

- b. If an accessory Structure is located 75 feet or more from the Ordinary High Water Mark of a Navigable Waterway, the height is limited to the following:
 - (1) Maximum overall height is limited to 18 feet, or
 - (2) The maximum overall height is limited to 60 feet if the Structure is used for farm or agricultural purposes in the AD-10, RRD-5, A-5, A-1, and P-I Districts and the R-1 District if designated in the Farmland Preservation County Development Plan category.
- 3. Provided a Structure or Building is located 75 feet or more from the Ordinary High Water Mark of a navigable waterway and the subject property is at least 65 feet in average width, the height may be increased by one foot for each foot the Structure exceeds the Offsets and setbacks, except for Decks and patios, but not by more than 10 additional feet. The above provided height increase does not apply to properties zoned R-1, R-2, R-3, DOD, or EC.
- 4. Exceptions: The following shall be exempt from the height regulations of all Districts:
 - a. Chimneys and flues.
 - b. Subject to approval of the Plan Commission; cooling towers, elevators, bulkheads, fire towers, monuments, stacks, tanks, windmills, water towers, ornamental towers, spires, wireless or broadcasting towers, masts, aerals, and necessary mechanical appurtenances if located a minimum of 75 feet from the Ordinary High Water Mark of a Navigable Waterway.

J. Area and Building Footprint Regulations

1. **Minimum Floor Area:**

- (a) Any Building intended in whole or part for single-family residential purposes shall provide a minimum overall Floor Area of 1,100 square feet, with at least 850 square feet of Floor Area on the first floor. Minimum Floor Area shall be measured at each level from the outside edge of wall to outside edge of wall. Basements, exterior balconies, unenclosed porches, and garages shall not be included in the minimum Floor Area calculation.
- (b) The Zoning Administrator can administratively approve a minimum first Floor Area of less than 850 square feet in order to accommodate an attached maximum 600 square foot Garage. However, the minimum first Floor Area to be used for residential purposes shall be equal to or greater than the combined Floor Area of attached Garages and detached accessory Structures. The architecture shall be of a type and quality that is compatible to the surrounding area and shall be reviewed and approved by the Zoning Administrator. The minimum overall Floor Area of 1,100 square feet shall still be met.
- (c) A single-family residential unit in a mixed-use Building and multi-family residential units shall provide a minimum overall Floor Area (per unit) as follows:
 - i. Two-family Buildings (duplexes): 850 square feet per unit.
 - ii. Multi-family units or single-family residential units that are part of a mixed- use development:
 - (a) 600 square feet per one-bedroom unit.
 - (b) 700 square feet per two-bedroom unit.

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(c) 800 square feet per three-bedroom unit.

(d) An additional 100 square feet for each additional bedroom.

(d) The Plan Commission may grant a Special Exception to permit a Building of less than the required minimum Floor Area where such grant would not be contrary to the spirit or intent of the Ordinance, and provided the proposed Building would not be of such character or quality as to depreciate the property values of the surrounding area.

2. Lot Size

a. In order to protect against danger to health, safety and welfare, and protection against pollution of the adjacent body of water, no Lot shall contain less than the following requirements:

(1) No Lot shall hereafter be created and no Building shall be erected on a Lot of less land area or minimum average width than hereinafter specified by the lot size standards of the Village Subdivision Control Ordinance, which are cross-referenced in each zoning district section of this Ordinance.

(2) No Lot may be created which has less than 100 feet of frontage on a navigable river or lake, or 65 feet of frontage if served by public sewer.

b. For the purpose of this Ordinance, the Lot Area shall be measured from the property line.

c. A 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.

d. No Lot Area shall be reduced by any means so as to create a Lot of less than the required size specified in the Village Subdivision Control Ordinance or so that the existing Offsets, Setbacks, Open Space, or Lot Area would be reduced below that required by the regulations for the District.

e. Where a Lot has less area than required for the District in which it is located and was of record prior to July 30, 1970, such Lot shall be used for any purpose permitted in any such District, and the maximum Building Footprint regulations shall comply with the R-3 Residential District except where otherwise specified in other sections of this Ordinance.

f. Lots split by a road (public or private): If a single Lot or multiple Lots are in the same ownership but are split by a separately described public or private road, the following regulations apply:

(1) For a single Lot of Record (as defined in this Ordinance), the acreage on both sides of the road right-of-way may be used for purposes of calculating minimum Lot Area, maximum accessory Building Footprint, maximum overall Building Footprint, and allowable Impervious Surface, if applicable.

