

Village of Lac La Belle Zoning and Shoreland Protection Ordinance Table of Contents

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SECTION 1 AUTHORITY, INTERPRETATION AND PURPOSES

A. Authority

The Village of Lac La Belle Village Board hereby adopts the following regulations under the authority granted by Wis. Stats. §§ 61.35, 61.351, 61.353, 62.23, 87.30 and 281.31, and NR 117, Wis. Admin. Code.

B. Purpose and Intent

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

Furthermore, uncontrolled use of shorelands and pollution of navigable waters will adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. For these purposes, this Ordinance has been established to:

1. Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 - a. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - b. Establishing minimum lot sizes to control density and provide suitable area for private sewage disposal facilities.
 - c. Controlling land altering activities to prevent serious soil erosion.
 - d. Limiting impervious surfaces to control runoff which carries pollutants.
2. Protect spawning grounds, fish and aquatic life through:
 - a. Preserving wetlands and other fish and aquatic habitat.
 - b. Regulating pollution sources.
 - c. Controlling shoreline alterations such as dredging and lagooning.
3. Control building sites, placement of structures and land uses through:
 - a. Reducing and eliminating conflicting land uses.
 - b. Prohibiting uses detrimental to the shoreland area.
 - c. Setting minimum lot sizes and widths.
 - d. Regulating building, structural placement and height.
 - e. Regulating land and water uses so as to assure a more compatible relationship to the carrying capacity of the land and water.
4. Preserve and restore shore cover and natural scenic beauty through:
 - a. Restricting the removal of natural shoreland cover.
 - b. Preventing shoreline encroachment by structures.
 - c. Controlling shoreland excavation and other land altering activities.
 - d. Regulating the use and placement of boathouses and other structures.

SECTION 2 DEFINITIONS

A. General interpretation

For the purpose of this Ordinance, and when not inconsistent with the context, words used herein in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word "occupied" includes designed or intended to be occupied; the word "structure" includes buildings; the word "used" includes designed or intended to be used; the word "inhabit" includes intended to be inhabited; the word "shall" is always mandatory and not merely permissive; "Village" refers to the Village of Lac La Belle, Wisconsin; "Plan Commission" refers to the Village of Lac La Belle Plan Commission established under Village powers pursuant to Chapter 62 Wisconsin Statutes, reference to any officer such as "administrator", "clerk," "building inspector," "engineer," or "attorney," means that officer appointed or otherwise officially designated by the Village in such capacity, unless otherwise specifically designated; the words "code" and "Ordinance" are to be used interchangeably; and the word "person" may be taken for persons, associations, partnerships or corporations.

B. Specific words and phrases

For the purposes of this Ordinance, certain words and phrases shall be defined as follows:

1. ACOE: See Army Corps of Engineers.
2. Access and Viewing Corridor: A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.
3. Accessory Structure – see Building, Accessory
4. Administrative Officer: Any officer such as a Clerk, Building Inspector, Engineer, Attorney, or Zoning Administrator, or his agent, who is appointed, elected or is otherwise officially designated by the Village and does not include any Committee, Commission, or Board or its individual members.
5. Adult Arcade: Any place to which the public is permitted or invited wherein coin, slug, electronically, or mechanically controlled or operated still or motion picture machines, projectors, computers, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas".
6. Adult Bathhouse: A commercial establishment which provides a bath as a service and which provides to its patrons an opportunity for engaging in "Special Sexual Activities."
7. Adult Body Painting Studio: A commercial establishment wherein patrons are afforded an opportunity to be painted or to paint images on "Specified Anatomical Areas". An Adult Body Painting Studio does not include a tattoo parlor.
8. Adult Bookstore: Any commercial establishment having as its stock in trade the sale, rental or lease for any form of consideration, any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on "Specified Sexual Activities" or "Specified Anatomical Areas";
 - b. Instruments, devices, or paraphernalia which are designed for use in connection with "Specified Sexual Activities";
 - c. Facilities for the presentation of "Adult Entertainment" as defined herein, including Adult-Oriented

films, motion pictures, video cassettes, video reproductions, slides or other visual representations for observation by patrons therein.

9. Adult Cabaret: A nightclub, bar, restaurant, or similar commercial establishment which features:
 - a. Live performances which are characterized or distinguished by the exposure of "Specified Anatomical Areas" or the removal of articles of clothing; or,
 - b. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas."
10. Adult Entertainment: Any exhibition of any motion picture, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by any one or more of the following:
 - a. Specified Sexual Activities;
 - b. Specified Anatomical Areas;
 - c. Removal of articles of clothing.
11. Adult Massage Parlor: A commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in "Specified Sexual Activities."
12. Adult Motel: A hotel, motel or other similar commercial establishment which:
 - a. offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, film, motion pictures, video cassettes, video reproductions, slides, or other visual reproductions characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas"; and, has a sign visible from the public right of way which advertises the availability of this type of Adult Entertainment; or
 - b. offers a sleeping room for rent for a period of time that is less than 10 hours; or
 - c. allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than 10 hours.
13. Adult-Oriented Establishment: Includes Adult Arcade, Adult Bathhouse, Adult Body Painting Studio, Adult Bookstore, Adult Cabaret, Adult Massage Parlor, Adult Motel, Adult Theater, and any commercial establishment presenting Adult Entertainment, whether or not such establishment is operated or maintained for a profit.
14. Adult Theater: An enclosed building such as theater, concert hall, auditorium or other similar commercial establishment that is used for presenting "Adult Entertainment."
15. Agricultural Accessory Use: Any of the following land uses on a farm:
 - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
 - b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - c. A farm residence that existed on May 31, 2015.
 - d. A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in paragraph (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future

agricultural use of the farm or of other protected farmland.

- e. Any other use that the Department of Agriculture, Trade and Consumer Protection (“DATCP”), by rule, identifies as an agricultural use and that is determined by the Plan Commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.

16. Agricultural or Farm Use: Any of the following uses:

- a. Any of the following activities:
 - (1) Crop or forage production.
 - (2) Keeping livestock, horses and poultry.
 - (3) Beekeeping.
 - (4) Nursery, sod, or Christmas tree production.
 - (5) Floriculture.
 - (6) Aquaculture.
 - (7) Fur farming.
 - (8) Forest management.
 - (9) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- b. Any other use that DATCP, by rule, identifies as an agricultural use and that is determined by the Plan Commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.

17. Agriculture-Related Use: Any of the following uses:

- a. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
- b. Any other use that DATCP, by rule, identifies as an agriculture-related use and that is determined by the Plan Commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.

18. Alternative Energy System: Any energy system, including but not limited to wind energy systems and solar energy systems that collects, converts, distributes, or otherwise makes use of non-fossil fuels for power or energy purposes.

19. Apartment: A suite of rooms or a room in a multiple-family dwelling which suite or room is arranged, intended, or designed to be occupied as a residence of single family, individual or group of individuals.

20. Applicant: The applicant for any permit, variance, special exception, conditional use, site plan, plan of operation, rezoning, license or other application for governmental approval under this Ordinance shall be a utility company that holds an appropriate easement or has established prescriptive rights under s. 893.28(2), Wisconsin Statutes or the landowner, specifically a person or entity holding fee title to the property, as set forth below:

- a. In the case of a corporation, an officer or by a member of the corporation who has overall responsibility for the operation of the site for which the permit is sought.
- b. In the case of a limited liability company, a member or manager.
- c. In the case of a partnership, a general partner.
- d. In the case of a sole proprietorship, the proprietor.
- e. For a unit of government, by an elected official or other duly authorized representative.
- f. In the case of an individual, by the individual, an attorney, or one authorized to act as agent under a power of attorney.

The landowner must sign the application or execute the Landowner's Authorized Agent Form, which is available through the Zoning Administrator's office.

21. Arcade: Any premises containing three or more amusement devices or games usually of an electronic nature, for the primary use of entertainment of the public or the patrons of the establishment.
22. Army Corps of Engineers (ACOE): Federal agency commonly referred to as ACOE.
23. Attached Structure: a building or architectural projection that is connected to the primary structure and relies on it for structural support or complete enclosure.
24. Base Setback Line: The ultimate street line as established by the building location provisions of this code and from which all required road setbacks shall be computed.
25. Basement: A level of a building with a height, as measured between the floor and the bottom of the floor joists above that is more than one-half below the finished yard grade on at least one side. If a lateral extension of the basement level does not have a story (as defined in this Ordinance) above it, it is not considered a basement level, and shall be regulated as otherwise required in this Ordinance.
26. Bed and Breakfast Facility: An owner-occupied residence often in a building with landmark or historically significant qualities where lodging for paying guests is offered and which offers breakfast to these guests as its only meal.
27. Boathouse: 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 these structural parts.
28. Boarding House: A house or building where regular meals are generally furnished or served to three (3) or more persons at a stipulated amount for definite periods of one (1) month or less.
29. Boat-livery: See "marina."
30. Breezeway: An above-ground, roofed area for passage for the purpose of connecting two structures or buildings, as between a house and a garage, with either open or enclosed sides, with or without a foundation, and which must be designed and constructed in keeping with the existing structures or buildings.
31. Building: Any structure used, designed or intended for the protection, shelter or enclosure of persons, animals or property. However, "building" shall not include driveways or flush patios (i.e. patios that do not exceed the elevation of the abutting ground at one point and are level) so long as said driveways and flush patios do not come within thirty (30) feet of the ordinary high water mark of the lake.
32. Building, Accessory: A Building or portion of a Building subordinate to a principal building and used for a purpose customarily incident to the permitted use of the principal building. When an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard requirements of the main building shall be applied to the Accessory Building.
33. Building Footprint: The surface area of all roofed structures on a lot, except for the area of a roof overhang that measures twenty-four inches or less in depth. Also excepting the area of an entrance roof overhang that measures 24 square feet or less.
34. Building, Height of: The vertical distance measured from the lowest exposed point of a structure to the highest point of any roof.
35. Building, Principal: The main building on a lot, intended for primary use as permitted by the regulations

of the district in which it is located. Any building intended to be used for human habitation shall constitute the principal building, except Accessory Dwelling Unit as defined in Section 2(B)(49).

36. Bulkhead Line: A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the WDNR pursuant to s. 30.11, Wisconsin Statutes, and which allows limited filling between the bulkhead line and the original ordinary high water mark.
37. Channel: A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
38. Conditional Use: A use which may not conform with permitted uses of a category but which may be permitted by the terms of this Ordinance provided that certain conditions specified herein or as may be determined to be necessary by the Village are required as part of the permit issued by the Village pursuant to this Ordinance.
39. Contiguous: When referred to in this Ordinance in the context of farmland preservation provisions, contiguous lands or parcels shall mean adjacent to, sharing a common boundary and including lands that are separated by a road, stream or section line.
40. Contractor's Yard: The exterior premises on which construction and maintenance materials (i.e. salt, sand, cement, decorative block, stone, etc.) or landscaping materials (i.e. sand, gravels, stone, timbers, wood chips, etc.) or construction or maintenance equipment (i.e. bulldozers, front-end loaders, back-hoes, trucks, trailers, etc.) are stored to be utilized for off-site construction, maintenance, or landscaping purposes. Where landscape materials are stored or sold for retail or wholesale markets and accessory to an otherwise permitted use by right, such uses shall not be considered a Contractor's Yard.
41. Crawlpace: An enclosed area below the first usable floor of a Building, generally less than five feet in height, which may be used for access to plumbing, electrical, and other utilities.
42. Dance Hall: A facility including any room, place or space in which a public dance, public ball with live or amplified music (not including juke box) and live entertainment including shows, disc jockeys, comedy or dramatic acts, is conducted excluding any public or parochial school or church hall when used for public dances sponsored by the school or church authority or of a parent teachers' association.
43. Debris and Refuse: Includes but is not limited to garbage outside of required containers, broken concrete, bricks, blocks or other mineral matter, bottles, porcelain and other glass or crockery; boxes; lumber (new or used), posts, logs, sticks, or other wood, tree branches, brush, yard trimmings, grass clippings and other residues; paper, rags, cardboard, excelsior, rubber, plastic wire, tin and metal items; discarded household goods or appliances, junk lawnmowers, motor vehicle parts, machine parts, boards, gypsum board, cut brush and branches, tar paper, residues from burning or any similar materials that constitute health, fire, or safety hazards or a serious blighting influence upon the neighborhood or the Village in general.
44. Deck: A structure characterized by a flat open horizontal surface or platform suspended above the grade of the land it covers and which may be supported by posts, beams, cantilever and/or by other methods.
45. Development: Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of principal or accessory structures; the construction of additions or alterations to principal 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 structures; land division 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.
46. Development Right: When used in the context of the Farmland Preservation ("FLP") or Farmland Conservancy ("FLC") Districts, the term, Development Right, shall be synonymous with the number of

dwelling units and new parcels of less than 35 acres that a farm tracking unit is entitled to create.

47. Diameter at Breast Height: The diameter of a tree trunk measured 4.5 feet above grade.
48. District: An area of land of the Village of Lac La Belle for which the regulations governing the height, area, and use of building and premises are the same.
49. Dwelling, Accessory: A residential dwelling unit, but not a mobile home, located on the same lot as a single-family dwelling, either within the same building as the single-family dwelling or in a detached building. Accessory Dwellings shall be developed in accordance with the standards in Section 4(E)(8) and only in those districts where the use is listed as a Permitted or Conditional Use. Accessory Dwellings shall comply with the Building Footprint and all other bulk regulations for the district.
50. Dwelling, Single-family: A detached or semi-detached building designed for and occupied exclusively by one family.
51. Dwelling, Multiple-family: A Building or portion thereof designed for and occupied by more than one family, including row houses, duplex houses, town houses and apartments.
52. Dwelling, Two-family: A detached or semi-detached building designed for and occupied exclusively by two families.
53. Entrance Gate or Entrance Monument: A structure, usually built with a decorative feature or landscape feature and located at the entrance to a property, such as walls which are often constructed in conjunction with lights, fencing, gates, pillars with lights, property identification signage, or raised planting boxes.
54. Environmental Corridors: Environmental corridors (Primary, Secondary, and Isolated Natural Resource Areas) are concentrations of key significant natural resource elements including surface water such as lakes, streams, and rivers and their associated undeveloped floodlands and shorelands; woodlands, wetlands, and wildlife habitat; prairie remnants; areas of groundwater discharge and recharge; unfarmed wet, poorly drained and organic soils, rugged terrain and high relief topography; and significant geological formations and physiographic features. In general, Primary Environmental Corridors are concentrations of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width. Secondary Environmental Corridors are concentrations of significant natural resources at least 100 acres in area and at least one mile in length (possibly smaller and shorter if considered a primary link). Isolated Natural Resource Areas are concentrations of significant natural resources at least five acres in area and at least 200 feet in width. Generalized environmental corridor boundaries are mapped by the Southeastern Wisconsin Regional Planning Commission, typically at five-year intervals, and precise boundaries are field delineated by or reviewed and approved by the Southeastern Wisconsin Regional Planning Commission Staff. A description of the processes for further defining and delineating Primary and Secondary Environmental Corridors and Isolated Natural Resource Areas is set forth in the Southeastern Wisconsin Regional Planning Commission's Technical Record, Volume 4, No. 2 and is incorporated herein by reference.
55. Environmentally Significant Areas: Environmentally Significant Areas are lands which are zoned as C-1 Conservancy Overlay District or EC Environmental Corridor Overlay District, are designated as Primary Environmental Corridor, Secondary Environmental Corridor, or Isolated Natural Resource area on the Waukesha County Comprehensive Development Plan.
56. Equalized Assessed Value: The value of a property (either the improvements on the property or the land or both), which is calculated by dividing the assessed value of the subject property established by the Village Assessor by the assessment ratio established for the Village of Lac La Belle. This value is indicated on the Village tax roll and is an expression of the current market value of the subject land or improvement or both. For the purposes of this Ordinance, the valuations utilized will be the valuation of the improvement/s.

