive, file and forward to the Village Clerk-Treasurer all applications for amendments to this Chapter.
- e) Receive, file and forward to the Plan Commission all applications for conditional uses.
- f) Receive, file and forward to the Board of Appeals all applications for appeals, variances, or other matters on which the Board of Appeals is required to act under this Chapter, and shall attend all Board of Appeals meetings to provide technical assistance when requested by the Village Board.
- g) Initiate, direct and review from time to time a study of the provisions of this Chapter, and make recommendations to the Plan Commission not less than once a year.

### ***Section 13-1-171 Zoning Permit Required for Issuance of Building Permit***

- a) **Zoning Certificate Required.** No building permit for a new structure, new use of land, water or air, or change in the use of land, water or air shall hereafter be issued and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered unless the application for such permit has been examined by the office of the Zoning Administrator and has affixed to it a certificate of the office of the Zoning Administrator indicating that the proposed use of land, buildings or structures and any future proposed buildings or structures comply with all of the provisions of this Chapter.
- b) **Application.** Applications for a building permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:
  - 1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
  - 2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
  - 3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: the location, boundaries,

- dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.
- 4) Additional information as may be required by the Zoning Administrator, Village Board or Plan Commission (if involved).
- c) **Action.**
- 1) A building permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days of application and the applicant shall post such permit in a conspicuous place at the site.
  - 2) The permit shall expire within six (6) months unless substantial work has commenced or within twenty-four (24) months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration, the application shall reapply for a building permit before commencing work on the structure.
  - 3) Any permit issued in conflict with the provisions of this Chapter shall be null and void.

### ***Section 13-1-172 Site Plan Approval***

- a) **Site Plan Approval.** All applications for building permits for any construction, reconstruction, expansion or conversion in an R-3, R-4, B-1, B-2, B-3, 1-1, AEO, E-1 or WP District, shall require site plan approval by the Plan Commission in accordance with the requirements of this Section.
- b) **Application.** The applicant for a building permit shall also submit a site plan, including plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
- c) **Administration.** The Zoning Administrator shall review the application and plans and refer them, along with a report of his findings, to the Plan Commission within thirty (30) days.
- d) **Requirements.** The Plan Commission may impose conditions upon site plan approval as it deems necessary to address the following issues:
  - 1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
  - 2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the

applicant shall so design the construction or use as to minimize any traffic hazard created thereby.

- 3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
- e) **Effect on Municipal Services.** The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.

### ***Section 13-1-173 Violations and Penalties***

- a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Village Board may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Village Board may institute appropriate legal action or proceedings.
- c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-6 of this Code of Ordinances.

**Sections 13-1-174 through 13-1-179 Reserved for future use.**

## **Article M: Changes and Amendments to the Zoning Code**

### ***Section 13-1-180 Authority***

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto.

### ***Section 13-1-181 Initiation of Changes or Amendments***

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

### ***Section 13-1-182 Protest***

In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Village Board membership to adopt such amendment.

**Sections 13-1-183 through 13-1-189 Reserved for future use.**

## **Article N: Appeals**

Refer to Section 2-4-2.

## Article O: Extraterritorial Zoning Jurisdiction

### ***Section 13-1-200 Creating an Extraterritorial Zoning Jurisdiction Governing a Defined Area Within One and a Half Miles of the Village Borders of the Village of Adell***

Municipality Code: 59-101

#2007-05

STATE OF WISCONSIN  
Village of Adell  
Sheboygan County

#### VILLAGE OF ADELL

#### A Resolution Creating an Extraterritorial Zoning Jurisdiction Governing A Defined Area Within One and a Half Miles of the Village Borders of the Village of Adell

WHEREAS, Wisconsin Statute §62.23(7a) authorizes villages to exercise zoning controls over areas that are located within one and a half miles of the village boundaries through extraterritorial zoning regulations upon the enactment of a resolution; and,

WHEREAS, the Village Board of the Village of Adell finds that regulation of certain areas within the extraterritorial zoning jurisdiction of the Village is reasonable and necessary for the purpose of promoting health, safety, morals or the general welfare of the community, along with the general purpose to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, including access to sunlight for solar collects and to wind for wind energy systems; to encourage the protection of groundwater resources; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to preserve burial sites; all in accordance with the Village of Adell general zoning authority; and

WHEREAS, the Village Board of the Village of Adell finds it to be reasonable and necessary to exercise this authority in that area that is depicted in attached Exhibits A and B.

NOW THEREFORE, BE IT RESOLVED by the Village Board of the Village of Adell, Sheboygan County, Wisconsin, that the area to be zoned within the Village of Adell extraterritorial zoning jurisdiction shall be the area described in attached Exhibits A and B, which are hereby incorporated herein and made part of this resolution; and

BE IT FURTHER RESOLVED that within 15 days of the adoption of this resolution, the Village Board shall declare its intention to prepare a comprehensive zoning ordinance for the above-described extraterritorial zoning jurisdiction, by the publication of this resolution in a newspaper having general circulation in the area proposed to be zoned, by a Class 1 notice; and

BE IT FURTHER RESOLVED that the Village of Adell Plan Commission is directed to formulate tentative recommendations for the district plan and regulations within the above-described extraterritorial zoning area; and

BE IT FURTHER RESOLVED that a Joint Extraterritorial Zoning Committee shall be established, as provided in Section 62.23 (7a)(c), Wisconsin Statutes.