(2) For multiple Lots of Record (as defined in this Ordinance), the acreage on one side of the road right-of-way shall not be used to benefit the Lot on the other side of the road right-of-way for purposes of calculating minimum Lot Area, maximum accessory Building Footprint, maximum overall Building Footprint, and allowable Impervious Surface, if applicable.

(3) For multiple Lots of Record in common ownership, an accessory Structure may be constructed on one side of the road right-of-way without the benefit of a principal Structure on the same side of the road right-of-way provided the following are met:

- (a) The Lots in common ownership are directly opposite each other for at least one half of the road frontage of one of the Lots.
- (b) A principal Structure must exist on the Lot owned in common on the opposite side of the road right-of-way.
- (c) A certified survey map shall be prepared and approved by all reviewing entities restricting the Lots from being sold separately, unless the accessory Structure is removed.

3. **Substandard Lots:**

- a. A legally created Lot that met minimum area and minimum average width requirements when created, but is not at least 20,000 square feet in size and 100 feet in average width, unsewered, or 10,000 square feet in size and 65 feet in average width, sewerred, may be used as a building site if all of the following apply:
 - (1) The substandard Lot was never reconfigured or combined with another Lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel, as described with a single legal description.
 - (2) The substandard Lot has never been developed with one or more of its Structures placed partly upon an adjacent Lot or parcel.
 - (3) The substandard Lot is developed to comply with all other Ordinance requirements.
- b. A substandard Lot that does not comply with subsection a above, may only be developed if a Variance is granted by the Board of Appeals.

4. **Accessory Buildings:**

- a. The total Building Footprint of all accessory Buildings on a Lot in any zoning district may not exceed the accessory Building Footprint specified in the following table, with the exceptions listed below the table:

- (1) Accessory Building Footprint Table:

Lot Area	Maximum Footprint
<10,000 sq. ft.	400 sq. ft.
10,000 - 14,000 sq. ft.	600 sq. ft.
14,000 sq. ft. or greater	750 sq. ft. or 2% of lot area, whichever is greater

- (2) On parcels of 15 acres or more in area, the accessory building footprint may be greater than the 2% limit when the accessory buildings are used for Agricultural Use and where the accessory buildings will house equipment as regulated in Section 3(K)(7)(A), and when consistent with the maximum overall Building Footprint requirements of this Ordinance.

- (3) Farm consolidation exception. Maximum accessory building footprint limitations shall be established by the Plan Commission for Lots that are designated in the Farmland Preservation County Development Plan category that have been rezoned to the R-1 Residential District pursuant to Section 11(I).
- b. Temporary Structures and attached garages shall not be included in calculating allowable accessory Building Footprint.
- c. A Lot is limited to two Accessory Buildings unless the Plan Commission has rendered a finding to allow more than two Accessory Buildings in light of the provisions of Section 3(D)(3)(b). More than two Accessory Buildings may also be permitted under the following circumstances:
 - (1) On parcels of 15 acres or more in area and when used for Agricultural Use and where the Accessory Buildings will house equipment as regulated in Section 3(K)(7)(a), and when consistent with the maximum overall Building Footprint requirements of this Ordinance.
 - (2) In all Business, Industrial, Public and Institutional, and Quarrying Districts, when approved by the Plan Commission and Zoning Administrator as part of the plan of operation and site plan review, and where said Buildings are used accessory to the principal use on said lot, and when consistent with the maximum overall Building Footprint requirements of this Ordinance.
 - (3) On parcels which are the subject of a conditional use permit and as regulated by the conditional use permit, and when consistent with the maximum overall Building Footprint requirements of this Ordinance.
- d. All Accessory Buildings shall be constructed in such a way that the exterior appearance is compatible with the design, style, architecture and appearance of the Principal Buildings on the parcel. This determination shall be made by the local building inspector and the Zoning Administrator. In case of a dispute, such questions shall be submitted to the Plan Commission and the Zoning Agency for review and approval in accordance with Section 3(D)(3)(b). This requirement does not apply to Accessory Buildings on parcels more than 35 acres and that are used in an Agricultural or Farm Use.
- e. In no case shall an Accessory Building be used for purposes not allowed in the underlying zoning district or as a use that would require a conditional use permit unless said conditional use permit is obtained.

5. Building Footprint (as defined in this Ordinance):

- a. Minimum Building Footprint: The Zoning Administrator may administratively approve a Building Footprint not to exceed 1,150 square feet when application of Offsets and Setbacks does not otherwise provide an 1,150 square foot Building Footprint. The Zoning Administrator is limited to providing Road Setback and Floodplain and Wetland Setback relief only. The administratively approved Building Footprint shall not extend into the established road right-of-way, less than 20 feet from the roadway pavement, or within the Floodplain or Wetland.