57. Event Barn: A structure originally constructed for agricultural purposes prior to January 1, 1970, which has been repurposed or renovated for the primary purpose of hosting private or public gatherings such as weddings, receptions, banquets, corporate events, or similar functions. Event barns may include indoor and outdoor spaces and may offer amenities such as catering facilities, restrooms, parking, and entertainment areas.
58. Existing Development Pattern: A pattern of principal structures that exist within 250 feet of a proposed principal structure in both directions along the shoreline.
59. Facade. Means any exterior wall that faces a public street or streets.
60. Farm: All Contiguous land under common ownership that is primarily devoted to Agricultural Use.\
61. Farm Acreage: The size of a farm in acres.
62. Farm Consolidation: A division of land that includes a farm house or houses and may include existing associated agricultural buildings that splits a limited amount of land from a larger pre-existing farm.
63. Farm, Fur: A tract of land devoted in whole or part to the raising of fur bearing animals for commercial purposes. A farm with twenty or more fur bearing animals is considered a fur farm.
64. Farm, Pig: A tract of land devoted principally to the raising and feeding of pigs and hogs. A farm with twenty or more pigs or hogs is considered a pig farm.
65. Farm, Poultry and/or Egg Production: A tract of land, which may or may not be part of a larger farm operation, devoted principally to the raising of poultry and/or egg production.
66. Farm Residence: Any of the following structures that is located on a farm:
- a. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
 - (1) An owner or operator of the farm.
 - (2) A parent or child of an owner or operator of the farm.
 - (3) An individual who earns more than 50 percent of his or her gross income from the farm.
 - (4) A migrant labor camp that is certified under s. 103.92, Wis. Stats.
67. Farm Tracking Unit: One or more contiguous parcels that were part of a single farm or in the same ownership on May 31, 2015 that are designated on the Comprehensive Development Plan for Waukesha County as a Farmland Preservation Area.
68. Farmland Preservation Area: An area that is planned primarily for Agricultural Use or Agriculture-Related Use, or both, and that is one of the following:
- a. Identified as an agricultural preservation area in a farmland preservation plan described in s. 91.12(1), Wis. Stats.
 - b. Identified under s. 91.10(1)(d), Wis. Stats. in a farmland preservation plan described in s. 91.12(2), Wis. Stats.
69. Farmland Preservation Plan: A plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2007 Wisc. Stats.
70. FEMA: See Federal Emergency Management Agency.
71. Family: A person who lives in a dwelling unit as a single housekeeping entity, or a body of persons who

live together in one dwelling unit as a single housekeeping entity.

72. Federal Emergency Management Agency: The federal agency that administers the National Flood Insurance Program. Commonly referred to as FEMA.
73. Fence: A constructed enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth, or retaining walls.
74. 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:
 - a. The overflow or rise of inland waters,
 - b. The rapid accumulation or runoff of surface waters from any source, or
 - c. 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.
75. Floodlands: See Floodplain.
76. 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. Also known as floodlands.
77. Floodway: The Channel of a river or stream and those portions of the Floodplain adjoining the Channel required to carry the regional flood discharge.
78. Floor Area: The sum of the horizontal areas of each floor of an enclosed Building as measured to the outside edges of the outside walls. This definition does not include Basements, exterior balconies, unenclosed porches, or garages.
79. Frontage, Street: The smallest dimension of a lot abutting a public street measured along the street line.
80. Frontage, Water: The horizontal distance between the side lot lines, measured at the point where the side lot lines intersect the Ordinary High Water Mark. In the OR- Districts, frontage on Lac La Belle Lake is calculated by measuring the bulkhead line.
81. Fur-bearing Animals: Animals that are specifically raised for their pelts, including, but not limited to badger, beaver, bobcat, coyote, fisher, fox, lynx, marten, mink, muskrat, opossum, otter, rabbits, raccoon, skunk, weasel and wolf.
82. Garage: Any structure where private vehicles are kept for storage purposes only and wherein such use is accessory to the residential use of the property on which it is stored.
83. Garage, Private: A private garage is one where private vehicles are kept for storage purposes only and wherein such use is accessory to the residential use of the property on which it is stored.
84. Garage, Public or Commercial: Any Building or premises, other than a private or a storage garage where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored for monetary gain as a business.
85. Generally Accepted Forestry Management Practices: Forestry management practices that promote sound management of a forest. Generally Accepted Forestry Management Practices include those practices contained in the most recent version of the Wisconsin Department of Natural Resources' (DNR) publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

86. Grade, Established: The elevation of the finished street at the centerline or curb as fixed by the engineer or by such authority as shall be designated by law to determine such an elevation.
87. Grading, Minor; including filling and land altering activities: Those land altering activities or projects that do not exceed land disturbance greater than 3,000 square feet in area and/or 15 cubic yards in aggregate.
88. Greenhouse, private: An enclosed accessory structure constructed mainly of glass, glasslike or translucent material, cloth or lath, and a support frame and which is devoted to the protection or cultivation of flowers, vegetables, or other plants.
89. Green Space: A natural or man-made land area not occupied by any structure or impervious surface.
90. Habitable Structure: Any structure or portion thereof used or designed for human habitation.
91. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
92. Highway: A right-of-way, designated on the "Established Street and Highway Width Ordinance" of Waukesha County or other comprehensive system, for the principal purpose of providing vehicular thoroughfare and not necessarily affording direct across to abutting property.
93. Historic Structure: Any structure that is either:
- a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register, or
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic District or a District preliminarily determined by the Secretary to qualify as a registered historic District, or
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
94. Home Occupation: A Permitted Use except within OR Districts.

Within OR Districts, a Home Occupation is a gainful occupation conducted only by members of the family, within their place of residence in a manner that is incidental to the residential occupation of the building, and further restricted to only activities that are conducted by telephone only (including computer modem) and that generate or attract no additional (i.e. non- residential) traffic (including delivery vehicles of any kind). A gainful occupation that does not comply with all the conditions of the previous sentence, but that was actively conducted within a residence as of June 1, 1993, may be continued (but not expanded) if it is granted a conditional use permit pursuant to Section 4(B) and 4(D). A gainful occupation actively conducted in the Village as of June 1, 1993, within a residence, and in a manner that does not qualify as a "Home Occupation" pursuant to this Section shall

be granted a conditional use permit pursuant to Section 4(E)(20) and subject to the following conditions:

- a. The application for the conditional use permit was filed with the Village Clerk on or before October 1, 1993;
- b. If the conditional use permit is granted, the use may be continued subject to the conditions specified in the permit until such time as the party conducting the use ceases to occupy the premises or until the use is discontinued for a period of twelve (12) consecutive months (whichever occurs first);
- c. The activity must be conducted solely by members of the family occupying the residence except that one person other than members of the family occupying the residence may also be employed and one additional person may be employed for no more than six (6) months to replace a member of the family who is not then so employed in the residence because of a temporary condition (such as illness) after receiving an amendment to the conditional use permit (one additional six (6) month period of this amendment will be granted for illness only);
- d. No mechanical equipment may be used for the activity other than such used for purely domestic purposes;
- e. No sign other than one unlighted nameplate, not more than one foot square may be displayed;
- f. No more than 25% of the floor area of only one floor of a dwelling unit may be occupied by the activity;
- g. The activity may not emit beyond the boundaries of the premises any noise or sound of character that is disruptive to the residential nature of the community;
- h. The activity may not emit beyond the boundaries of the premises any odor, gas or chemical of a character or concentration that is obnoxious, harmful to human, plant, or animal life or is offensive, noisome, nauseating, obnoxious, or disagreeable;
- i. The activity may not generate vehicular traffic of such a volume or character that would be inconsistent with the residential nature of the community (more than two stops per day at the premises by commercial delivery vehicles shall be presumed to violate this restriction);
- j. The activity may not generate or attract vehicles that are not parked wholly on the premises when making pickups or deliveries or doing business on the premises;
- k. The activity may not attract more than five people per day to the premises who do not live there except during gun deer hunting season and one week beyond;
- l. The activity may not involve the use of or storage of a hazardous substance (as that phrase is defined in 42 U.S.C. Section 9601 (14) or 40 C.F.R. Section 302, both as amended from time to time);
- m. The activity may not involve the service of food or beverage on the premises.

95. Horticulture: The culture of growing and cultivating fruits, flowers and related plant material.

96. Hotel: See Motel.

97. Housekeeping Entity: A housing or lodging unit where all of the amenities of bathing and sanitary facilities, eating, cooking, living, sleeping and storage are provided the person or body of persons occupying and living together as a single entity within the unit. A single- family

residence or a dwelling unit in a multiple-family structure are deemed to be a single housekeeping entity.

98. Human Habitation: The use of a Building or structure for overnight living or longer periods of time, and including the aggregate of normal occupancy activities such as lounging, cooking, eating, sleeping, bathing, sanitation, etc.
99. Impervious Surface: An area that releases as runoff all or a majority of the precipitation that falls on it. Impervious Surface includes, but is not limited to, rooftops, sidewalks, driveways, parking lots, decks, patios, sport courts, swimming pools, retaining walls and hot tubs. If these surfaces are specifically designed, built and maintained to encourage infiltration or storage of runoff, and the Village determines they meet the exclusion standards of Section 3(R)9 of this Ordinance, they shall subsequently be excluded from the impervious surface calculations of this Ordinance. Frozen soil, roadways (as defined in s. 340.01(54), Wis. Stats. and sidewalks (as defined in s. 340.01(58), Wis. Stats.) are excluded from this definition.
100. Infiltration (or Infiltrate): The entry of precipitation or runoff into or through the soil.
101. Junk: Junk means garbage, waste, refuse, trash, any motor vehicle upon which no current license plate is displayed, any inoperable or abandoned motor vehicle, any used tire or used motor vehicle part, and any scrap material such as metal, lumber, furniture, paper, cans or bottles. Any trailer which is required to be licensed by the State of Wisconsin, but which is unlicensed, or any trailer which is abandoned or inoperable is considered junk under this Ordinance.
102. Kennel, Commercial: An establishment, structure or premises where dogs are raised, sold, bred, or boarded for any length of time for commercial purposes. This definition includes businesses termed “doggy day care” and dog rescue operations or any similar operations. The raising and selling of three or more litters of dogs from any number of adult dogs per year shall constitute a commercial kennel. The training or grooming of dogs without other related kennel activities, as listed above, is not considered a commercial kennel, but those activities are considered commercial type uses which are otherwise regulated in this Ordinance.
103. Kennel, Hobby: A private, non-commercial establishment, structure, premises or pursuit accessory to the principal use of the property where three or more dogs of six or more months of age are kept for such private purposes as pets, field trials, shows or hobby. The occasional raising of not more than two litters of dogs per year on a premises and the sale or disposal of said dogs within six months of their birth shall also be considered a private hobby kennel.
104. Kitchen: Any room or part of a room principally used, designed, or intended to be used for cooking and the preparation of food, but not including a bar, wet bar, butler’s pantry, or similar room adjacent to or connected with a kitchen. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall be considered as establishing a kitchen.
105. Lake, Navigable: Under Wisconsin law includes all natural inland bodies of water of any size, which are capable of floating any boat, skiff or canoe of the shallowest draft used for recreational purposes.
106. Land Altering Activity: Any man-made change of the land surface, including removing vegetative cover which changes the land surface, cutting of trees which changes the land surface, excavating, soil removal, filling, grading, dredging and channel improvements in excess of those limits set forth in Section 3(D)(5), but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens and harvesting of trees, and tree nurseries.

107. Livestock: Animals which are typically kept for breeding, production of agricultural products, sale or pleasure, including, but not limited to cattle, bovine, emus, llamas, alpaca, pigs, swine, hogs, sows, horses and other equine animals, sheep, goats, farm raised deer, camelids, ratites, farm-raised fish, farm-raised game birds ostriches, turkeys, fur-bearing animals (not including rabbits if less than twenty are kept), and bison. Recreational chicken (poultry) uses as defined and regulated in this Ordinance are not considered livestock. For purposes of the FLC and FLP Districts, Livestock is defined as bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
108. Lot: A parcel of contiguous land with described boundaries and abutting or having access via an approved easement to a public street or other approved way, and exclusive of any land lying in public rights-of-way, mill tax roads, or below the ordinary high water mark of navigable waters. Where public rights-of-way divide a single described parcel into 2 or more parts, such severed portions shall be considered separate individual lots if such separate parcels individually meet the use regulations, building location and area regulations of the zoning district in which they are located. Where such separate parcels do not meet those requirements and have been described as a single parcel of record, together such severed portions shall be considered to be a single lot for regulatory purposes under the provisions of this Ordinance, and such severed areas shall not be sold separately. See Section 3(J) to determine how area regulations are applied to a Lot.
109. Lot Area: The area of a lot as defined herein bounded by lot lines exclusive of land provided for public rights-of-way, mill tax roads, and lands below the ordinary high water mark of navigable waters.
110. Lot, Corner: A lot abutting on two or more streets at their intersections provided that the interior angle of such intersection is less than one-hundred thirty-five degrees (135°).
111. Lot Depth: The mean horizontal distance measured between the street line and the opposing rear lines of the lot.
112. Lot, Legal Nonconforming: Any lawfully created lot or parcel which existed at the time of passage of this Ordinance or any amendment thereto, which does not meet the current dimensional requirements of the District in which it is located.
113. Lot Lines: The lines bounding a lot as defined herein.
114. Lot Line, Shore: The abutting ordinary high water mark of navigable waters.
115. Lot Line, Side: A lot line extending from a street line towards the interior of the block and separating adjoining lots.
116. Lot of Record: A platted lot or lot described in a Certified Survey Map, which has been approved by the Town of Oconomowoc or Village of Lac La Belle and has been recorded in the office of the Waukesha County Register of Deeds, or a metes and bounds description of a lot which has been recorded in the Waukesha County Register of Deeds Office prior to the adoption of the Waukesha County Shoreland Protection Ordinance (June 23, 1970).
117. Lot Width, Minimum Average: The average horizontal distance measured between side lot lines at the established Base Setback Line and the rear lot line or ordinary high water mark of a navigable waterway. The Zoning Administrator shall determine where to measure lot width on an irregular shaped lot. A newly created Lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the length of the lot.
118. Lowest Adjacent Grade: The elevation of the lowest ground surface that touches any of the

exterior walls of a Building.