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

BE IT FURTHER RESOLVED THAT this resolution shall take effect immediately upon passage as provided by law.

Dated this 29<sup>th</sup> day of May, 2007

\_\_\_\_\_  
Andy Schmitt, Village of Adell President

Attest: \_\_\_\_\_  
Rhonda Klatt, Village of Adell Clerk/Treasurer

***Section 13-1-20 An Interim Zoning Ordinance to Preserve Existing Uses Within the Extraterritorial Zoning Jurisdiction of the Village of Adell While the Comprehensive Zoning Plan is Being Prepared***

Municipality Code: 59-101

#2007-06

STATE OF WISCONSIN  
Village of Adell  
Sheboygan County

VILLAGE OF ADELL

An Interim Zoning Ordinance to Preserve Existing Uses Within the Extraterritorial Zoning Jurisdiction of the Village of Adell While the Comprehensive Zoning Plan is Being Prepared

WHEREAS, on May 29, 2007, the Village of Adell passed and adopted Resolution #2007-05, creating the extraterritorial zoning jurisdiction of the Village of Adell, pursuant to Wisconsin Statutes Section 62.23(7a); and

WHEREAS, the Village Board of the Village of Adell finds that regulation of certain areas within the extraterritorial zoning jurisdiction of the Village is reasonable and necessary for the purpose of promoting health, safety, morals or the general welfare of the community, along with the general purpose to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, including access to sunlight for solar collects and to wind for wind energy systems; to encourage the protection of groundwater resources; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to preserve burial sites; all in accordance with the Village of Adell general zoning authority; and

WHEREAS, the Village Board of the Village of Adell finds it to be reasonable and necessary to preserve the existing zoning or uses in said extraterritorial zoning jurisdiction, and to control the administration and enforcement of said existing zoning or uses, pending completion of the statutorily require planning process as described in Wisconsin Statute Section 62.23(7a); and

WHEREAS, the area in which the Village intends to exercise this authority is the area described in attached

Exhibits A and B, which are incorporated herein by reference and made part of this ordinance ("Extraterritorial Zoning Area"),

NOW THEREFORE, the Village Board of the Village of Adell, Sheboygan County, Wisconsin, DOES HEREBY ORDAIN as follows:

- Section 1: **Moratorium in Extraterritorial Zoning Areas.** Within the Extraterritorial Zoning Area all existing zoning or uses are hereby preserved, and may not be changed except as described herein.
- Section 2: **Town Enforcement.** Enforcement and administration of the existing zoning ordinance preserved by this ordinance, including approval of all conditional use permits, granting of all variances, zoning district changes and appeals shall be performed by the appropriate Town Board, Commission or Officer, as designated in the Village of Adell Zoning ordinance. Building permits shall be reviewed and approved by the Village building inspector as to zoning prior to the issuance by the Village.
- Section 3: **Clerk to Give Notice.** The Village Board hereby directs the Village Clerk, within fifteen (15) days of the passage of this ordinance, to publish the ordinance in a newspaper having the general circulation in the extraterritorial zoning area, by a Class 1 notice. The Village Clerk shall also mail a certified copy of the ordinance to the Sheboygan County Clerk, and to the Town Clerks of any Town in which this ordinance and the Resolution are effective, and shall also provide a copy to the Village of Adell Plan Commission.
- Section 4: **Severability.** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provision, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.
- Section 5: **Effective Date.** This ordinance shall be effective immediately upon passage, following publication or posting as provided by law, and shall be in effect for a period of two (2) years after its enactment, unless extended by the Village of Adell Village Board for an additional year as provided in the Wisconsin Statutes Section 62.23 (7a)(b).

Dated this 29<sup>th</sup> day of May, 2007.

\_\_\_\_\_  
Andy Schmitt, Village President

Attest: \_\_\_\_\_  
Rhonda Klatt, Village Clerk/Treasurer

**Exhibit A  
Extraterritorial Zoning Boundary  
Legal Description  
Village of Adell  
Sheboygan County, Wisconsin**

All that territory within the Town of Lyndon, Town of Sherman, Town of Holland and Town of Lima, Sheboygan County, Wisconsin described as follows:

Beginning at the West 1/4 corner of Sec 13 T13N, R21E;  
Thence Easterly along the South line of the NW ¼ of Sec 13 to the center of Sec 13;  
Thence Northerly along the West line of the SW ¼ of the NE ¼ of Sec 13, to the NW

corner of the SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Sec 13;

Thence Easterly along the South line of the N  $\frac{1}{2}$  of the NE  $\frac{1}{4}$  of Sec 13, to the SE corner of the N  $\frac{1}{2}$  of the NE  $\frac{1}{4}$  of Sec 13 and the centerline of CTH CC;

Thence Northerly along the centerline of CTH CC to the East  $\frac{1}{4}$  corner of Sec 1 and the centerline of Mill Road;

Thence continue Northerly along the centerline of Mill Road and the East line of the NE  $\frac{1}{4}$  of Sec 1 to the SE corner of Sec 36 T14N, R21E;

Thence continue Northerly along the East line of Sec 36 to the NE corner of Sec 36;

Thence Westerly along the North line of Sec 36 to the NE corner of Sec 35;