- b. **Maximum Building Footprint:** The maximum Building Footprint shall not exceed the Building Footprint standards specified by the regulations for the District in which such Building is located, unless the provisions of Section 3(J)(2)(e) are met.

K. Off-Street Parking

- 1. **Quantity.** On-site parking shall be provided in accordance with the following:

- a. **Small Scale Residential.** Developments containing four dwelling units or less shall provide a minimum of two parking spaces per dwelling unit. Visitor parking shall be assessed on a case-by-case basis.
- b. **Large Scale Residential.** Developments containing more than four dwelling units shall provide a minimum of two spaces per dwelling unit. Parking may be reduced to a ratio of 1.75 spaces per dwelling unit if a minimum of 20% of the dwelling units are one bedroom or efficiency units. Visitor parking shall be assessed on a case-by-case basis.
- c. **Non-residential Uses:** Required parking quantity shall be determined by the Zoning Administrator with consideration of parking demand and off-site parking opportunity information submitted by the Applicant and upon consultation of industry parking demand and supply resources. If applicable, the recommendations of the Plan Commission shall be considered by the Zoning Administrator in making a determination. In the event of a dispute regarding number of required parking stalls or other parking requirements, the Plan Commission shall make the final determination.

A parking demand estimate shall be provided by the Applicant. The estimate must consider the following:

- (1) Number of employees per shift and number of shifts
- (2) Hours of Operation
- (3) Anticipated customer/visitor peak demand
- (4) Gross Floor Area of Building or unit space
- (5) Shared parking availability. The following types of shared parking can be used to satisfy parking requirements:
 - (a) Public parking lots or parking structures. Parking within 400 feet or less from the proposed use is desirable.
 - (b) Shared parking (leased off-site spaces or shared lots) with an agreement approved by the Zoning Administrator.
 - (c) On-street parking
 - (d) Alternative techniques (i.e. shuttles)
- (6) ADA compliance in accordance with Section 3(K)(5).
- (7) Consideration of typical parking demand rates per the Institute of Transportation Engineers (ITE) Parking Generation (4th Edition, or current edition at time of application), Urban Land Institute Shared Parking or other similar guidance document.

2. Parking Dimensions

a. Minimum Stall Dimensions

Parking Stall Type	Minimum Stall Dimensions (in feet)
Perpendicular	9 x 18
Angle	9 x 18 for 60 degree (angled)
Parallel	8 x 22
Compact	8.5 x 17 compact cars, but must be signed for compact cars
Tandem	9 x 36

b. Minimum Parking Lot Aisle Dimensions

- (1) One-way aisle: 16 feet minimum
- (2) Two-way aisle: 24 feet minimum

3. Location.

The following locational standards apply to all Districts with the exception of the Downtown Okauchee District (DOD). Parking within the DOD District must comply with the unique parking locational requirements of Section 33(H) of this Ordinance.

- a. Offset. In any off-street parking area, no vehicle shall be allowed to park closer than 10 feet to the abutting lot line.
- b. Setback. No vehicle shall be parked closer than 10 feet to the Base Setback Line.
- c. Where a development pattern exists with parking located at the rear of Buildings, such as small downtown settings, parking shall be located to the side and rear of Buildings to the greatest extent practicable.

4. Parking Lot Design

a. Landscaping/Screening

- (1) Screening. Any off-street parking area, other than that provided for a single- family residence, which fronts a Road or abuts a residential district, shall provide a permanent planting screen, landscaped fence, or landscaped wall of at least three feet in height, at time of installation, along that portion of the parking area that abuts a Road or fronts a residential district. Landscape beds shall be a minimum of six feet in depth.
- (2) Landscape Islands. Any parking lot that contains 20 or more stalls shall provide interior site landscaping. The end of every parking aisle shall have a landscaped island and no more than 15 parking spaces shall be provided between landscape islands. Landscape islands shall be a minimum of 325 square feet in area.

- (3) Landscaping and/or fencing shall be provided to create separation between outdoor seating areas, or sidewalks and parking lots.
- (4) Surfacing. Any off-street parking area, other than that provided for a single- family residence, having a capacity for more than four vehicles shall be surfaced and maintained in a dustless condition.
- (5) Lighting. Lights provided in any parking area shall be hooded or beamed so as not to create undesirable glare or illumination of adjacent residential properties.
 - (a) Lights shall be cut off type fixtures or decorative fixtures that do not direct light at abutting properties.
 - (b) Lights levels shall not exceed 0.0 footcandles at residential property lines and 0.0 footcandles at all other property lines.
 - (c) Light poles shall not exceed 25' in height, with the following exceptions:
 - i. A waiver is granted by the Zoning Administrator based on site and surrounding conditions.
 - ii. The height is limited to 15 feet in the DOD Downtown Okauchee District. A waiver with a maximum height of 25 feet can be granted by the Plan Commission based on site and surrounding conditions.