119. Lowest Floor or Level: The lowest floor or level of the enclosed area in a Building, including Basement.
120. Maintenance: The act or process of restoring to original soundness, including redecorating, refinishing (such as painting, decorating, or paneling), non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or equipment.
121. Marina: A tract of land contiguous to a body of water and including any piers, wharves or docks extending into the water and below the ordinary high water mark and/or any structure upon that tract of land where the commercial mooring at docks or buoys (dry or wet), maintenance, repair, refueling or selling of boats and/or accessories for boats take place. For purposes of this Ordinance, the word commercial describing marina activities occurring at piers, docks or wharves such as mooring, dockage or repair, is the act of receiving remuneration, either in monetary payments or other services or privileges, and where the use of the property or water is purchased by persons other the riparian owner or not more than the unrelated four persons, defined herein by the word "family," who dwell on the parcel.
122. Mechanical Equipment: Equipment or devices installed for a use appurtenant to the primary or accessory use. Such equipment shall include heating and air conditioning equipment, generators, swimming pool pumps and filters,
123. Mitigation: Balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.
124. Mobile Home: A structure or vehicle which is used, titled and registered as living quarters, and contains sleeping accommodations, a flush toilet, a tub or shower bath, kitchen facilities, and plumbing and electrical connections for attachment to outside systems; and is designed for transportation after fabrication on streets or highways on wheels and arrives at the site where it is to be occupied complete and ready for occupancy except for minor and incidental unpacking and assembly operations, locations on jacks or other temporary or permanent foundations, connections to utilities, and the like. A mobile home is not considered a recreational vehicle as defined herein.
125. Mobile Home Park: Any plot or plots of ground upon which two or more units occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.
126. Mobile Recreational Vehicle: A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
127. Modular Home (also called manufactured or pre-fabricated/pre-cut home): A principal structure which is partially pre-assembled at a manufacturing plant and placed together or erected on a lot or parcel as a dwelling unit or units (also called "pre-fabricated" or "pre-cut" homes or "double-wide" units) meeting the requirements of all applicable state and local building codes.
128. Motel (also Hotel): A Building or series of Buildings, with or without the availability of meals being served in a restaurant associated with the facility, in which short term lodging (not a housekeeping entity) and normally not exceeding two weeks in duration, is offered for the

traveling public for compensation and which may have more than five individual sleeping rooms, or grouping of rooms (or a suite) or units and toilet and bathing facilities for the purpose of overnight sleeping and which is distinguished from a hotel primarily by reason of providing direct independent access to each room and adjoining parking for each room or unit. Such facilities shall provide longer term housing (normally more than two weeks) to persons or groups of persons as a residence as such uses are considered Apartments with each unit serving as a single housekeeping entity.

129. Motor Vehicle: Motor vehicle means any automobile, truck, trailer, tractor, bus, vehicle or other conveyance that is self-propelled by an internal combustion engine or motor, and for the purposes of this Ordinance shall include but not be limited to boats, recreational vehicles, all-terrain vehicles, motorized farm equipment and mobile machinery, motorcycles and snowmobiles.
130. Municipality: A County, City, Village, or Town.
131. NAVD: See North American Vertical Datum.
132. NGVD: See National Geodetic Vertical Datum.
133. National Geodetic Vertical Datum: Elevations referenced to mean sea level datum, 1929 adjustment. Commonly referred to as NGVD.
134. Natural Areas: The wooded areas which are too shady to permit a grass lawn to grow; prairie lands that are more than one acre in square footage.
135. Natural Garden: Means a wildflower, prairie, woodland or other decorative garden border or area that is less than one (1) acre in square footage which is well maintained, is not a public nuisance or a serious blighting influence and contains no noxious weeds.
136. Navigable Waters/Waterway: 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 Wis. Stat. § 281.31(2(d)) (2013), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stat. § 59.692, (2016) and Wis. Admin. Code Ch. NR 117 do not apply to lands adjacent to:
- a. Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
 - b. Artificially constructed drainage ditches, ponds, or stormwater retaining basins that are not hydrologically connected to a natural navigable waterway.
137. Navigational Structures: Those man-made objects constructed adjacent to or within floodlands and/or shorelands for the purpose of aiding navigation.
138. Nonconforming Structure, Legal: A Building, structure, or portion thereof, lawfully existing at the time of passage of this Ordinance, but which does not conform in one or more respects to the regulations of this Ordinance.
139. Nonconforming Use, Legal: The use of a Building or land lawfully carried on-at the time of the passage of this Ordinance or amendments thereto, but which does not conform to the use regulations established by this Ordinance.
140. Nonfarm Residence: A single-family or multi-family residence other than a Farm Residence.

141. North American Vertical Datum: Elevations referenced to mean sea level datum, 1988 adjustment. Commonly referred to as NAVD.
142. Nursery: Any parcel of land used to cultivate, grow, raise, and harvest trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants in the outdoors or in greenhouses and for sale to retail or wholesale outlets or garden centers.
143. Nursery, Retail: The sale of trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants on the premises where they are grown, or the place of business where the nursery stock is received after being transported from an off-site location.
144. Nursery, Wholesale: The cultivation of trees, bushes, shrubs, vines, ornamental plants, flowers, and other plants on a property and where the nursery stock is transported to market and is not sold on site.
145. Offset: The horizontal distance measured from the side or rear lot line, not along a street, to a Structure or to any roofed or enclosed portion of a Building, not including roof overhang, as defined herein, of 24" inches or less or entry overhang of 24 square feet or less.
146. Open Space: Land area used for recreation, agriculture, resource protection, amenities for recreational purposes or buffers.
147. Open Space, Common: Lands which are open space and owned in common by individuals within a Development or land trusts or other private conservation organizations, if access is available to the public, and as may be agreed to in the approval of the Development by the Plan Commission of the local community and either the zoning administrator or the zoning agency.
148. Open Space, Public: Lands that are open space, dedicated and owned by a public entity, such as a town, city, Village, county or other public entity, and used for a public purpose.
149. Ordinary High Water 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. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high water mark.
150. Overhang: That portion of a roof over a structure and designated as an integral part of the structure, which extends from the outer wall of the structure to the eave. Rain gutters are not included or considered part of the overhang.
151. Parent Parcel: The term parent parcel, when used in the Farmland Preservation District or Farmland Conservancy District, shall mean a parcel, as it existed, on January 1, 1997.
152. Patio: A structure characterized by a flat, open, horizontal surface or platform and usually constructed of materials including, but not limited to, concrete, brick, flagstone, crushed stone, compacted stone, gravel, wood, or other natural or man-made materials. A patio is located on the surface of the ground or at the average grade of the ground surface. This definition includes sport courts such as tennis courts, basketball courts, and similar structures that are not associated with normal driveway construction.

153. Permitted Use: A use that is allowed without a conditional use permit, special exception, or other special zoning permission but that may require a zoning permit or other approval as specified in this Ordinance.
154. Person: An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
155. Pervious Area: An area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests and similar vegetated areas are examples of surfaces that typically are pervious.
156. Pierhead line: A boundary line established along any Section of the shore of any navigable waters by a municipal ordinance approved by the WDNR, pursuant to Section 30.13 of the Wisconsin Statutes. Piers and wharves are only permitted to the landward side of such pierhead lines unless a permit has been obtained pursuant to Section 30.12 of the Wisconsin Statutes.
157. Plan Commission: The Village of Lac La Belle Plan Commission as established under Wis. Stats. §62.23(7).
158. Planned Unit Development (PUD): is a Development strategy, process or procedure whereby a relatively large parcel of land is developed for a specific use in such a way as to provide specific benefits to the community as well as the developer and future citizens who will reside with the Development, and when the normal application of standards and requirements are waived or made more flexible, and which shall contain substantial amounts of common open space for aesthetic, natural preservation or recreational purposes.
159. Planned Unit Development, Mixed: A Planned Unit Development which is a mixture of retail, service uses, industrial uses or residential uses. Buildings associated with open space and recreational uses, either public or private, shall be considered part of the open space use.
160. Planting Screen: An area landscaped with natural growing plant material sufficiently dense and of adequate height at the time of planting so as to effectively screen off from vision the object it is intended to hide from view.
161. Porch/Stoop: A functional element of the ingress/egress of a principal structure allowing for easy and convenient passage between the exterior and interior of said structure. For the purposes of regulation in this Ordinance, a stoop is considered to be 20 square feet or less whereas a porch exceeds 20 square feet in area.
162. Poultry: Poultry means domesticated birds kept for eggs or meat or as pets.
163. Poultry, Agricultural or Farm Use: A use where poultry are kept, bred and/or raised in whole or in part for commercial purposes such as the sale or barter of meat and/or eggs and where the use of the meat and/or eggs is not for the sole use of the owner.
164. Poultry (Chicken), Recreational Use: A use where poultry, in this specific case, chickens, are kept, bred, and/or raised wholly for recreational (hobby) purposes and where the use of the meat and/or eggs is for the sole use of the owner and the sale or barter of meat and/or eggs is prohibited.
165. Practical Difficulty: That circumstance where special conditions affect a particular property and make strict compliance with the dimensional standards of the Ordinance regarding area, setbacks, offsets, width, height, building footprint, or accessory building footprint unreasonable and prevent a property from being utilized for a permitted purpose in conformance with the use regulations of the zoning district in which the property is located or would render conformity

with such restrictions unnecessarily burdensome.

166. Private Club: A Building or grounds used for regular or periodic meetings or gatherings of a group of Persons organized for a nonprofit purpose, but not groups organized to render a service customarily carried on as a business.
167. 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 a structure.
168. Professional Office: The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other similar recognized profession.
169. Public and Semi-public Buildings: Structures principally of an institutional nature and serving a public need such as: hospitals, rest homes, schools, including private academic schools and nursery schools, libraries, museums, post offices, police and fire stations, public and private utilities and other public services; but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.
170. 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.
171. Pyramiding: The act of obtaining or providing access to public bodies of water across private lots or lands in a manner that increases the number of families that have access to that water to a degree greater than what would occur with individual riparian owners having individual lots fronting on the water. The effect of pyramiding is to funnel backlot Development from offshore lots or residences via a narrow parcel of land to provide access to the water. Publicly owned access points shall not fall within this definition.
172. Quarrying: The removal of rock, slate, gravel, sand, topsoil or other natural materials from the quarrying site by excavating, stripping, leveling or any other such process, including the mining of non-metallic minerals.
173. Recreational Vehicle: Motorized vehicles that include a cabin for living accommodations, are commonly used for recreational travel and touring and do not exceed 400 square feet when measured at the largest horizontal projection. Vehicles included in this category come in several forms: travel trailers, tent trailers and camping trailers, all of which must be towed by another vehicle; and truck campers, motor homes and camper vehicle, all of which have a motor within the body of the vehicle and are self-propelled.
174. Recyclables: Materials listed under this code, which include but are not limited to glass or plastic bottles, metal containers, cardboard boxes, newspaper, magazines, appliances, brush, tree trimmings, grass clippings or leaves.
175. 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. A regional flood may also be determined by other studies approved by the WDNR.
176. Refuse Disposal Site: A tract of land operated by a public or private agent, subject to restrictions of use and under supervision and where more than one family may take all types of refuse, including organic and inorganic wastes (but excluding human excreta, sewage, and/or other liquid wastes) for

compacting and burial by sanitary land fill methods. Hard or clean fill operations involving materials such as sand, dirt, gravel, concrete or other forms of clean fill material shall not constitute refuse disposal sites for the purposes of this Ordinance.

177. Residence: See Dwelling(s).
178. Restaurant: Includes any Building, room or place wherein meals or lunches are prepared, served or sold to transients or the general public, and all places used in connection therewith. Meals or lunches shall not include soft drinks, ice cream, milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants. The term restaurant does not apply to churches, religious, fraternal, youth or patriotic organizations, service clubs and civic organizations which occasionally prepare or serve or sell meals or lunches to transients or the general public, nor shall it include any private individual selling foods from a movable or temporary stand at public farm sales. Section 254.61(5) Wisconsin Statutes.
179. Retaining Wall: A structure more than 24 inches in height, as measured from finished grade, or a combination or series of multiple structures more than 24 inches in height from finished grade, constructed of man-made or natural materials for the main purpose of retaining land or stone and resisting the lateral pressure of the land or stone. For the purposes of this Ordinance, outcroppings are also considered retaining walls if they meet the retaining wall definition, unless they are naturally occurring in the landscape.
180. Road: A public or private right-of-way usually affording primary access to abutting property.
181. Road, Local: A public road that is not a county, state or federal highway.
182. Roadside Stand: A farm building used or intended to be used solely by the owner or tenant of the farm on which such Building is located for the sale of farm products raised on said farm.
183. Routine Maintenance of Vegetation: Normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
184. Runoff: Water from rain, snow or ice melt that moves over the land surface via sheet or channelized flow, and is also referred to as Stormwater.
185. SEWRPC: See Southeastern Wisconsin Regional Planning Commission.
186. Sand or gravel pits: See "Quarrying."
187. Selective Vegetative Cutting or Removal: The process of selectively cutting or removing vegetation which would include a determination by a forester or naturalist of which plants, including woody vegetation and trees, middle layer species and ground layer vegetation, are to be removed or cut based upon the species type, quality, indigenous character (alien, invasive or native) or otherwise of poor quality (dead, diseased, dying).
188. Self-service Storage Facility and Mini Warehouses: A Building or a portion thereof, or a group of Buildings, divided into separate, self contained, self-service storage units that are rented or leased by the owner and generally used to meet the storage needs of a household or for the storage of personal property of the general public.
189. Service-Oriented Business: A business operated by a single person or family where personal services are performed or assistance is given, as opposed to the sale of products, and involves predominantly professional operations.