Thence continue Westerly along the North line of Sec 35 to the NE corner of Sec 34;

Thence continue Westerly along the North line of the NE  $\frac{1}{4}$  of Sec 34 to the North  $\frac{1}{4}$  corner of Sec 34;

Thence Southerly along the West line of the NE  $\frac{1}{4}$  of Sec 34 to the center of Sec 34;

Thence Westerly along the North line of the SW  $\frac{1}{4}$  of Sec 34 to the West  $\frac{1}{4}$  corner of Sec 34 and the center line of Bates Road;

Thence Southerly along the center line of Bates Road to the West  $\frac{1}{4}$  corner of Sec 10 T13N, R21E;

Thence Easterly along the North line of the SW  $\frac{1}{4}$  of Sec 10 to the center of Sec 34;

Thence Southerly along the East line of the SW  $\frac{1}{4}$  of Sec 10 to the South  $\frac{1}{4}$  corner of Sec 10;

Thence continue Southerly along the West line of the N  $\frac{1}{2}$  of the NE  $\frac{1}{4}$  of Sec 15 to the SE corner of the N  $\frac{1}{2}$  of the NE  $\frac{1}{4}$  of Sec 15;

Thence Easterly along the South line of the N  $\frac{1}{2}$  of the NE  $\frac{1}{4}$  of Sec 15 to SE corner of the N  $\frac{1}{2}$  of the NE  $\frac{1}{4}$  of Sec 15;

Thence continue Easterly along the North line of the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Sec 14 to the NE corner of SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Sec 14;

Thence Southerly along the East line of the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Sec 14 to the SE corner of SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Sec 14;

Thence Easterly along the South line of the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Sec 14 to the center of Sec 14;

Thence continue Easterly along the South line of the NE  $\frac{1}{4}$  of Sec 14 to the West  $\frac{1}{4}$  corner of Sec 13 and the point of beginning.

See Attached Exhibit B



# Village of Adell FloodPlain Ordinance

## Chapter 2

### Article A: Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions

#### ***Section 13-2-1 Statutory Authorization***

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.

#### ***Section 13-2-2 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.

#### ***Section 13-2-3 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 flood plain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

#### ***Section 13-2-4 Title***

This ordinance shall be known as the Floodplain Zoning Ordinance for The Village of Adell, Wisconsin

**Section 13-2-5 General Provisions**

- a) **Areas to be regulated.** This ordinance regulates all areas that would be covered by the regional flood or base flood. Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.
- b) **Official Maps & Revisions.** The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Village of Adell Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the **Village Clerk, the Village of Adell**. If more than one map or revision is referenced, the most current approved information shall apply.

**Official Maps:** Based on the FIS (select one or more of the following map citations that apply to your community; contact your DNR office if you have questions, or click on <http://store.msc.fema.gov> to access the FEMA Map Store)

Flood Insurance Rate Map (FIRM), panel number (fill in community panel number here), dated (fill in map date here); with corresponding profiles that are based on the Flood Insurance Study (FIS) dated (fill in study date here);

Flood Boundary and Floodway Map (FBFW), panel number (fill in community panel number here), dated (fill in map date here);

Flood Hazard Boundary Map (FHBM), panel number (fill in community panel number here), dated (fill in map date here);

Approved by: The DNR and FEMA

**Official Maps:** Based on other studies (The following are examples of other types of maps you may need to adopt)

(100-Year Dam Failure) Floodplain Map, dated (March 4, 1993), prepared by (ABC Engineering.)

Approved by: The DNR and FEMA

Silver Creek) Floodplain Map, dated (August 10, 1993), prepared by (ABC Engineering.)

Approved by: The DNR and FEMA

Floodplain Study Appendix: All DNR- and FEMA-approved floodplain maps, flood profiles, floodway data tables, regional or base flood elevations and other information

located in the appendix on page \_\_\_\_ of this ordinance. The community shall provide the most up to date appendix to the DNR and FEMA regional offices.

c) **Establishment of Districts.** The regional floodplain areas 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.
- 2) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- 3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

d) **Locating Floodplain Boundaries.** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsection (1) or (2) below. If a significant difference exists, the map shall be amended according to s. 8.0. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (1) and (2) below.

- 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, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

**Note:** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 8.1 (6).

e) **Removal of Lands from Floodplain.** Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0.

**Note:** This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

f) **Compliance.** Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

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. 30.12(4)(a), Stats., applies.

h) **Abrogation and Greater Restrictions.**

- 1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; or

- s. 61.35 for villages; 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. Nor does this ordinance 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.
- k) **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- l) **Annexed Areas for Cities and Villages.** The **Sheboygan** County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.
- m) **General Development Standards.** The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

**Sections 13-2-6 through 13-2-9 Reserved for Future Use.**

**Article B: General Standards Applicable to All Floodplain Districts**

***Section 13-2-10 Hydraulic and Hydrologic Analyses***

- a) Except as allowed in par. (3) below, no floodplain development shall:
  - 1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
  - 2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.
- c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.0.

**Note:** This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

***Section 13-2-11 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 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, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

## ***Section 13-2-12 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 floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 8.0.