5. Accessible Parking

- a. Number of required accessible stalls.

(1) Non-Residential Land Uses.

- (a) All non-residential development and uses must conform to the Americans with Disability Act (ADA). The requirements of ADA may be amended over time; compliance with the most current ADA standards is required. Developments that complied with ADA standards in effect when constructed have “safe harbor” meaning that the property owner does not have to comply with new ADA requirements until a parking lot undergoes a planned alteration such as re-striping or re-surfacing.
- (b) The number of required accessible parking spaces for non- residential uses are set forth in the Required ADA Accessible Stalls table below. If ADA standards are amended to require additional stalls, the more restrictive provision shall apply. Parking facilities that are used exclusively for buses, trucks, delivery vehicles, law enforcement vehicles and vehicular impound are not required to include accessible spaces.

Required ADA Accessible Stalls

Total Number of Parking Spaces	Minimum Number of Accessible Parking Spaces	Minimum Number of Van Accessible Parking Spaces
1-25	1	1
26-50	2	1
51-75	3	1
76-100	4	1
101-150	5	1
151-200	6	1
201-300	7	2
301-400	8	2
401-500	9	2
501-1000	2% of total	1 per every six accessible stalls or fraction of six stalls
1001 or more	20, plus 1 for each 100, or fraction thereof, over 1000	1 per every six accessible stalls or fraction of six stalls
Hospital outpatient facilities	10% of patient/visitor spaces	1 per every six accessible stalls or fraction of six stalls
Rehab facilities for mobility related conditions & physical therapy clinics	20% of patient/visitor spaces	1 per every six accessible stalls or fraction of six stalls

(2) Residential Land Uses.

- (a) Residential developments must comply with Fair Housing Act requirements relative to the number of provided accessible stalls. Per the Fair Housing Act, a minimum of 2% of the provided parking stalls must be accessible unless the local building code or State building code requires more, in which case the more stringent requirement shall apply. If the application of the 2% standard yields a fraction, an additional stall shall be provided for any part of a fraction (i.e., 2% of 75 stalls is 1.5; therefore, two stalls would be required).
- (b) Pursuant to Fair Housing Act requirements, if additional accommodations are requested by residents, more accessible spaces must be provided. A minimum of one accessible parking stall must be provided at each site amenity (i.e. rental office, pool, etc.).

b. Accessible Stall and Aisle Dimensions.

Stall Type	Minimum Stall Width	Minimum Access Aisle Width
Accessible Stall	8'	5' (can be shared)
Van Accessible Stall	11'	5'
Van Accessible Stall w/ Wide Aisle	8'	8'

c. Location.

Where a parking facility serves multiple buildings or accessible entrances, accessible parking spaces must be dispersed to enable people to park near as many accessible entrances as possible. Where separate parking facilities serve the same building or facility, accessible spaces may be grouped if nearest to the building or facility entrance.

d. Accessible Routes.

Accessible spaces must connect the shortest possible route to the accessible building entrance of the facility they serve. Accessible routes must be at least 36" wide, without steps or curbs and must not contain any feature that would restrict, inhibit or unreasonably impede the movement of a physically disabled individual.

e. Signage and Marking.

(1) Signage: Accessible parking spaces must be identified by signs that include the International Symbol of Accessibility. Signage must be placed in front of the parking space and be mounted a minimum of five feet above the ground, measured to the bottom of the sign. Van accessible space signage must include the phrase "van accessible."

(2) Access aisles must be marked with hatch marks.

(3) Exceptions: Parking lots that have four or fewer total spaces do not need to designate the accessible space with a sign. Residential facilities where parking spaces are assigned to specific dwelling units are also exempt from the requirement to post signs at accessible spaces.

f. Surfacing.

The surface of all accessible stalls and access aisles must be smooth, stable and virtually level in all directions to ensure safe use for people with disabilities.

g. Vertical Clearance.

Van accessible spaces and their associated access aisles and vehicular routes serving them must provide vertical clearance of a minimum of 98" to allow for the height of typical wheelchair lift-equipped vehicles.