190. Setback, Floodplain: The horizontal distance between the closest point of a structure or building and the Regional Flood boundary, excluding a roof overhang measuring 24" or less. The floodplain setback only applies if the setback area is located within the two-tenths percent (0.2%) floodplain as designated by FEMA.
191. Setback, Road: The horizontal distance between the Base Setback Line and the closest point of a principal or accessory structure, excluding a roof overhang measuring 24" or less.
192. Setback, Shore: The horizontal distance between the closest point of a structure or building and the Ordinary High Water Mark of a Navigable Waterway. Defined as "shoreland setback area" in Wis. Stat. § 59.692(1)(bn), (2016), it also means an area in a shoreland that is within a certain distance of the Ordinary High Water Mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under Wis. Stat. § 59.692 (2016).
193. Setback, Wetland: The horizontal distance between the closest point of a structure or building and the wetland boundary, excluding a roof overhang measuring 24" or less.
194. Shorelands: Those lands within the following area: 1,000 feet from the Ordinary High Water Mark of navigable lakes, ponds or flowages; 300 feet of the Ordinary High Water Mark of navigable rivers or streams, or to the landward side of the Floodplain (as defined herein), whichever distance is greater.
195. Shoreland/Wetlands: Those wetland areas that lie within the shoreland jurisdiction of this Ordinance and that have been designated as such on the Final Wisconsin Wetlands Inventory Maps for Waukesha County prepared by the WDNR as depicted on the WDNR Surface Water Data Viewer <https://dnrmaps.wi.gov/H5/?viewer=SWDV>. Also, see definition of Wetland.
196. Shoreland-Wetland Zoning District: A District comprised of shorelands that are designated as wetlands on the Wisconsin Wetland Inventory Maps prepared by the WDNR as depicted on the WDNR Surface Water Data Viewer <https://dnrmaps.wi.gov/H5/?viewer=SWDV>
197. Shorelines: The intersection of the land surfaces abutting lakes, ponds, streams, flowages, and wetlands with the average annual high water elevation.
198. Sidewalk. Any manmade paved or hard-Surfaced path not exceeding six feet in width at any point designed for pedestrian ingress and egress between the property's house, driveway, and/or garage and a public road.
199. Sign: Any structure or device displaying advertising in the form of lettering, pictures, symbols or other media.
200. Significant Woodlands: Treed or forested areas that vary in their level of importance and provide environmental and economic benefits such as erosion prevention, water retention, provision of habitat, recreation and sustainable harvest of woodland products. Woodlands are significant in terms of their features, functions, representation and amount, and contribute to the quality and diversity of an identifiable geographic area and such features include, but are not limited to, the location, size, area, species, density, habitat value, slope, connectivity, whether the trees are native and indigenous, and the unique characteristics of all trees in good health.
201. Solar Energy System. A device or combination of devices, structures, or elements that converts sunlight into usable energy.
202. Solar Panel. A structure containing solar cells that collects sunlight and converts it into usable energy.

203. Southeastern Wisconsin Regional Planning Commission: The official area-wide planning agency for the southeastern region of Wisconsin. Commonly referred to as SEWRPC.
204. Special Exception: Special Exception means a request for a minor adjustment to the requirements of this Ordinance only where specifically authorized by this Ordinance, owing to special conditions of the property. A special exception differs from a variance in that a special exception does not necessarily require the demonstration of an unnecessary hardship or practical difficulty. Special Exceptions are reviewed and acted upon by the Village Plan Commission.
205. Specified Anatomical Areas:
- a. Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or
 - b. Human male genitals in a discernibly turgid state, even if opaquely covered.
206. Specified Sexual Activities: Includes any of the following, simulated or actual:
- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.
 - c. Showing of human genitals in a state of sexual stimulation or arousal.
 - d. Excretory functions during a live performance, display or dance of any type.
207. Stable, Boarding: A tract of land or structure where horses or other livestock are kept for hire, boarding, sale or used for commercial recreational purposes.
208. Stable, Private: A tract of land or structure where horses or other livestock are kept for personal use by the property owner or occupant of the principal residential structure on the property.
209. Stormwater: Same meaning as the term Runoff.
210. Stormwater BMP: A structural best management practice that is designed to collect or manage the quantity or quality of Stormwater for an indefinite time period, following adopted Village or State technical standards. Some examples include, but are not limited to: pervious pavement, rain garden, infiltration trench or basin, green roof, bio-swale, filter strip, constructed wetland, bio-retention basin, wet detention basin, or any combination of these or other permanent stormwater management practices approved by the Village.
211. Story: That portion of a Building included between the surface of a floor and the surface of the floor next above it; or if there is no floor above it, then the space between the floor and the ceiling or roof next above it, including Basements that are exposed at least six feet on at least one side.
212. Streambank and Shoreline Stabilization Structures (SSSS) (formerly known as seawalls): Mechanical erosion and sediment control structures or devices which afford protection measures to stream banks and lake shorelines from the adverse effect of wind, waves, and water and which abate the depletion of the soil and land area adjacent to the water (i.e., rock riprap).
213. Street: Same as "Road."
214. Street, Arterial: Arterial Street means a road providing for efficient, safe and direct connection to or separation of developed areas for circulation to destinations outside the developed area and deemed as such on the "Established Street and Highway Width Map for Lac La Belle" or other official map adopted by the municipality.

215. Street, Collector: Collector Street means a road providing for circulation to serve local traffic moving between minor streets and arterial streets as designated on the “Established Street and Highway Width Map for Lac La Belle” or other official map adopted by the municipality.
216. Street, Frontage: A street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.
217. Street, Minor: Minor Street means any other road not deemed as a collector or arterial street on the “Established Street and Highway Width Map for Lac La Belle” or other official map adopted by the municipality.
218. Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street.
219. Structural Alterations: Any change in the supporting members of a Building or any substantial change in the roof structure or in the exterior walls.
220. Structure: Any man-made object with form, shape and utility that is constructed or otherwise erected on the ground or attached to something on the ground, or permanently or temporarily placed, either upon the ground or upon another structure. For the purposes of this Ordinance, the term “structure” includes, but is not limited to, Principal and Accessory Buildings (including garages, sheds, Boathouses, porches and gazebos), signs, swimming pools, hot tubs, patios, Decks, sidewalks, walkways, fire pits, retaining walls, monuments, Entrance Gates, radio towers and television towers, but does not include landscaping, earthwork, or Land Altering Activities including graded areas, filled areas, ditches, berms, or earthen terraces. The term “structure” does not include flag poles, mailboxes, fences unless within 75 feet of the OHWM as regulated by the WDNR, basketball hoops, satellite dishes 18” or less in diameter, or small objects that are easily moved by hand, such as lawn chairs, portable grills, portable picnic tables, doghouses, bird feeders, birdhouses, and birdbaths.
221. Structure, Temporary: A movable structure not designed for human habitation or occupancy, but for the temporary enclosure, protection or screening of goods or chattels during a period of construction, but not to exceed one year, and which is regulated as a structure under the terms of this Ordinance.
222. Subdivision: Has the meaning given in Section 236, Wisconsin Statutes.
223. Substantial Evidence: Facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a Conditional Use Permit and that a reasonable person would accept in support of a conclusion.
224. Sustained Yield Forestry or Silviculture: The management of forested lands, including planting, thinning, and harvesting, to provide annual or periodic crops of forest products.
225. Swimming Pool: A structure, above or at ground level, designed to hold water more than 30” deep for the purpose of swimming.
226. Temporary Structure: A movable structure not designed for human occupancy, but merely for the protection and/or sale of goods or chattels. Temporary structure shall be placed in such a manner so as not to obstruct vision or create a traffic hazard in the reasonable opinion of the Building Inspector.
227. Trailer: See “Mobile Home.”
228. Trailer Camp: See “Mobile Home Park.”
229. Traffic Artery: Same as “highway.”
230. Unnecessary Hardship: For an Area Variance, the demonstration that strict compliance with this

Ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

- 231. Use, Accessory: A use subordinate to and customarily incident to the permitted principal use of the property or Buildings and located upon the same lot as the principal use.
- 232. Use, Principal: The main or primary use of property or Buildings as specified and permitted by the regulations of the District in which it is located.
- 233. Variance: Variance means an authorization granted by the Board of Appeals to construct or alter a Building, land use or structure in a manner that deviates from this Ordinance.
- 234. Variance, Area: Modification to a dimensional, physical, or locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the Board of Appeals
- 235. Vision Setback: An unoccupied triangular space, at the street corner lot, as established by Section 3(H)(1)(b).
- 236. WDNR: See Wisconsin Department of Natural Resources.
- 237. Watershed: The entire region contributing runoff or surface water to a watercourse or body of water.
- 238. Well: Excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.
- 239. Wetlands: Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- 240. Wind energy system: A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics which will be used primarily to reduce on-site or off-site consumption of power.
- 241. Windmill: Any structure or machine that converts wind into usable energy through the rotation of a wheel made up of blades.
- 242. Wisconsin Department of Natural Resources: The State agency commonly referred to as WDNR.
- 243. Youth-facility: means any facility where minors gather for education or recreational activities including but not limited to playgrounds, swimming pools, libraries, licensed child- care facilities or youth clubs.
- 244. Zoning Administrator: Defined in Section 44(A).
- 245. Zoning Agency: The Village of Lac La Belle Planning Commission is designated as the Zoning Agency pursuant to Section 44(A) of this Ordinance.

SECTION 3 GENERAL PROVISIONS

A. Jurisdiction and Mapping

1. **Jurisdiction:** The jurisdiction of this Ordinance shall apply to all structures, land, and water including those lands within the boundaries of the Village of Lac La Belle, Wisconsin. Statutory exemptions apply as specified in Section 3(B)(2) of this Ordinance. Determinations of navigability and Ordinary High Water Mark location shall initially be made by the Zoning Administrator or WDNR. When questions arise, the Zoning Administrator shall contact the appropriate office of the WDNR for a final determination of navigability or Ordinary High Water Mark. The Village may work with surveyors with regard to s. 59.692(1h), Wis. Stats. (2016).

The area of Lac La Belle existing on January 1, 2025 includes lands that have been regulated by official land use zoning since adoption of Waukesha County Zoning in 1959. The area of Lac La Belle existing on January 1, 2025 includes lands that have been regulated under Shoreland Zoning since the adoption of Waukesha County Shoreland Zoning in 1970. For purposes of regulatory non-conformities, these dates shall provide the framework for such designations.

2. **District boundaries.** The map entitled "Official Zoning Map, Village of Lac La Belle, Wisconsin," which accompanies and becomes a part of this chapter, establishes the boundaries of the districts. Unless otherwise noted on the map the district boundaries follow corporate limits, US public land survey lines, lot or property lines, and center lines of streets, highways, easements or such lines extended. District boundaries shall be determined by measurement from and as shown on the official zoning maps and in case of any questions as to the interpretation of such boundary lines, the zoning administrator shall interpret the map according to the reasonable intent of this chapter.
 - a. All land area within the Village is hereby divided according to those districts as shown upon the map entitled "Official Zoning Map, Village of Lac La Belle, Wisconsin," dated ~~XXXXXXX~~ 2026, divides up all land area within the Village into those districts and serves as a graphic part of this chapter; and all the notations, references, amendments and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth by said map were all fully described herein. This map shall be kept on file in the offices of the Village and any other copies thereof shall be purely informational and shall not have the status of law.
 - b. The boundary of the shoreland jurisdictional limits shall be those lands lying under, abutting and close to navigable water within the following area: 1,000 feet from the ordinary high water mark of navigable lakes, ponds or flowages; 300 feet from the ordinary high water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever is greater. Where a stream is subsequently identified or determined to be navigable, and was not previously subject to the shoreland provisions of this chapter, said navigable stream and the lands bordering it shall immediately be subject to the jurisdiction of the shoreland provisions.
 - c. The boundaries of the WC Wetland Conservancy District and FO Floodplain Overlay District as drawn are intended to represent the edge of marshlands, swamps, floodlands, wetlands or the Ordinary High Water Mark along streams or other watercourses. Where a question arises as to the exact location of those boundaries, they shall be determined by the zoning administrator through the utilization of the best available information such as topographic maps, soil maps, aerial photographs, infield botanical inventories, floodplain studies or other sources of information available which would lend assistance to such a determination and may be finally determined by actual conditions in each specific situation.
 - d. The boundaries of the EC Environmental Corridor Overlay District as drawn are intended include the primary or secondary environmental corridors or isolated natural areas as defined herein, and is intended to be used to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding 12%, and upland wooded areas in concert with the goal and intent of the regional land use plan. Where questions arise as to the exact location or

boundary of an environmental corridor, the extent and location of such corridors shall be finally determined by infield investigation by the zoning administrator.

3. **Map history**

Originally, the Waukesha County Board of Supervisors on June 23, 1970 adopted one (1) inch equals one thousand (1,000) feet individual township Shoreland and Floodland zoning maps as part of this Ordinance. These areas of jurisdiction were redrawn and indicated on four (4) square mile aerial photographs at a scale of one (1) inch equals four hundred (400) feet and were made a part of this Ordinance. As a result of ongoing large scale topographic mapping and survey projects conducted under Section 87.31, Wisconsin Statutes and pursuant to county needs, additional topography maps at a scale of one (1) inch equals two hundred (200) feet with contour intervals of two (2) feet were also made a part of this Ordinance where said maps contained greater detail and information relative to information pertinent to said Shoreland and Floodland areas. Together with the one (1) inch equals four hundred (400) feet aerial photographs referenced above, these maps amended and replaced the original one (1) inch equals one thousand (1,000) feet township zoning maps previously adopted and referred to above for the specific land areas covered within the area for which the Shoreland jurisdiction has been shown thereon.

The county has converted the previously referenced maps into a digital format using the Geographic Information System (GIS) to allow for greater access to the mapping information. Effective January 1, 2025, paper copies are on record in the Waukesha County Department of Parks and Land Use-Planning and Zoning Division office. The maps are converted by town area and the Shoreland areas are mapped using up-to-date Floodplain, navigability, elevation, Wetland, and parcel information, as well as historical information contained on the aforementioned one (1) inch equals four hundred (400) feet aerial photographs. The scale of the map in general are one (1) inch equals one thousand (1,000) feet. These new maps supersede the aforementioned aerial and contour maps as they are completed and approved by the Plan Commission and the County Board.