## ***Section 13-2-13 Public or Private Campgrounds***

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

- a) The campground is approved by the Department of Health and Family Services.
- b) A land use permit for the campground is issued by the Zoning Administrator.
- c) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
- d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- e) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- f) Only camping units are allowed.
- g) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- h) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- i) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- j) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0 or s. 4.0 for the floodplain district in which the structure is located.
- k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.

- l) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or flood proofed to the flood protection elevation

## **Sections 13-2-14 through 13-2-19 Reserved for Future Use**

## **Article C: Floodway District (FW)**

### ***Section 13-2-20 Applicability***

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.4.

### ***Section 13-2-21 Permitted Uses***

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if:

- ✓ they are not prohibited by any other ordinance;
  - ✓ they meet the standards in s. 3.3 and 3.4; and
  - ✓ all permits or certificates have been issued according to s. 7.1.
- a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  - b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - 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 s. 3.3(4).
  - d) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.
  - e) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
  - 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, 31, Stats.
  - g) Public utilities, streets and bridges that comply with s. 3.3(3).

### ***Section 13-2-22 Standards for Developments in Floodway Areas***

- a) **General.**
  - 1) Any development in floodway areas shall comply with s. 2.0 and have a low flood damage potential.
  - 2) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1:

- a) A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
- b) An analysis calculating the effects of this proposal on regional flood height.
- 3) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above
- b) **Structures.** Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
  - 1) The structures are not designed for human habitation and do not have a high flood damage potential;
  - 2) The structures are constructed and placed on the building site so as to increase flood heights less than 0.01 foot and minimally obstruct the flow of floodwaters. Structures shall be constructed with the long axis parallel to the flow of floodwaters and on the same line as adjoining structures;
  - 3) The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
  - 4) The structures have all service facilities at 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 flood proofing measures are provided to the flood protection elevation; and
  - 2) Construction meets the development standards of s. 2.1.
- d) **Fills or Deposition of Materials.** Fills or deposition of materials may be allowed by permit, if:
  - 1) The requirements of s. 2.1 are met;
  - 2) No material is deposited in the navigable channel 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 bulk heading; and
  - 4) The fill is not classified as a solid or hazardous material.

### ***Section 13-2-23 Prohibited Uses***

All uses not listed as permitted uses in s. 13.2.21 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. COMM 83, 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;

## **Sections 13-2-24 through 13-2-29 Reserved for Future Use.**

## **Article D: Floodfringe District (FF)**

### ***Section 13-2-30 Applicability***

This section applies to all Floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.4.

### ***Section 13-2-31 Permitted Uses***

Any structure, land use, or development is allowed in the Floodfringe district if the standards in s. 4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.

### ***Section 13-2-32 Standards for Development in Floodfringe Areas***

Section 13.2.10 shall apply in addition to the following requirements according to the use requested:

- 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) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other flood proofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
  - 2) The basement or crawlway floor may be placed at the regional flood elevation if it is flood proofed to the flood protection elevation. No basement or crawlway floor 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);
  - 4) In developments where existing street or sewer line elevations make compliance with par. (3) 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 natural disaster plan approved by Wisconsin Emergency Management and the Department.
- b) **Accessory Structures or Uses.** An accessory structure or use not connected to a principal structure shall be constructed with its lowest floor no more than two feet below the regional flood elevation, subject to flood velocities of no more than two feet per second, and shall meet all the provisions of ss. 13-2-22 (b) (1), (2), (3), (4), and sub. (f) below.
  - c) **Commercial Uses.** Any commercial structure which is erected, altered or moved into the Floodfringe area shall meet the requirements of s. 13-2-32(1). Subject to the requirements of sub. (6), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
  - d) **Manufacturing and Industrial Uses.** Any manufacturing or industrial structure which is erected, altered or moved into the Floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 7.5. Subject to the requirements of sub. (6), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
  - e) **Storage of Materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or flood proofed in compliance with s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
  - f) **Public Utilities, Streets and Bridges.** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
    - 1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are flood proofed in compliance with s. 7.5 to the flood protection elevation;
    - 2) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
  - g) **Sewage Systems.** All on-site sewage disposal systems shall be flood proofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
  - h) **Wells.** All wells shall be flood proofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of Chs. NR 811 and NR 812, Wis. Adm. Code.
  - i) **Solid Waste Disposal Sites.** Disposal of solid or hazardous waste is prohibited in Floodfringe areas.
  - j) **Deposition of Materials.** Any deposited material must meet all the provisions of this ordinance.
  - k) **Manufactured Homes.**

- 1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access 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 s. 13-2-32(a).
- l) **Mobile Recreational Vehicles.** All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 13-2-32 (k)(2) and (3). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

## **Sections 13-2-33 through 13-3-39 Reserved for Future Use**

## **Article E: General Floodplain District (GFP)**

### ***Section 13-2-40 Applicability***

The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and Floodfringe districts shall be delineated when adequate data is available.

### ***Section 13-2-41 Permitted Uses***

Pursuant to s. 13-2-43, it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (s. 13-2-22) and Floodfringe areas (s. 13-2-31) are allowed within the general floodplain district, according to the standards of s. 13-2-42, provided that all permits or certificates required under s. 7.1 have been issued.

### ***Section 13-2-42 Standards For Development In The General Floodplain District***

Article C applies to floodway areas, Article D applies to floodfringe areas. The rest of this ordinance applies to either district.