The boundaries of the Wetlands shall be those areas designated as such on the above- referenced maps and as described in Section 6(b) of this Ordinance. Where a stream is subsequently identified or determined to be navigable, and was not previously subject to Shoreland Ordinance jurisdiction, said navigable stream and the lands bordering it, which meet the conservancy zoning district standards for mapping, shall immediately be subject to the jurisdiction of this Ordinance, including those requirements such as floodplain and wetland setback requirements and other water quality related issues. Subsequently, upon processing and approval of an amendment to include the entire area along said stream or water course within the Shoreland jurisdiction and the holding of requisite hearings pursuant to the provisions of this Ordinance, all Shoreland areas and provisions attendant thereto shall fall under the jurisdiction of this Ordinance.

B. Compliance

1. **Conversion:** No Structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered and no land or water areas shall be hereafter used or altered within the Village without either a zoning or conditional use permit where changes are being proposed and without full compliance with the provisions of this Ordinance and other local, county, state, and federal regulations. Sections 59.692(1k)(a)2, 4, and (b), Wis. Stats. (2016) prohibit counties from requiring any approval, imposing any fee, or requiring Mitigation for the activities specified in Section 3(N)(2)(a)(1). of this Ordinance. An expansion of a Structure beyond the Building Footprint may be allowed if necessary to comply with applicable state or federal requirements. Other permits or approvals and associated fees may be imposed to enforce all other provisions of this Ordinance and ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater management.

2. **Statutory exemption for farm drainage ditches and artificial waterways:** Under Sections 87.30(1m) and 281.31(2m) of the Wisconsin Statutes, this Ordinance does not apply to non-structural uses of lands (i.e., pasture, cultivation) adjacent to farm drainage ditches or artificially constructed drainage ditches, ponds, or Stormwater retention basins if the following situations exist:
 - a. Such lands are not located within the Floodplain or adjacent to a natural stream or river.
 - b. Those parts of the drainage ditches adjacent to these lands were non-navigable streams before ditching and are maintained in nonstructural agricultural use.
 - c. The artificially constructed drainage ditches, ponds or Stormwater retention basins are not hydrologically connected to a natural navigable waterway.

Should a question arise as to the applicability of this Section, an interpretation shall be sought as provided for under Section 45(B) of this Ordinance or by the WDNR. The submission of plans and supporting documentation shall be required to enable the staff or the WDNR to make a finding to support the claim of exemption. Where farm drainage ditches exist and the Agricultural Uses are terminated, and the lands are changed to urban uses, this exception expires and the subject stream and shoreland areas shall fall under all provisions and the jurisdiction of this Ordinance.

However, regardless of the Agricultural Use of the land, any Building and Structure is subject to the provision of this Ordinance relative to size, location or other matters relating to Buildings and Structures.

C. Zoning, Occupancy and Use Permits

1. **Zoning, occupancy and use permits:** No structure, land or water or part thereof located in the Village shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered until: first, a County sanitary permit has been issued, where applicable, by the County health department unless municipal sewer is available in which case no sanitary permit is required; and second, a Village zoning permit has been issued by the Village Zoning Administrator, certifying that such activity complies with the provisions of this Ordinance; and third, a conditional use permit, where applicable, has been issued by the Plan Commission certifying that such activity complied with the provisions of this Ordinance. Such permits shall be obtained before any change is made in the type of use or before any Nonconforming Use is resumed, changed, extended or granted Conditional Use status pursuant to Section 4(E)(20) of this Ordinance.

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 unless exempted by Section 13.48(13), Wisconsin Statutes. However, where the substantive terms and objectives of this Ordinance have been addressed and fulfilled by the WDNR where concurrent (WDNR and county) jurisdiction with this Ordinance exists, so as to avoid duplication of effort, the terms of this Ordinance shall not be imposed. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when Section 30.2022, Wisconsin Statutes, applies.

2. **Application:** Zoning, occupancy and use permits shall be obtained from the Zoning Administrator or designee as provided by Section 44(A)(2). No application for any permit, variance, special exception, conditional use, site plan, plan of operation, rezoning, license or other governmental approval under this Ordinance shall be deemed to be properly filed unless it is signed by the applicant. The landowner must sign the application or execute the Landowner's Authorized Agent Form, which is available through the Village Clerk's office.

Application shall be made on a form required by the Zoning Administrator and made prior to or at the same time as the application for a building permit, and shall be completed online or in person and shall include for the purpose of proper enforcement of this Ordinance the following data:

- a. A statement by the applicant as to the intended use of the premises and of any existing or proposed structures or buildings thereon.
- b. An accurate survey (and grading plan when deemed necessary by the Zoning Administrator) of the property, drawn to a reasonable scale and properly dimensioned showing:
 - (1) The boundaries of the property involved.
 - (2) The location of the centerline of any abutting streets and the location and elevation of existing and future access roads.
 - (3) The location on the lot of any existing structures or buildings, proposed additions, or proposed new structures or buildings, including the measured distances between such structures or buildings and from the lot lines and from the centerline of any abutting street to the nearest portion of such structure or building.
 - (4) The location of any existing structures, septic systems or wells within 50 feet of the boundaries of the property involved.
 - (5) The proposed location of private septic systems and private wells in areas not served by public sewage disposal systems and public water supplies and the location and results of soil borings and percolation tests.
 - (6) The proposed first floor elevation of any proposed buildings in relation to the existing and/or established grades of the lot, any abutting streets and the Ordinary High Water Mark of any abutting stream, river or lake.
 - (7) The Ordinary High Water Mark of any stream, river or lake on which the property abuts.
 - (8) The elevation and location of the floodplain of any abutting stream, river or lake.
 - (9) The location of wetlands and Environmental Corridors.
 - (10) All existing and proposed impervious surfaces on riparian lots and non- riparian lots located entirely within 300 feet of the Ordinary High Water Mark of a navigable waterway.
 - (11) All existing native trees within three hundred (300) feet of the Ordinary High Water Mark of a navigable waterway that are identified in Table 1 as a priority tree and that are at least 12" inches in diameter at breast height.
- c. All necessary permits from federal, state, and local agencies, including, but not limited to those required by the U.S. ACOE under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. §1344 shall be required prior to issuance of the zoning permit, unless the zoning permit must precede the other applicable permits.
- d. A fee, as may be established and periodically modified under Section 44(A)(4) shall accompany each application. Such fee shall be paid by cash, check or money order to the Village of Lac La Belle.
- e. Satisfactory evidence that a safe and adequate supply of water is to be provided, and the location of any well for that purpose on the property.
- f. An application which is filed and is not complete, as it does not meet all of the requirements in Section 3(c)(2)(a through d) shall be held for a period not to exceed six months from the date of application and shall then be denied by the Zoning Administrator and no refund of the application fee shall be made.
- g. Even when the proposed use of a structure or building may not involve human occupancy or habitation, or when there is no principal structure on the property, the use shall receive approval of a preliminary site evaluation as determined to be necessary by the Waukesha County Department of Parks and Land Use – Environmental Health Division.

- h. Where two or more kitchens are proposed within a single-family dwelling, the owner shall file a deed restriction in the Waukesha County Register of Deeds office stating, at a minimum, that the residence is to be used for single-family residential purposes and shall not be used as a multiple family residence.
- i. Where a new residence is proposed, a grading plan prepared by a registered architect, landscape architect, licensed surveyor or engineer and specifying before and after grades, a timetable for completion, the source and type of fill, impacts on stormwater and drainage, erosion control methods, and complete revegetation methods including seeding mixtures, amount of topsoil and mulch shall be submitted with the zoning permit application. An as-built grading plan submittal is also required for development that includes more than 4-foot change in grade.
- j. *Accommodations for persons with disabilities:* The Zoning Administrator may issue a permit to modify the standards of this Ordinance in order to provide reasonable accommodations as required by provisions of federal and state law. Such modification shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer used by the disabled person(s). A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the modification requested is the minimum necessary to provide reasonable use of the facility. The reasonable accommodations shall be evidenced by an instrument that is reviewed and approved by the Zoning Administrator and recorded in the Office of the Register of Deeds.
- k. Where the use involves human occupancy or use, and where such use is not served by sanitary sewer and water, a County sanitary permit shall be required prior to issuance of the zoning permit.

3. Issuance: Zoning permits shall be issued by the Zoning Administrator or designee, while occupancy permits shall be issued by the Building Inspector after adequate investigation.

- a. Zoning permit: Provided the application is in order and any structure or building, occupancy, or use as proposed would be in compliance with the provisions of this Ordinance, a zoning permit shall be issued upon such application, and a certification that such permit has been issued shall be posted in a prominent place on the premises during the period of any construction or other activity involved in readying the land or buildings for use or occupancy.
- b. Occupancy and use permit: Within ten days after the notification of the completion of the erection, alteration or relocation of a structure or building, or of intent to commence a use, the Zoning Administrator or his deputy shall make an inspection of the premises and any structures or buildings thereon; and, if such structure or building, intended use, or proposed occupancy complies with the requirements of this Ordinance, an occupancy permit shall be issued.
- c. After a permit has been issued by the Zoning Administrator (or designee), the applicant must comply with all terms of the permit. If any changes or deviations are made from the approved application, a new permit is required. Failure to comply with the terms of the permit as issued will be a violation of this Ordinance and may result in the issuance of a cease and desist order, penalties, injunctions or other enforcement actions.

4. Expiration: If within six months of the date of issuance of a zoning permit, the proposed construction or preparation of land for use has not commenced, or if within 18 months an occupancy and use permit has not been issued, if required by the Village, or the construction has not been completed, said zoning permit shall expire, except that upon showing of valid cause,

the Zoning Administrator may grant an extension of such permit for a period not to exceed six months from the date of the expiration of the zoning permit, and only one such six month extension shall be granted. Said permit extension shall be issued for the full fee and shall comply with the Ordinance in effect at the time the original permit was issued. If the construction has not commenced or is not completed after a total of 24 months, and an occupancy permit has not been issued by the Village Building Inspector, the Zoning Administrator shall make an inspection of the subject property to determine if there is a valid reason a new permit should be issued. If allowed, a new permit must be applied for and issued subject to all fees in effect at the time of such new permit issuance and subject to the Ordinance in effect at the time of such new permit issuance. Previous incomplete work is not entitled to a new permit if the Ordinance no longer permits said use or structure or if changes to the Ordinance have been made subsequent to the original issuance of the permit.

If the Zoning Administrator determines a new permit should not be issued, a nuisance determination involving the Village Board, fines, citations, an injunction, or other legal remedies may be used to facilitate the completion of the work, or the removal of the work that has occurred and restoration of the land that has been disturbed. The second and any subsequent permits shall not be eligible for any extensions. Subsequent permits are subject to all fees in effect at the time of permit issuance and are subject to the Ordinance in effect at the time of such subsequent permit issuance.

5. **Temporary occupancy and use permit:** Pending the issuance of a regular permit, a temporary permit may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this Ordinance to such a degree as to render it unsafe for the occupancy proposed. A minimum requirement shall be the installation of sanitary facilities which have been approved by the County Health Department.
6. **Zoning and Occupancy and Use Permits - Site Plans and Plans of Operation:** Certain permitted uses as well as certain conditional uses require the submission of a site plan and plan of operation which provide a detailed description of the proposed use and serve as a basis for consideration prior to approval of the Plan Commission, and either the zoning agency or Zoning Administrator. The Plan Commission may waive its approval authority or assign its approval authority to Village staff. The purpose of such a site plan and plan of operation review is to document the permit file, determine adequacy of the data submitted to describe the permitted and accessory uses and buildings proposed and document the plan and method of operation to enable a determination of compatibility with the Ordinance and consideration of approval.

If a site plan and plan of operation is requested in conjunction with a conditional use, then the decision should state that all future modifications proposed to the site plan and plan of operation must be approved by the Plan Commission, unless the Plan Commission waive their approval rights, in which case the site plan and plan of operation is reviewed and approved by the Zoning Administrator. A site plan and plan of operation shall include the following information, as well as any other specific information requested by the Plan Commission, zoning agency or Zoning Administrator to review the plans and determine compliance with the regulations of this Ordinance:

- a. A plan of operation is a statement of operations, signed by the property owner and tenant or operator of the business or use, including a detailed description of the request, number of employees, hours of operation, and types of uses, products or services offered.
- b. A site plan and/or plat of survey of the property (in standard engineering or mapping scale which permits a clear representation of the property to a scale not to exceed 200': 1"), showing the location and dimensions of all existing and proposed buildings and structures and other attributes on the site, the location, number and arrangement of parking spaces or

loading areas, lighting fixtures, easements, dumpsters, signs, landscaping and screening, and any other factors affecting the development of the site.

- c. A stormwater management and erosion control plan consistent with the requirements of the Waukesha County Stormwater Management and Erosion Control Ordinance. A grading plan, where required, shall be submitted to the same scale as the site plan, including existing and proposed contours at a maximum of two foot vertical intervals for slopes less than 12% and at no more than five foot intervals for slopes 12% percent or greater, existing and proposed features (i.e. berms, swales, ponds, ditches, storm sewers, inlets, etc.), vegetative plan, timetable for completion, the name of the responsible party and a letter of credit, if deemed necessary. The Plan Commission or Zoning Administrator has the discretion to request a grading plan in a scale different than the site plan in order to show with sufficient detail the contours and features of the property.
- d. One set of building plans, State approved if required, at a standard architectural scale, including exterior elevation drawings of all sides of all buildings proposed.
- e. A rendering of all signs visible from the exterior, along with the location, dimensions, overall height, illumination and colors of the signs.
- f. Lighting or photometric plan, including cut sheets of each type of exterior light fixture proposed or existing.
- g. A detailed landscaping plan showing the location, sizes and types of proposed vegetation, including seeding mixtures and the amount of topsoil and mulch, the timetable for completion, and any surfacing plan for parking and loading areas.

D. Site Regulations

1. **Building must be on a Lot:** Every building hereafter erected, structurally altered or relocated shall be located on a lot as defined herein. Any Building used for the principal use permitted in a particular district shall constitute the principal building and there shall be no more than one principal building on a lot unless otherwise stated in this Ordinance. An accessory building is considered attached to and part of a principal building only if the attachment consists of a breezeway that is at least a minimum of eight feet in width and a maximum of 20 feet in length and is enclosed on all sides, made of similar materials to the principal building.

No accessory building shall be constructed until the principal building is under construction or completed. No accessory building shall remain on a lot once the principal building has been removed without a variance from the Zoning Board of Appeals, unless a Letter of Credit or some other form of financial assurance acceptable to the Village Board is submitted to the Zoning Administrator in an amount sufficient for the Village to have the accessory building removed in the event a principal structure is not constructed on the Lot within two years of the date of issuance of the zoning permit for the new principal building or the date of removal of the accessory building. Once the principal structure is constructed or the accessory building is removed, the Village shall cooperate in the release of the Letter of Credit or other financial assurance.

Where the use of the land is principally for agricultural pursuits and is a parcel 35 acres or more in size, farm buildings may be allowed without the necessity of having a residence in place or under construction subject to the approval of the Plan Commission if it is determined that the building will not be contrary to the spirit and intent of the Ordinance and will not include the operation of a commercial boarding or riding stable for horses or agricultural pursuits specializing in the forced feeding of livestock, and where it is determined that the use of the building will be accessory to a farming operation which is consistent with the use provisions of the district in which it is located.

If the farm building(s) is located in the FLP Farmland Preservation District, the building(s) is permitted by right and Plan Commission approval is not required.

2. **Buildings or Creation of lots on a private street or way:** The intent of this provision is to discourage the creation of lots and placement of structures which do not have adequate access for emergency vehicles and equipment. and to provide a right-of-way width which could accommodate a public right-of-way, if necessitated in the future.
- a. Subject to the approval of the Plan Commission, a parcel may be created and a building may be permitted on a tract of land which does not abut or have direct frontage on a public street or officially approved way (frontage on a controlled access highway or a freeway where vehicular access is prohibited does not constitute access or frontage for the purposes of this provision) provided such tract of land is at least three acres in area and has a minimum average width of 200 feet, has access by a permanent easement at least 33 feet in width to a public street or way, will have a paved or gravel driveway width of at least 12 feet, unless a local ordinance is in effect which requires a greater width, and does not conflict with the plans for the future development of streets in the area.
 - b. Typical or normal lots with lot lines radiating from the terminus or center of a public cul-de-sac street are not affected by this provision that requires minimum road frontage on a public street.
 - c. In a situation where more than one principal residence or parcel is proposed, the easement for access shall be at least 66 feet in width and the paved or gravel drive shall be 16 feet in width, unless required to be greater by the Plan Commission as part of the approval.
 - d. Where such a lot has a narrow strip of land as part of the lot (not as an approved easement) extending to the public road from the main part of the lot where the building could lawfully be placed (flag lot), such narrow portion shall not constitute frontage or part of the three acre lot size requirement unless that narrow portion of the lot is as wide as the required minimum average width for the district in which it is located.
 - e. Not more than two such parcels or buildings shall be permitted unless necessitated by exceptional circumstances.

3. **Junk and undesirable buildings or structures:**

- (a) Junk, as defined by this Ordinance, shall at all times be stored in an enclosed building thereby securing it from the view of the public and adjacent property owners.
 - (1) This subsection is not intended to regulate or place limitations on any property properly zoned junk yard, salvage dealer, or other junk, waste disposal or storage activity for which a valid license from the State or Wisconsin or other necessary municipal issuing authority is required and proper permits have been issued and all such licenses and permits are in full force and effect and the operation is in full compliance therewith.
 - (2) This subsection is not intended to regulate or place limitations on the storage of idle, but operable farm equipment on farms greater than 35 contiguous acres or the storage of inoperative or abandoned farm equipment on farms greater than 35 contiguous acres if such inoperative or abandoned farm equipment is screened from the view of the public and adjacent property owners by a natural or man-made visual barrier.
 - (3) This subsection is not intended to regulate or place limitations on the storage of idle but operative snow removal vehicles or equipment, or lawn mowing equipment.

- (4) This subsection is not intended to regulate or place limitations on the orderly storage of firewood for fuel.
 - (5) This subsection is not intended to regulate the temporary storage of construction materials which are for use on the site for the project authorized by an active zoning permit and which are stacked, stored and secured on the site in an orderly method.
 - b. No building or structure shall be erected, structurally altered or relocated in a manner which shall be of such character as to adversely affect the nearby properties or general desirability of the neighborhood. The determination by the Plan Commission shall be stated in writing, including the reason for denying a permit or conditions of approval for a permit, and may be based upon considerations that the design or appearance is of such an unorthodox or abnormal character as to have an adverse effect on the nearby properties or general desirability of the neighborhood.
- 4. **Street grade:** Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Zoning Administrator as being in satisfactory relationship with the established street grades, or with the existing street grade where one is established, with particular consideration for proper drainage and safe vehicular access.
- 5. **View Corridor:** The access and viewing corridor shall not exceed ten feet or 35% of the shoreland frontage of the property, whichever is greater, except that the access and viewing corridor shall never exceed 200 feet width. The access and viewing corridor shall include all improvements, such as boathouses, boat hoists, and walkways. A property is limited to one access and viewing corridor unless the Zoning Administrator determines that two access and viewing corridors are reasonable due to site conditions such as slope, existing improvements, lake access limitations, or shape of the property.
- 6. **Preservation of Topography:** In order to protect property owners from possible damage due to changes in the existing grade of adjoining lands, minimize erosion, sedimentation, and the impairment of fish and wildlife habitat, and to aid in preserving and protecting the natural scenic beauty and character of the landscape, the following regulations, unless exempted by Wisconsin Statutes or other sections of this Ordinance shall apply.
 - a. Grading, clean fill disposal sites, topsoil removal, filling, alteration or enlargement of waterways, removal or placement of stream or lake bed materials, excavation, channel cleaning and clearing, ditching, drain tile laying, dredging, pond construction, lagooning and soil and water conservation structures are conditional uses and must be approved in accordance with Section 4(E)7 of this Ordinance except as may otherwise be permitted in Sections 3(D)(6)(b) and (c), or 8(C)1. In addition, such uses may require a permit from the state agency having jurisdiction pursuant to Chapter 30 of the Wisconsin Statutes and, where applicable, a federal permit from the U.S. Army Corps of Engineers. All such uses and activities shall be consistent with the uses permitted in the C-1 Conservancy Overlay District, if they occur within said District. If the proposed activity requires a rezoning of the lands, Section 42 of this Ordinance must be complied with.
 - b. No change in the existing topography or drainage courses on any land shall be allowed which will result in adversely altering the drainage or increasing any portion of the existing slope through fill and/or grading to a ratio greater than three horizontal to one vertical. The construction of a retaining wall (stone, ties, brick or other material) five feet or less from a property line may be specifically authorized by the Plan Commission and an agreement made between said Plan Commission and applicant stating that the method and purpose of construction will not in any way adversely affect drainage or aesthetics of the adjacent lot. A retaining wall five feet or greater from a property line may be allowed pursuant to issuance of a zoning permit as long as said wall will serve to promote the purpose and intent as stated

in this Ordinance. All retaining walls shall be set back at least 75 feet from the Ordinary High Water Mark of a navigable body of water and outside of the Conservancy District. Retaining walls cannot be averaged with the setbacks of other buildings or structures.

Fill or grading considered by the Zoning Administrator to be necessary backfill and/or excavation for an otherwise permitted structure may be permitted without the necessity of securing a conditional use permit as long as said fill or grading is accessory to said construction and does not create slopes greater than three horizontal to one vertical and does not extend to a distance greater than 30 feet from the foundation and does not divert runoff directly onto adjacent property or adversely affect adjoining property. In order to make such a determination, the property owner shall submit a grading plan of existing and proposed grades on the subject lot and adjacent lands where said accessory fill and/or grading is closer than 20 feet to a property line. The fill must be located outside of an area designated as wetland.

Land altering activities extending greater than thirty feet from the foundation, or not considered by the Zoning Administrator to be necessary backfill, may be allowed without the benefit of a conditional use permit, subject to issuance of a minor grading permit (zoning permit) as long as the fill, excavation, or other land altering activities do not exceed 15 cubic yards of material or 3,000 square feet of area and the fill, excavation, or other land altering activities are not located in a wetland. This provision excludes the area normally associated with septic system installation and normal driveway construction.

Further, no fill or alterations on existing topography shall be allowed under any circumstances, which will alter the drainage or topography in a way, which will adversely affect the surrounding lands. In making such a determination, the Zoning Administrator shall have the authority to determine the affect of the construction or fill on surrounding property and require improvements and/or facilities as may be in the best interest of preserving the topography and drainage system and which will have the effect of lessening the impacts on either upstream, downstream or adjacent properties. In case of a dispute or question arising as to the adversity or affect of the project on either the property owner, adjacent owners or the general public, said question shall be submitted to the Zoning Board of Appeals for resolution to the question. Land altering activities may also be subject to locally adopted or State mandated Erosion and Sediment Control ordinances in addition to the requirements set forth herein.

- c. Streambank and Shoreline Stabilization: Streambank and shoreline stabilization structures and minor grading, filling and land altering activities associated with the stabilization structures may be permitted administratively in shoreland areas and without a conditional use permit and in conformance with best management practices promulgated by the Waukesha County Department of Parks and Land Use, Land Resources Division when located outside of conservancy/wetland areas where the site is above the Ordinary High Water Mark, subject to the following:

- (1) Said project may be authorized administratively through the granting of a minor grading permit (zoning permit) when the following standards are satisfied:
 - (a) Submittal of a complete and accurate set of plans which include a contour map at a scale of not less than 1" = 200' at a contour interval of at least two foot increments, a vegetation plan and schedule, the period of construction activity, the methods used during and after construction to provide protection from the forces of erosion and sedimentation upon adjacent land and waterbody, and how the project will relate to adjoining property.
 - (b) An administrative determination that the project has no public impact on or will not adversely affect adjacent or surrounding properties and that the activity will serve to

prevent erosion and sedimentation of the surrounding area on the adjacent waterbody.

- (c) The review and written approval, if necessary, of the WDNR, ACOE and FEMA.
 - (d) Entering into a stipulated agreement with the Village concerning the scope of work, type of material used, method of construction, final grades, re-establishment of vegetative cover, date of completion and any other items deemed appropriate.
 - (e) The performance of such land altering activity must not impede drainage or obstruct flows.
 - (f) The project must not be located in a wetland.
7. **Agricultural Uses:** Sod farming, tillage, grazing, livestock watering and feeding and application of fertilizers shall be prohibited unless conducted in accordance with good soil and water conservation practices promulgated by the U.S.D.A. Soil Conservation Service in its technical guide. Crop production on lands with an erosion factor of three (3) or more on the U.S.D.A. Soils Map is prohibited and such lands shall be planted to permanent vegetation. Where agricultural uses, including grazing, occurs next to navigable water, in accordance with sound land management practices, a buffer strip of permanent vegetation not less than one rod (16½ feet) wide, should be maintained where possible, to protect the bank of the waters from erosion and the effects of weathering and the water from the effects of sedimentation and pollution.
8. **Surface Water Withdrawal:** Diversion, or discharge for irrigation, processing, cooling, or other purposes are conditional uses requiring review and approval by the zoning agency in accordance with Section 4(E)(1) of this Ordinance. The Zoning Administrator shall then advise the state agency having jurisdiction under Chapters 30 and 281 of the Wisconsin Statutes of its findings prior to the issuance of the required state permits and federal permits as may be required by the U.S. Army Corps of Engineers.

When the substantive terms of this provision are met through the application of the Wisconsin Statutes, Department of Natural Resources Administrative Code or the requirements of the U.S. Army Corps of Engineers, a separate action of the Zoning Administrator pursuant to Section 3(C)(1) of this Ordinance is unnecessary.

9. **Vegetation Removal:** Vegetation removal in shoreland areas is regulated to promote the preservation and restoration of native vegetation and protect natural scenic beauty, fish and wildlife habitat and water quality. The following standards, together with the standards of Section 3(D)(5) and the Waukesha County Stormwater and Erosion Control Ordinance, ensure sound forestry and soil conservation practices and are intended to address the effects of vegetation removal on water quality, including soil erosion and the flow of effluents, sediments and nutrients.
- a. *Vegetation removal within 35 feet of the Ordinary High Water Mark:* The area parallel to the Ordinary High Water Mark and extending 35 feet inland from all points along the Ordinary High Water Mark of a navigable waterway is considered a vegetation buffer zone and the removal of vegetation is prohibited, except as follows provided a permit is obtained in accordance with subsection d:
 - (1) Routine maintenance of vegetation is permitted, as defined in this Ordinance, without a permit.
 - (2) Removal of trees and shrubs within the vegetative buffer zone is allowed in order to create an access and viewing corridor.
 - (3) Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard may be permitted, provided that any vegetation removed shall be replaced by replanting in the same area as soon as practicable.

- (4) Removal of trees and shrubs in the vegetative buffer zone on a parcel with ten or more acres of forested land consistent with “Generally Accepted Forestry Management Practices” as defined in s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal shall be consistent with these practices.
- (5) Additional vegetation management activities may be permitted within the vegetative buffer zone to enhance natural plant communities. The permit shall require that all vegetation management activities comply with detailed plans approved by the Village. Plans shall be designed and implemented to control erosion and limit sedimentation into the waterbody. Plant communities shall be improved by replanting in the same area that removal occurs. Newly restored areas shall be monitored and maintained over time.

An enforceable deed restriction shall be prepared and reviewed and approved by the Zoning Administrator and recorded in the Office of Register of Deeds to ensure preservation of the newly restored area.