**Section 13-2-43 Determining Floodway and Floodfringe Limits**

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- 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 typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
  - 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) Profile showing the slope of the bottom of the channel or flow line of the stream;
  - 4) Specifications for building construction and materials, flood proofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities
- c) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 7.1(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

**Sections 13-2-44 through 13-2-49 Reserved for Future Use**

**Article F: Nonconforming Uses**

**Section 13-2-50 General**

- a) **Applicability.** If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.
- 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. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. 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 exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph; Amended 10/8/14~~
- 5) ~~Except as provided in subd. 2., 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 exceeds 50% of the structure's present equalized assessed value. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated there under. Amended 10/8/2014~~
- 6) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with 13-2-22(a), flood resistant materials are used, and construction practices and flood proofing methods that comply with 13-2-64 are used.

### **Section 13-2-51 Floodway Areas**

- a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
  - 1) Has been granted a permit or variance which meets all ordinance requirements;
  - 2) Meets the requirements of 13-2-50;
  - 3) Will not increase the obstruction to flood flows or regional flood height; and
  - 4) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation.
- 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 a floodway area. 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 and ch. COMM 83, Wis. Adm. Code.
- c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

### **Section 13-2-52 Floodfringe Areas**

- 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 flood proofed to the flood protection elevation in compliance with the standards for that particular use in 13-2-32, except where 13-2-52(b) is applicable.
- b) Where compliance with the provisions of par. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in 13-2-62, may grant a variance from those provisions of par. (a) 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:
  - 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 13-2-32(f).
- c) If neither the provisions of par. (a) or (b) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
  - 1) Meets all other regulations and will be granted by permit or variance;
  - 2) Does not exceed 60 square feet in area; and
  - 3) In combination with other previous modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.

- d) 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 and ch. COMM 83, Wis. Adm. Code.
- e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

## **Sections 13-2-53 through 13-2-59 Reserved for Future Use**

## **Article 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 ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

### ***Section 13-2-60 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. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
  - 3) 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 for floodplain development;
    - c) Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
    - d) All substantial damage assessment reports for floodplain structures.
  - 4) 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 any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
    - c) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
  - 5) 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.
  - 6) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

- b) **Land Use Permit.** A land use permit shall be obtained before any new development or any repair 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 high-water 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 National Geodetic and Vertical Datum (NGVD);
    - h) Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 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 13-2-10. This may include any of the information noted in 13-2-22(a).
  - 3) **Date Requirements to Analyze Developments.** The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
    - a) An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
    - b) A map showing location and details of vehicular access to lands outside the floodplain; and
    - c) A surface drainage plan showing how flood damage will be minimized.
 The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.
  - 4) **Expiration.** All permits issued under the authority of this ordinance shall expire            days after issuance.
- 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 flood proofing elevations are in compliance with the permit issued. Flood proofing measures also require certification by a registered professional engineer or architect that flood proofing measures meet the requirements of 13-2-64.
- d) **Other Permits.** The applicant must secure all necessary permits from federal, state, and local agencies, including 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.

### ***Section 13-2-61 Zoning Agency***

- a) The Planning Commission 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) This commission 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.

### ***Section 13-2-62 Board of Adjustment/Appeals***

The Board of Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

- a) **Powers and Duties.** The Board of Adjustment/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.** 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.
  - 1) **Notices 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 13-2-62(c).
  - (2) Decide variance applications according to 13-2-62(d)
  - (3) Decide appeals of permit denials according to 13-2-63
- 2) **Decisions.** 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;
  - 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. If none exist, other evidence may be examined.
  - 2) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
  - 3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Article 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 13-2-3.
  - 2) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
    - a) The variance may not cause any increase in the regional flood elevation;
    - b) Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
    - c) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
  - 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 13-2-70.

- 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 flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

### ***Section 13-2-63 To Review Appeals of Permit Denials***

- a) The Zoning Agency (13-2-61) or Board shall review all data related to the appeal. This may include:
  - 1) Permit application data listed in 13-2-60(b).
  - 2) Floodway/floodfringe determination data in 13-2-43
  - 3) Data listed in 13-2-22(a)(2)b 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 13-2-62;
  - 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 equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
  - 2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

### ***Section 13-2-64 Flood Proofing***

- a) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the flood proofing measures will protect the structure or development to the flood protection elevation.
- b) Flood proofing measures shall be designed 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; and
  - 4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- c) Flood proofing measures could include:
  - 1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
  - 2) Adding mass or weight to prevent flotation.
  - 3) Placing essential utilities above the flood protection elevation.
  - 4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
  - 5) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.

- 6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

### ***Section 13-2-65 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.

### **Sections 13-2-66 through 13-2-69 Reserved for Future Use**

## **Article H: Amendments**

### ***Section 13-2-70 General***

The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- a) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- b) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- c) Any fill in the floodplain 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.
- d) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- e) 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.
- f) 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.

**Note:** Consult the FEMA web site - [www.fema.gov](http://www.fema.gov) - for the map change fee schedule.

### ***Section 13-2-71 Procedures***

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by ss. 13-2-43 and 13-2-60(b).

- a) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- b) No amendments shall become effective until reviewed and approved by the Department.
- c) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, 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.

- d) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See 13-2-5(d).)