- b. *Protection of Priority Trees within three hundred (300) feet of the Ordinary High Water Mark:* Healthy native trees that are identified in the Priority Tree Species List contained within Table 1 that are 12” or more in diameter at breast height and that are located within 300 feet of the Ordinary High Water Mark of a navigable waterway shall be preserved, with the following exceptions:
 - (1) Trees that are dead, diseased, dying, or that create an imminent safety hazard.
 - (2) Trees that are located within a designated access and viewing corridor, as provided in subsection A above.
 - (3) Trees that conflict with the placement of permissible structures, driveways, utilities, or septic systems, including trees located within 30 feet of any of the above planned improvements. The Zoning Administrator may allow for additional tree removal beyond 30 feet of planned improvements to accommodate reasonable grading. Any tree removed as part of this subsection must be replaced with a tree of at least two inches or more diameter at breast height elsewhere on the lot, within 300 feet of the Ordinary High Water Mark.
 - (4) Priority trees, regardless of size, that are located within an area designated as C-1 Conservancy Overlay District, OR-CW Original Village Conservancy – Wetland District, or EC Environmental Corridor Overlay District are subject to the standards of Sections 7, 8 and 9, respectively.
- c. *Vegetation removal within an area designated as C-1 Conservancy Overlay District, OR-CW Original Village Conservancy-Wetland District or EC Environmental Corridor Overlay District:* Vegetation removal must comply with the standards specified in the respective zoning district. Routine maintenance of vegetation beyond 35 feet from the Ordinary High Water Mark of a navigable waterway to the lakeside of a residence is permitted.
- d. *Permitting Requirements:* The following permitting requirements apply to vegetation removal permitted within this Section:
 - (1) A Shoreland Cutting Zoning Permit is required for any vegetation removal permitted within this Section, except for routine maintenance allowed under subsection (a)(1) above to ensure compliance with the above provisions.
 - (2) Tree replacement, as required in subsections (a) and (b) above, must be completed at a one-to-one (1:1) ratio. If a tree that is removed is healthy, it shall be replaced with a

native tree with a minimum size of two inches diameter at breast height. If the healthy tree is considered a Priority tree, then the tree must be replaced with a species identified on the Priority Tree List contained within Table 1. If a tree that is removed is dead, diseased, dying, invasive or causes an imminent safety hazard, it shall be replaced with a native tree with a minimum size of 1" diameter at breast height.

- (3) Shrubbery and groundcover removal outside of an access and viewing corridor, including invasive species removal, shall be replaced with native shrubbery and groundcover densities specified in the Wisconsin Biology Technical Note 1: Shoreland Habitat. Please see following link:
<http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCSBioTechNote.pdf> or a hard copy may be viewed at the Village Hall office.
- (4) Vegetation replacement standards of subsections (2) and (3) above may be modified if the Zoning Administrator approves a report prepared by a qualified professional and/or if the Zoning Administrator determines that the replacement is not practical due to soil conditions, crowding, or other site specific conditions. A modified replacement plan, prepared by a qualified professional, may be required in order to ensure compliance with the purpose and intent of this Section.
- (5) A shoreland cutting plan shall be prepared when three or more trees or more than 300 square feet of groundcover or shrubbery are proposed to be removed or when any native tree or shrubbery is proposed to be removed without replacement, including tree removal within the access and viewing corridor. The following information shall be identified on the shoreland cutting plan:
 - (a) A scaled survey of the property, including all existing and proposed improvements, wetlands, Environmental Corridors and topography of the land.
 - (b) Location of access and viewing corridor, if applicable.
 - (c) An inventory of existing vegetation within the project area, including location, type, and size of trees and location, type and density of shrubs and groundcover.
 - (d) Identification of proposed vegetation removal and reason for removal. The Zoning Administrator has the authority to request that a certified arborist verify that a tree is diseased, dying, dead or causes harm due to overcrowding.
 - (e) Location, type, and size or density of vegetation replacement, including a three-year performance plan.
 - (f) Timetable for completion and method of erosion control.
- (6) *Implementation and long-term maintenance:* In order to ensure that the above standards are implemented and maintained over time, the following standards apply:
 - (a) The Zoning Administrator shall establish a deadline for the replacement of vegetation based on the individual request and site limitations. If a shoreland cutting plan is required for the replacement of vegetation, a financial guarantee may be required for the amount required to have a professional contractor implement the plan to ensure that the plan is properly implemented.
 - (b) The enforceable obligations, including the location of the established access and viewing corridor (if applicable) and long-term maintenance requirements, shall be evidenced by a deed restriction reviewed and approved by the Zoning

10. Adequate drainage required:

- a. In no case may a principal building be located in an area zoned conservancy or in an area considered to be one of the eight types of wetlands (type 1-8) as described in Circular 39 of the Fish and Wildlife Service, U. S. Department of Interior published in 1956, and which are on record on the 1975 aerial maps of the Southeastern Wisconsin Regional Planning Commission. No Principal Building shall be erected, or relocated, and no below grade structures shall be expanded on newly created or existing Lots that are not in compliance with the site drainage standards contained in the Waukesha County Stormwater Management and Erosion Control Ordinance, including all technical procedures and forms used to enforce these standards (Chapter 14-342(c)). The lowest floor, including any basement floor, shall not be less than one foot above the highest seasonal ground water level. For the purposes of this Section, the highest seasonal ground water level is defined as the upper limit of the zone of soil saturation caused by underlying ground water at its highest level. Where groundwater limitations exist, subdivision plats and certified survey maps shall state the lowest allowed floor elevation for any proposed principal Structure as needed to ensure compliance with the above noted site drainage standards. All basement elevations must comply with the subdivision plat or certified survey map master grading plan or with the master grading plan referenced on the subdivision plat or certified survey map. The Zoning Administrator and/or building inspector may request at the owner's expense the advice and assistance of a licensed professional engineer specializing in soils engineering or other qualified person in fulfilling their duties pursuant to this provision. building, drainage, grading or other similar plans may be required to determine compliance with this Section. The Village accepts no liability for construction activities involving groundwater limitations.
 - b. In the event the Applicant disputes the necessity for or the adequacy of the site drainage standards noted above, the matter shall be reviewed by the Board of Appeals pursuant to the appeal provisions of this Ordinance and the Waukesha County Stormwater Management and Erosion Control Ordinance. The applicant may also request a variance from the 1-foot groundwater separation requirement for basements, which shall also be reviewed by the Zoning Board of Appeals pursuant to the appeal provisions of this Ordinance and the Waukesha County Stormwater Management and Erosion Control Ordinance.
11. **Site Protection:** Any property disturbed with land altering activities as may be authorized through the issuance of a zoning permit or a conditional use permit, shall be required to protect the disturbed land surface of the lot or building site that is susceptible to erosion while under construction and which is not occupied with buildings, dedicated parking areas or other hard surfaced areas with suitable stabilization measures. Said disturbed areas shall be permanently stabilized and continuously maintained with suitable vegetative cover or other approved landscape material and shall be required to conform with the provisions of the Waukesha County Stormwater Management and Erosion Control Ordinance and the Uniform Dwelling Code for one- and two-family dwellings, when applicable. A Letter of Credit or other forms of financial guarantee to ensure performance may be required by the Building Inspector, Plan Commission, or the Zoning Administrator.

E. Use Regulations

1. **Uses Restricted:** In any district, no building or land shall be used and no building shall be hereafter erected, structurally altered or relocated except in conformance with the regulations hereinafter established for the district in which the property is located, or as otherwise provided in this Ordinance. Where a change in use, change of ownership or operator or a new use of a building or premises is proposed in any Business, Industrial District or Public and Institutional District, a site plan and plan of operation shall be prepared for review and approval pursuant to

Section 3(C)(6) of this Ordinance. Where a change in ownership or operator of a building or premises is proposed in any Business, Industrial District or Public and Institutional District or at the site of a legal non-conforming use or a conditional use, a Plan of Operation shall be prepared for review and approval pursuant to Section 3(C)(6) of this Ordinance.

2. **Permitted Uses.** Principal uses, allowed as a predetermined right anywhere in the District in which located, subject to the regulations established governing such use.
3. **Accessory Uses:** In any District, accessory buildings and uses customarily incident to the permitted uses in that district shall be permitted subject to such requirements as may be hereinafter designated for that district in which they are located. No pyramiding as defined herein shall be permitted on any lands fronting on a lake except as may be specifically permitted accessory to a marina or resort and which may be allowed under the terms of a conditional use permit for a Planned Unit Development.
4. **Unclassified Uses:** Any use not specifically listed as a permitted use or conditional use shall be considered to be prohibited except as hereinafter provided.
5. **Additional Requirements:** For any use or structure in any district, which becomes hazardous, harmful, noxious, offensive, a nuisance, or has a substantial adverse effect on the surrounding neighborhood by reason of odors, lighting, smoke, fumes, dust, dirt, vibrations, noise, fire, explosives, pollution, appearance, traffic generation, or other objectionable factors, the owner or occupant may be required to correct, improve or abate such conditions by such measures as may be mutually directed by the Plan Commission and Zoning Administrator consistent with reasonable technology and economic practicality and in conformance with reasonable standards or may be determined by the Plan Commission and Zoning Administrator as may be contained in this Ordinance and Section 44 of this Ordinance. These nuisance determinations shall also include, but not be limited to, incidents of apiculture where there is bee stinging, bee swarming, or bees otherwise creating a disturbance; and for nuisance determinations regarding the keeping of potbellied pigs and pigmy goats. Any building determined to be unfit for human habitation or which may endanger the health, safety and welfare of the public as may be determined by the Village Board after recommendation by the Plan Commission or Zoning Administrator may be removed pursuant to the procedures outlined by the Wisconsin Statutes.

F. Sanitary Regulations

1. No building, structure, area or premise shall be constructed, structurally altered, located or maintained for human occupancy, use or assembly without adequate facilities for the sanitary and safe disposal of all human excreta together with all liquid and solid wastes that could be hazardous to the public health and safety or create objectionable nuisance conditions. Such facilities must fully comply with the provisions of the Waukesha County Community Health Code.
2. No zoning permit shall be issued until a safe and adequate water supply and sewage disposal system is assured and until after the county sanitary permit has been issued. No occupancy and use permits shall be issued for a building used for residential purposes unless provisions have been made in accordance with the requirements of the Waukesha County Community Health Code.
3. Outhouses prohibited: No outhouse or privy shall be hereafter erected.

G. Water Performance Standards

1. **Compliance:** This Ordinance permits specific uses in specific districts; and these performance

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

2. **Water quality protection:** No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, 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.
3. In addition, no activity shall withdraw water or discharge any liquid, gaseous, or solid materials so as to exceed the minimum standards and the application of those standards set forth in chapters NR 102, 103 and 104 of the Wisconsin Administrative Code, and applicable standards of any federal agency for all interstate and intrastate surface waters of the Village.
4. In addition, the following water quality standards, as set forth in chapter NR102 of the Wisconsin Administrative Code, shall be maintained:
 - a. Minimum standards.
 - b. Recreational standards-full body contact recreational uses.
 - c. Fish and aquatic life.

H. Building Location

1. **Road Setback**

- a. Base Setback Lines, from which building setback shall be measured, are hereby established for all streets and highways in the Village as follows, unless otherwise specified by action of the Plan Commission.
 - (1) On all streets or highways for which the ultimate width has been established by the Waukesha County Highway Width Ordinance, the base setback line shall be located at a distance from the centerline equal to one-half such established width as designated on the "Established Street and Highway Width Map of Waukesha County."
 - (2) On all other streets, which shall be designated as "local streets" the base setback line shall be at least 33 feet from the centerline of such street or 60 feet from the center point of a cul-de-sac unless specifically designated otherwise by action of the Plan Commission.
 - (3) When a lot abuts a frontage road, the base setback line shall be located at a distance from the centerline equal to one-half the right-of-way width of said frontage road.
 - (4) Such setback lines shall be parallel to and measured at right angles to the centerline of the street or highway.
 - (5) There shall be a required setback equal to the offset requirement of the district in which the property is located, from a private right-of-way providing ingress and egress to the subject land or other lands unless such private right-of-way is considered a mill tax road, in which case the normal road setback requirements contained in this Ordinance shall apply. The required setback in the DOD

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Downtown Okauchee District is specified in Section 39 of this Ordinance. The offset requirements for private rights-of-way shall not be subject to the sewer reduction provisions or any offset reduction provisions contained in this Ordinance. The Road Setback averaging provisions of Section 3(H)(1)(c) apply.

- b. Vision setback lines at the intersections of public streets or highways and of a street or highway with a railroad, where the grade is not separated, are hereby established as follows:
 - (1) Across each sector between the intersection of a street or highway with a railroad, a vision setback line shall be established by a straight line, connecting points on the Base Setback Line and the railroad right-of-way line, which points are located 120 feet from the intersection of the Base Setback Line and the railroad right-of-way line.
 - (2) Across each sector between intersecting streets or highways, one or more of which has an established width of 100 feet or more, a vision setback line shall be established by a straight line connecting two points on the intersecting Base Setback Lines, which points are located 60 feet distant from the intersection of said Base Setback Lines.
 - (3) Across each sector between any other intersecting streets a vision setback line shall be established by a straight line connecting two points on the intersecting Base Setback Lines, which points are located 30 feet distant from the intersection of said Base Setback Lines.
- c. No Principal or Accessory Building shall be hereafter erected, altered, horizontally added to, relocated or placed closer to the Base Setback Line than the Road Setback distance specified by the regulations for the District in which such Building is located except as specified here-in-after:
 - (1) Building within Road Setback on one side only: If there is a Building which has less than the required Road Setback, with a similar use as the proposed Building, the average of the Road Setback of that Building and the required minimum Road Setback shall apply, provided that the existing Building is on an adjacent Lot, is located within 250 feet of the proposed Building and is located on the same side of the road.
 - (2) Buildings within Road Setback on both sides. If there are two buildings which have less than the required Road Setback, with similar uses as the proposed Building, the average of the Road Setbacks of those Buildings shall apply, provided that the existing Buildings are on adjacent Lots, are located within 250 feet of the proposed Building and are located on the same side of the Road.
 - (3) Addition to an existing Building within Road Setback. In the case of a proposed addition to an existing Building which has less than the required Road Setback, the following provisions may be used to determine the required Road Setback for the proposed addition, as set forth below:
 - (a) If there are existing Buildings within the Road Setback on both adjacent lots and both of the Buildings are located closer to the road than the Building that is proposed to be expanded, the average Road Setback of the adjacent Buildings is the minimum setback for the addition. The adjacent Buildings must contain similar uses, be located within 250 feet of the Building to be expanded and be located on the same side of the Road.
 - (b) If there is only one existing Building within the Road Setback on an adjacent Lot,

the average of the Road Setback of the existing Building to be expanded and the existing Building on the adjacent Lot shall apply to the addition. The adjacent Building must contain a similar use, be located within 250 feet of the Building to be expanded and be located on the same side of the Road.