## **Sections 13-2-72 through 13-2-79 Reserved for Future Use.**

### **Article I: Enforcements and Penalties**

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$ \_\_\_\_\_ and not more than \$ \_\_\_\_\_, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

### **Article 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.

- a) "**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.
- b) "**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.
- c) "**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.
- d) "**BASEMENT**" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- e) "**BUILDING**" - See STRUCTURE.
- f) "**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 high-water mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- g) "**CAMPGROUND**" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- h) "**CAMPING UNIT**" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
- i) "**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.
- j) "**CHANNEL**" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
  - k) "**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.
  - l) "**DECK**" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
  - m) "**DEPARTMENT**" - The Wisconsin Department of Natural Resources.
  - n) "**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.
  - o) "**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.
  - p) "**ENCROACHMENT**" - Any fill, structure, equipment, building, use or development in the floodway.
  - q) "**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION**" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
  - r) "**EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK**" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
  - s) "**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**" - The federal agency that administers the National Flood Insurance Program.
  - t) "**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.
  - u) "**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:
    - 1) The overflow or rise of inland waters,
    - 2) The rapid accumulation or runoff of surface waters from any source,
    - 3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
    - 4) 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.
  - v) "**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.

- w) **"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.
- x) **"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.
- y) **"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.
- z) **"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.
- aa) **"FLOODPLAIN ISLAND"** - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- bb) **"FLOODPLAIN MANAGEMENT"** - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- cc) **"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.
- dd) **"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.
- ee) **"FLOOD PROTECTION ELEVATION"** - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- ff) **"FLOOD STORAGE"** - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- gg) **"FLOODWAY"** - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- hh) **"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.
- ii) **"HABITABLE STRUCTURE"** - Any structure or portion thereof used or designed for human habitation.
- jj) **"HEARING NOTICE"** - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- kk) **"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.
- ll) **"HISTORIC STRUCTURE"** - Any structure that is either:
- mm) **"INCREASE IN REGIONAL FLOOD HEIGHT"** - A calculated upward rise in the regional

flood elevation, equal to or greater than 0.01 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.

- nn) "**LAND USE**" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- oo) "**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."
- pp) "**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 tow able 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."
- qq) "**MUNICIPALITY**" or "**MUNICIPAL**" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- rr) "**NGVD**" or "**NATIONAL GEODETIC VERTICAL DATUM**" - Elevations referenced to mean sea level datum, 1929 adjustment.
- ss) "**NEW CONSTRUCTION**" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- tt) "**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.)
- uu) "**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.)
- vv) "**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.
- ww) "**OFFICIAL FLOODPLAIN ZONING MAP**" - That map, adopted and made part of this ordinance, as described in s. 13-1-5(b), which has been approved by the Department and FEMA.
- xx) "**OPEN SPACE USE**" - Those uses having a relatively low flood damage potential and not involving structures.
- yy) "**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.
- zz) "**PERSON**" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

- aaa) **"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 Commerce, 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.
- bbb) **"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.
- ccc) **"REASONABLY SAFE FROM FLOODING"** - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- ddd) **"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.
- eee) **"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.
- fff) **"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 lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- ggg) **"SUBDIVISION"** - Has the meaning given in s. 236.02(12), Wis. Stats.
- hhh) **"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.
- iii) **"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.
- jjj) **"VARIANCE"** - An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- kkk) **"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, flood proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- lll) **"WATERSHED"** - The entire region contributing runoff or surface water to a watercourse or

body of water.

mmm) **"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.

nnn) **"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.

# **Village of Adell Shoreland/Wetland Ordinance**

## **Chapter 3**

### ***Section 13-3-1 Statutory Authorization***

This ordinance is adopted pursuant to the authorization in sections 61.35 and 61.351 for villages or 62.23 and 62.231 for cities and 87.30 and 144.26, Wis. Stats.

### ***Section 13-3-2 Finding of Fact and Purpose***

Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

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

### ***Sections 13-3-3 through 13-3-19 Reserved for future use***

#### ***Section 13-3-20 Compliance***

The use of wetlands and the alteration of wetlands within the shoreland area of the municipality shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see section 4.0 of this ordinance, for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this ordinance.

#### ***Section 13-3-21 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 section 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when section 30.12(4) (a), Wis. Stats., applies.

#### ***Section 13-3-22 Abrogation and Greater Restrictions***

- a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under sections 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands, except that where another municipal zoning 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.
- b) 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.

**Section 13-3-23 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 municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this ordinance is required by a standard in chapter NR 117, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the chapter NR 117 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.

**Section 13-3-24 Severability**

Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

**Section 13-3-25 Annexed Areas**

The Sheboygan County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The AC County shoreland zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator.

**Sections 13-3-26 through 13-3-39 Reserved for future use**

**Section 13-3-40 Shoreland-Wetland Zoning Maps**

The following maps are hereby adopted and made part of this ordinance and are on file in the office of the municipal Clerk:

- a) Wisconsin Wetland Inventory maps stamped "FINAL" on September 12, 1990.
- b) Zoning maps titled "Village of Adell" and dated 1982.

**Section 13-3-41 District Boundaries**

The shoreland-wetland zoning district includes all wetlands in the municipality which are five acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this ordinance and which are:

- a) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the municipality 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 three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as 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 section 3.1(2) shall be used to determine the extent of floodplain areas.

Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.

When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in section 3.24 and 3.25, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period.

**Filled Wetlands.** Wetlands which are filled prior to September 12, 1990, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this ordinance.

**Wetlands Landward of a Bulkhead Line.** Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982 under s. 30.11, Stats, are not subject to this ordinance.

### ***Section 13-3-42 Permitted Uses***

The following uses are permitted subject to the provisions of chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

- a) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
- 1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
  - 2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
  - 3) The practice of silviculture, including the planting, thinning and harvesting of timber;
  - 4) The pasturing of livestock;

- 5) The cultivation of agricultural crops; and
  - 6) The construction and maintenance of duck blinds.
- b) Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
- 1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
  - 2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
  - 3) The maintenance and repair of existing drainage systems to restore pre-existing 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;
  - 4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  - 5) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
  - 6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in section 6.13 of this ordinance; and
  - 7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- c) Uses which are allowed upon the issuance of a zoning permit and which may include wetland alterations only to the extent specifically provided below:
- 1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under section 13-3-42(c), of this ordinance, provided that:
    - a) The road cannot, as a practical matter, be located outside the wetland;
    - b) The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in Article F of this ordinance;
    - c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
    - d) Road construction activities are carried out in the immediate area of the roadbed only; and
    - e) Any wetland alteration must be necessary for the construction or maintenance of the road.
  - 2) The construction and maintenance of nonresidential buildings provided that:
    - a) The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
    - b) The building cannot, as a practical matter, be located outside the wetland;

- c) The building does not exceed 500 square feet in floor area; and
  - d) Only limited filling and excavating necessary to provide structural support for the building is allowed.
- 3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
- a) Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
  - b) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
  - c) The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in section 3.33(1) of this ordinance; and
  - d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- 4) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided that:
- a) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
  - b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and
  - c) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in Article F of this ordinance.

### ***Section 13-3-43 Prohibited Uses***

Any use not listed in Section 13-3-42 of this ordinance is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with Article F of this ordinance.

The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters is prohibited.

### ***Sections 13-3-44 through 13-3-59 Reserved for future use***

The lawful use of a building, structure or property which existed at the time this ordinance, or an applicable amendment to this ordinance, took effect and which is not in conformity with the provisions of the ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- a) The shoreland-wetland provisions of this ordinance authorized by s. 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion

of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to s. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50% of current fair market value.

- b) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.
- c) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this ordinance adopted under sections 61.351 or 62.231, Wis. Stats., may be continued although such use does not conform to the provisions of the ordinance. However, such nonconforming use may not be extended.
- d) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of section 30.121, Wis. Stats.
- e) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

### ***Section 13-3-70 Zoning Administrator***

The Village Building Inspector is appointed zoning administrator for the purpose of administering and enforcing this ordinance. The zoning administrator shall have the following duties and powers:

- a) Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
- b) Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- c) Keep records of all permits issued, inspections made, work approved and other official actions.
- d) Have access to any structure or premises between the hours of 8 a.m. and 6 p.m. for the purpose of performing these duties.
- e) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments within 10 days after they are granted or denied, to the appropriate district office of the Department.
- f) Investigate and report violations of this ordinance to the appropriate municipal planning agency and the district attorney, corporation counsel or municipal attorney.

### ***Section 13-3-71 Zoning Permits***

**When required.** Unless another section of this ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any new development, as defined in section 8.2(6), of this ordinance, or any change in the use of an existing building or structure is initiated.

**Application.** An application for a zoning permit shall be made to the zoning administrator upon forms furnished by the municipality and shall include, for the purpose of proper enforcement of these regulations, the following information:

a) **General Information**

- 1) Name, address, and telephone number of applicant, property owner and contractor, where applicable.
- 2) Legal description of the property and a general description of the proposed use or development.
- 3) Whether or not a private water supply or sewage system is to be installed..

b) **Site Development Plan.** The site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

- 1) Dimensions and area of the lot;
- 2) Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
- 3) Description of any existing or proposed on-site sewage systems or private water supply systems;
- 4) Location of the ordinary high-water mark of any abutting, navigable waterways;
- 5) Boundaries of all wetlands;
- 6) Existing and proposed topographic and drainage features and vegetative cover;
- 7) Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;
- 8) Location of existing or future access roads; and
- 9) Specifications and dimensions for areas of proposed wetland alteration.

**Expiration.** All permits issued under the authority of this ordinance shall expire 12 months from the date of issuance.

### ***Section 13-3-72 Certificate of Compliance***

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

- a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.
- b) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
- c) The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform to all the provisions of this ordinance.

The zoning administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the municipal governing body.

Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this ordinance.

**Section 13-3-73 Conditional Use Permits**

**Application.** Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the Board of Appeals following the procedures in Section 13-3-77 of this ordinance.

**Conditions.** Upon consideration of the permit application and the standards applicable to the conditional uses designated in Section 13-3-42 of this ordinance, the Board of Appeals shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance as listed in section 1.2. 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 operation; 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 zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance.

**Section 13-3-74 Fees**

The municipal governing body may, be resolution, adopt fees for the following:

- a) Zoning permits.
- b) Certificates of compliance.
- c) Public Hearings.
- d) Legal notice publications.
- e) Conditional use permits.
- f) Rezoning petitions.

**Section 13-3-75 Recording**

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the zoning administrator of the land use and structures permitted.