- (c) If there are existing Buildings within the Road Setback on both adjacent Lots, but one of the adjacent Buildings is located further from the Road than the existing Building to be expanded, the average of the Road Setback of the existing Building to be expanded and the Building on the adjacent Lot located closest to the Road shall apply to the addition. The adjacent Building must contain a similar use, be located within 250 feet of the Building to be expanded and be located on the same side of the Road.
- (d) If existing Buildings on both adjacent Lots with a similar use as the Building to be expanded are located farther than the required Road Setback or if there are no similar Buildings on both adjacent Lots, these Road Setback averaging provisions do not apply.
- (4) Subsection (1) through (3) only apply in the DOD Downtown Okauchee District within Zones 6 and 8 and where Buildings are abutting a private Road.
- (5) Road access to lake – Road Setback relief. The required Road Setback shall be modified to the required Offset of the District in which the Lot is located if the only purpose of the road is to provide access to the lake.
- (6) If the above exceptions do not apply and an improvement or an addition is proposed to an existing nonconforming structure, the provisions of Section 3(o) apply.
- d. No other Structures of any kind, except necessary highway and traffic signs, Retaining Walls, open stairs extending six feet or less from the enclosed portion of the structure, open stairs in combination with stoops and/or porches which are unenclosed and provide no more than 20 square feet in area and extend no more than six feet from the enclosed portion of the structure, public utility lines, rural mailboxes, fences, and those signs permitted in a residential or agricultural district shall be hereafter erected, altered or placed within such base setback area. Monuments and Entrance Gates are structures which require a zoning permit and shall be located at least ten feet from the Base Setback Line and shall not restrict safe access and visibility of the intersecting drive and the road and shall be subject to review and approval by the Plan Commission and the zoning administrator and the applicable municipality having jurisdiction over the road or highway.
- e. In the vision setback area no structure of any kind shall be permitted which exceeds a height of two feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines, and open fences through which there is clear vision, nor shall any plant material be permitted which obscures safe vision of the approaches to the intersection.
- f. Additions, replacements, and structural modifications of existing structures may be made within the established road right-of-way as set forth by Section 3(H)(1)(a) of this Ordinance, subject to approval of the Village Board and the Board of Appeals, if applicable. The owner shall record, with the Waukesha County Register of Deeds, an agreement in writing to the effect that the owner will remove all new construction, modifications, additions and replacements erected after the adoption of this Ordinance at his/her expense, when said right-of-way is necessary for the improvement of the highway.
- g. On corner Lots of Record, as of the date of adoption of this Ordinance, the effect of the

setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet. Where such reduction would result in an area narrower than 30 feet after applying the offset reduction, the Zoning Administrator shall have the authority to modify the setback or offset provision to the extent necessary to minimize the encroachment on both the offset and setback standard while maintaining the 30 feet area required herein.

- (2) **Shore, Floodplain, and Wetland Setback:** Every Structure shall have a setback of at least 75 feet from the Ordinary High Water Mark of a Navigable Waterway and 25 feet from any Wetland. Every Structure shall have a setback of at least 35 feet from the regional floodplain if the setback area is located within the two tenths percent (0.2%) floodplain as designated by FEMA. If the two tenths percent (0.2%) floodplain boundary does not extend 35 feet from the regional floodplain, the setback shall be the two tenths percent (0.2%) floodplain boundary.
- (a) Boathouses may be permitted in accordance with Section 3(Q) of this Ordinance. No boathouses are permitted in the OR- Districts.
 - (b) Boat hoists and piers may be erected on the bed of Navigable Waters pursuant to Chapter 30 of the Wisconsin Statutes and Section 3(D)(5)(b) of this Ordinance.
 - (c) Under the authority of Section 59.692(1v), Wisconsin Statutes, the Zoning Administrator may grant a special zoning permit for a Structure that extends closer than 75 feet to the Ordinary High Water Mark of a navigable body of water if all of the following requirements are met, but in no case is a Structure exempt from the Floodplain or Wetland Setback requirements:
 - i. The part of the Structure that is nearest to the water is located at least 35 feet landward from the Ordinary High Water Mark.
 - ii. The total Floor Area of all structures in the shore setback area of the property shall not exceed 200 square feet. In calculating the square footage, Boathouses shall be excluded.
 - iii. The structure that is subject to the request for special zoning permission has no sides or has open or screened sides.
 - iv. The Zoning Administrator shall review a plan submitted by the Applicant which shall be subject to the Zoning Administrator's approval and which will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of half of the shore setback area that is nearest to the water. The Zoning Administrator is authorized to require implementation of the vegetative buffer plan prior to the issuance of the zoning permit for the Structure.
 - (d) A Retaining Wall shall be set back at least 75 feet from the Ordinary High Water Mark of a navigable body of water and outside of the Floodplain and Wetlands. The setback averaging provisions below may not be used to locate a Retaining Wall closer than 75 feet from the Ordinary High Water Mark of a navigable body of water or within the Floodplain and Wetlands. A Retaining Wall is not a Structure that can be used in the setback averaging provisions below to reduce the shore or wetland setback requirements for any other Building or Structure, including Retaining Walls themselves.
 - (e) A single stairway, rail system or walkway shall be exempt from the shore, floodplain and wetland setback requirements provided the width of the stairway, rail system or walkway does not exceed five feet, subject to the issuance of a Zoning Permit. If the walkway is proposed in an area designated as Wetland, the walkway shall be constructed on pilings.
 - (f) Patios shall be exempt from floodplain setback requirements.

- (g) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two meters or less in diameter.
- (h) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with Ch. SPS 383, Wis. Admin. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control Stormwater runoff from the Structure.
- (i) Devices or systems used to treat runoff from Impervious Surfaces.
- (j) A bridge for which the DNR has issued a permit under s. 30.123, Wisconsin Statutes.
- (k) *Shore Setback Averaging*: Where there is a development pattern with principal Structures having Shore Setbacks less than 75 feet from the Ordinary High Water Mark of a Navigable Waterway, the setback requirements for principal Structures shall be allowed to be reduced in accordance with one of the following setback averaging formulas:
 - i. Where there are existing principal Structures in both adjacent properties, the Shore Setback shall equal the average of the distances that the two existing principal Structures are set back from the Ordinary High Water Mark provided all of the following are met:
 - (a) Both of the existing principal Structures are located on an adjacent Lot to the proposed principal Structure.
 - (b) Both of the existing principal Structures are located within 250 feet of the proposed principal Structure and are the closest principal Structures.
 - (c) Both existing principal Structures are located less than 75 feet from the Ordinary High Water Mark.
 - (d) The average setback shall not be reduced to less than 35 feet from the Ordinary High Water Mark of any Navigable Waterway.
 - ii. Where there is an existing principal Structure in only one adjacent property, the setback shall equal the distance that the existing principal Structure is set back from the Ordinary High Water Mark and the required setback of 75 feet from the Ordinary High Water Mark provided all of the following are met:
 - (a) The existing principal Structure is located on an adjacent Lot to the proposed principal Structure.
 - (b) The existing principal Structure is located within 250 feet of the proposed principal Structure and is the closest Structure.
 - (c) The existing principal Structure is less than 75 feet from the Ordinary High Water Mark.
 - (d) The average setback shall not be reduced to less than 35 feet from the Ordinary High Water Mark of any Navigable Waterway.
 - iii. In applying these shore setback averaging formulas to a proposed principal Structure, the shore setback measurements shall be taken from other principal Structures only and the measurements shall not be from any immediately adjacent Structures, such as

Decks, patios, Retaining Walls, swimming pools or sports courts.

- iv. In applying these shore setback averaging formulas to a proposed functional appurtenance, such as a Deck or patio, which is immediately adjacent to the principal Structure, the shore setback measurements may be taken from other principal Structures.
- (l) The effect of the Shore, Floodplain, or Wetland setback regulations in combination with the Road setback regulations shall not reduce the buildable depth of such Lot to less than 30 feet. Where such reduction would result in a depth less than 30 feet after applying the Shore, Floodplain, or Wetland Setback and Road setback averaging formulas, the Zoning Administrator shall have the authority to modify the Road Setback and Floodplain and Wetland Setback provisions to the extent necessary to minimize the encroachment on the Road Setback and Floodplain and Wetland Setback standards while maintaining the 30 foot depth. The Shore Setback shall not be reduced as part of this provision.
- (m) A Structure, of which any part has been authorized to be located within the Shore Setback area by a Variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the Building Footprint of the authorized Structure. Additionally, the Structure may be vertically expanded, provided the Structure does not exceed 35 feet in overall height. An expansion of the Building Footprint may be allowed provided the expansion is necessary to comply with applicable state or federal requirements. This provision only applies if all other Ordinance requirements are met. No permit, fee, or Mitigation is required for compliance with this provision per Wisconsin Statute sections 59.692(1k)(a)2. and (a)4 (2015). A permit and fee will be processed for compliance with all other provisions of this Ordinance.
- (n) One accessory Structure with a maximum size of 200 square feet may be located as close as 25 feet from the Wetland provided the Structure complies with the Shore Setback and there is no other conforming location available and no other accessory Structures located on the Lot.
- (o) If the above exceptions do not apply and an improvement or addition is proposed to an existing Legal, Nonconforming Structure, the provisions of Section 3(N) apply.

(3) Offsets

- (a) No Structure, excluding a roof overhang measuring 24" or less, shall be located closer to any Lot Line than the offset distance specified by the regulations for the District in which such Structure is located, with the following exceptions:
 - i. In the case of a Lot of Record, which has a minimum average width less than 120 feet, the required Offset for a Structure from a side lot line may be reduced as follows, unless the District requirement is less restrictive, in which case, the less restrictive requirement applies:

Lot Width (ft.)	Required Offset (ft.)
35 ft. or less	5 feet
Greater than 35 ft. to 60 ft.	7 feet
Greater than 60 ft. to less than 84 ft.	10 feet
Greater than 84 ft. to less than 120 ft.	14 feet
Greater than 120 feet	14 feet

- ii. Offsets for Buildings housing livestock, fur bearing animals, pigeons, swine, goats and poultry, shall be not less than 50 feet from an adjacent property line. This does not include doghouses.
 - iii. When a detached accessory Structure lies on an adjacent Lot and closer than five feet of the common Lot Line, a new detached accessory Structure with a similar use may be located the same distance from the common boundary as the existing detached Structure on the adjacent Lot, as long as they are within 10 feet of each other. For example, a boathouse may only benefit from this clustering provision if a boathouse, which complies with the provisions of this ordinance, exists on the adjacent Lot. An existing detached accessory Structure less than 200 square feet in size is considered similar if the proposed detached accessory Structure is less than 200 square feet in size. In such a case, the new detached accessory Structure shall contain a firewall sufficient to meet the one-hour fire rating contained in the building code. Building sidewalls may be no closer than three feet in order to accomplish proper maintenance. A deed restriction shall be recorded prior to issuance of the zoning permit prohibiting the construction of fences between said Buildings, requiring the maintenance of a firewall and permitting Maintenance of said Buildings from adjacent properties.
 - iv. One detached Accessory Building on any parcel which is less than 200 square feet in area may be located five feet to the side and rear Lot Lines unless otherwise excepted under any other provision.
 - v. Offsets on Decks and Patios, directly adjacent to a principal Structure, may be reduced to 50% of the distance between the principal Structure and the Lot Line, otherwise required for the principal Structure, but shall in no case be located closer than five feet of a Lot Line.
 - vi. Stairways or walkways, five feet in width or less and not attached to a Deck or Patio, shall be located a minimum of five feet from a Lot Line. Stairways or walkways that exceed five feet in width, shall comply with subsection vi. above. Existing stairways or walkways may be replaced in-kind within five feet of a Lot Line.
 - vii. Retaining Walls do not need to meet the offset requirements of the individual zoning districts if they comply with the provisions of Section 3(D)(b).
 - viii. Mechanical Equipment shall in no case be located closer than five feet of a lot line.
 - ix. If the above exceptions do not apply and an improvement or an addition is proposed to an existing Legal Nonconforming Structure, the provisions of Section 3(N) apply.
2. In the case of multiple family or commercial use Structures the Offsets may be modified as follows:
- (1) Two or more Buildings on adjoining Lots may be erected with common or directly adjoining walls provided the requirements of the state industrial code relative to such construction are complied with, and provided that at both ends of such "row" type buildings the applicable offset requirements shall be complied with.
 - (2) A minimum Offset of 20 feet between Buildings is required unless otherwise

specified in this Ordinance.

3. Maintenance and Use of Setback and Offset Areas: Any such required Setback or Offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for the storage or display of equipment, products, vehicles or any other material.
4. Accessory Building Location: No detached Accessory Building shall be erected, structurally altered or placed on a lot closer than 10 feet to the Principal Building on said Lot, as measured from the outside edge of the Overhang of each Building.

I. Height Regulations

1. **Maximum Height - Principal Structures**: The following height provisions apply to principal Structures in all Districts except for the P-I, O-II, DOD, and M-2 Districts, where height regulations are specified in each respective District section:
 - a. Overall maximum height (lowest exposure to highest peak), 35 feet, for Structures within 75 feet of the Ordinary High Water Mark of a navigable waterway or on a Lot with an average width less than 65 feet.
 - b. Overall maximum height (lowest exposure to highest peak), 42 feet, for Structures located 75 feet or more from the Ordinary High Water Mark of a Navigable Waterway and on Lots with an average width of at least 65 feet. A Structure with a flat roof is limited to an overall maximum height of 35 feet and subsection C and D below do not apply.
 - c. The maximum height specified in subsection (b) above may be increased by one foot for every 10 additional feet the proposed Structure is setback from the required Shore Setback, provided the overall maximum height does not exceed a total of 44 feet and provided three priority trees are planted at least two inches in Diameter at Breast Height between the Structure and the Ordinary High Water Mark. The location of the trees shall be reviewed and approved by the Zoning Administrator. The obligations and long-term maintenance requirements of the current and future property owners shall be evidenced by an instrument that is reviewed and approved by the Zoning Administrator and recorded in the Office of the Register of Deeds.
 - d. Maximum height from lowest exposure to highest eave, 32 feet, for Structures located 75 feet or more from the Ordinary High Water Mark of a Navigable Waterway and on Lots with an average width of at least 65 feet.
 - e. On waterfront Lots, no Structure shall contain more than three stories when viewed from the waterfront.
2. **Maximum Height – Accessory Structures**: The following height provisions apply to accessory Structures in all Districts except for the FLC, FLP, A-T, A-B, HG, P-I, and M-1 Districts, where height regulations are specified in each respective District section:
 - a. Within 75 feet of the Ordinary High Water Mark of a Navigable Waterway, the following provisions apply:
 - (1) The Structure is limited to one-story.
 - (2) The exterior wall height shall not exceed 12 feet provided the roof is flat, or 10 feet provided the roof pitch does not exceed eight to twelve (8:12) rise to run, unless the slope at the location of the Structure exceeds three to one (3:1) or 33%, in which case the exterior wall height may increase to 20 feet, provided the roof is flat.