**Section 13-3-76 Revocation**

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

**Section 13-3-77 Board of Appeals**

The city mayor or village president shall appoint a Board of Appeals under section 62.23(7)(e), Wis. Stats., consisting of five members subject to confirmation by the municipal governing body. The Board of Appeals shall adopt rules for the conduct of its business as required by section 63.23 (7) (e)3., Wis. Stats.

**Powers and Duties.** The Board of Appeals:

- a) Shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- b) Shall hear and decide applications for conditional use permits.
- c) May authorize upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:
  - 1) That literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.
  - 2) That the hardship is due to special conditions unique to the property; and is not self-created or based solely on economic gain or loss;
  - 3) That such variance is not contrary to the public interest as expressed by the purpose of this ordinance and;
  - 4) That such variance will not grant or increase any use of property which is prohibited in the zoning district.

**Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision, or determination of the zoning administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board by filing with the official whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other official whose decision is in question shall transmit to the Board all the papers constituting the record on the matter appealed.

**Public Hearing.** Before making a decision on an appeal or application, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a class 2 notice under ch. 985, Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may present testimony in person, by agent or by attorney.

A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.

**Decisions.** The final disposition of an appeal or application for a conditional use permit before the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing and signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application for a conditional use.

A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within 10 days after the decision is issued.

**Sections 13-3-78 through 13-3-89 Reserved for future use**

**Article A: Amending Shoreland-Wetland Zoning Regulations**

The municipal governing body may alter, supplement or change the district boundaries and the regulations contained in this ordinance in accordance with the requirements of section 62.23 (7) (d)2., Wis. Stats., NR 117, Wis. Adm. Code, and the following:

- a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within 5 days of the submission of the proposed amendment to the municipal planning agency;
- b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held after class II notice as required by section 62.23 (7) (d)2., Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.
- c) In order to insure that this ordinance will remain consistent with the shoreland protection objectives of section 144.26, Wis. Stats., the municipal governing body 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:
  - 1) Storm and flood water storage capacity;
  - 2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
  - 3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
  - 4) Shoreline protection against erosion;
  - 5) Fish spawning, breeding, nursery or feeding grounds;
  - 6) Wildlife habitat; or
  - 7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Article F(c), of this ordinance, the Department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.

The appropriate district office of the Department shall be provided with:

- a) A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment, within 10 days after the submission of those recommendations to the municipal governing body.
- b) Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.

If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in

Article F(c), of this ordinance, that- proposed amendment, if approved by the municipal governing body, shall not become effective until more than 30 days have elapsed since written notice of the municipal approval was mailed to the Department, as required by of this ordinance. If within the 30 day period, the Department notifies the municipality that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the municipality as provided by sections 62.231(6) and 61.351(6), Wis. Stats., the proposed amendment shall not become effective until the ordinance adoption procedure under section 62.231(6) or 61.351(6), Wis. Stats., is completed or otherwise terminated.

## **Article B: Enforcement and Penalties**

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator shall refer violations to the municipal planning agency and the district attorney, corporation counsel or municipal attorney who shall prosecute such violations. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$10 nor more than \$200 per offense, 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 thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to section 87.30(2), Wis. Stats.

## **Article C: Definitions**

For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified, shall be measured horizontally.

The following terms used in this ordinance mean:

- a) "**Accessory structure or use**" means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principle structure or use to which it is related and which is located on the same lot as that of the principle structure or use.
- b) "**Boathouse**" as defined in section 30.121(1), Wis. Stats., means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
- c) "**Class 2 public notice**" means publication of a public hearing notice under chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two consecutive weeks, the last at least seven days prior to the hearing.

- d) "**Conditional use**" means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.
- e) "**Department**" means the Wisconsin Department of Natural Resources.
- f) "**Development**" means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
- g) "**Drainage system**" means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- h) "**Environmental control facility**" means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities 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.
- i) "**Fixed houseboat**" as defined in section 30.121(1), Wis. Stats., means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spud poles attached to the bed of the waterway.
- j) "**Navigable waters**" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all 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. Under section 144.26(2) (d) , Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under sections 61.351 or 62.221, Wis. Stats., and chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
  - 1) Such lands are not adjacent to a natural navigable stream or river;
  - 2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
  - 3) Such lands are maintained in nonstructural agricultural use.

*"Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor and Co., Inc., v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons."*
- k) "**Ordinary high-water mark**" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

- l) "**Planning agency**" means the municipal plan commission created under section 62.23(1), Wis. Stats., a board of public land commissioners or a committee of the municipality's governing body which acts on matters pertaining to planning and zoning.
- m) "**Shoreland**" means lands within the following distances from the ordinary high-water 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.
- n) "**Shoreland-wetland district**" means the zoning district, created in this shoreland-wetland zoning ordinance, comprised of shoreland that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this ordinance.
- o) "**Unnecessary hardship**" means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.
- p) "**Variance**" means an authorization granted by the Board of Appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.
- q) "**Wetlands**" means those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- r) "**Wetland alteration**" means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

Dates of Class 2 notice publication August 3, 1989.

Date of Public Hearing: April 10, 1991

Date of Adoption: April 10, 1991

Date of Publication: May 9, 1991

BERNADETTE MONDLOCH, Village Clerk