6. Residential Parking

- a. Cars, vans and pickup trucks. Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents of a property or for temporary parking for guests. Cars, vans and pickup trucks for personal use are permitted, provided that they are licensed and operable. A maximum of one van or pickup truck used in a business or trade or used for transportation to and from a place of employment by an occupant of the property is permitted so long as the use does not become a nuisance to the neighborhood.

7. **Parking of trucks and equipment.** No vehicular equipment of a commercial or industrial nature (such as trucks, construction vehicles, grading equipment, buses, semi-trailers and tractors, and similar vehicles, trailers and related equipment), except as allowed in subsection 6 above, shall be parked or stored on any Lot in any zoning district except as permitted in the B-3, M-1, M-2, P-I and Q-1 Districts or except as follows:
 - a. Agricultural equipment (such as farm tractors, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of his or her farm, and similar related equipment) parked in an agricultural district and used in an active farm operation as defined in this Ordinance.
 - b. A Conditional Use permit pursuant to Section 4(E)(5) may be sought to permit the parking of commercial or industrial-type vehicles in any zoning district except the C-1 Conservancy Overlay District, EC Environmental Corridor Overlay District or DOD Downtown Okauchee District. In the B-3, M-1, and P-I Districts where such vehicles are accessory to an otherwise permitted business, industrial, public and institutional use, a Conditional Use permit will not be required and there are no limitations as to the number of such vehicles which may be parked on the property except as may be hereinafter established under the provisions of the applicable zoning district, or the approved Conditional Use or site plan/plan of operation.
8. **Waiver.** Relief from the requirements of Section 3(k) may be granted by the Plan Commission as part of the site plan/plan of operation process upon demonstration that strict compliance with the above regulations is not detrimental to the community and will not conflict with the spirit or intent of this Ordinance.

L. Off-street Loading and Unloading

1. **Required:** In any local business, general business, limited industrial or general industrial district an off-street loading space shall be provided, in addition to the defined off-street parking area, for every 10,000 square feet or fraction thereof in excess of 3,000 square feet of building area, exclusive of storage area, used for commercial purposes.
2. **Areas:** Each such loading space shall have an area at least 10 feet wide by 45 feet long and with a minimum of 14 feet height clearance.

M. Mobile Homes, Recreational Vehicles and Trailers

1. **Recreational Vehicles.**

- a. A maximum of one Recreational Vehicle may be parked on a property used for residential purposes. Recreational Vehicles must be parked outside of the required offset area specified in the District unless parked on a driveway.
 - b. A Recreational Vehicle may not be parked within the C-1 Conservancy Overlay District. A Recreational Vehicle is ready for highway use when it is on wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.
2. **Human habitation prohibited:** Except within an approved mobile home park or camp or as permitted under Section (1)(a) above, no recreational vehicle, trailer or mobile home, shall be used for the purpose of human habitation, human habitation being defined as entering the mobile home for any purpose other than maintenance.

3. A permit for one continuous six-month period allowing the human habitation of a mobile home or recreational vehicle on lands other than an approved mobile home park may be granted by the Village Board provided:
 - a. The habitation is accessory to the current construction of a principal Structure owned by the same person who is Applicant for the permit.
 - b. The waste disposal facilities and water supply facilities are approved by the Waukesha County Department of Parks and Land Use, Environmental Health Division.
 - c. This use shall not be allowed in a Wetland.
4. **Storage prohibited:** No Mobile Home in excess of 25 feet in length shall be located or stored on any property, unless completely enclosed in a structure.

N. Legal Nonconformity

1. **Existing use permitted:** The existing lawful use of a Building or premises at the time of the enactment of this Ordinance {1959 for zoning, 1970 for shoreland regulations} or any amendment thereto may be continued although such use does not conform with the provisions of this Ordinance for the District in which it is located, subject to conditions hereinafter stated and subject to conformance with Sections 59.69(10) and (10m), Wisconsin Statutes.
2. The shoreland-wetland provisions of this ordinance authorized by s. 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to s. 62.23(7)(hb), Wis. Stats.
3. Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.
4. **Legal Nonconforming structures, classification and regulation:** If a Structure is nonconforming to one or more of the Ordinance requirements as listed in subsections A through H below, the requirements of all applicable subsections must be complied with.
 - a. Nonconforming to Shore Setback:
 - (1) An existing principal or accessory Structure may be replaced, restored, rebuilt, remodeled, maintained and repaired provided the existing footprint of the nonconforming structure is not expanded, unless the expansion is necessary to comply with applicable state and federal requirements. The Structure, unless it is a structure listed under Wisconsin Statutes § 59.692(1n)(d), may be vertically expanded provided the vertical expansion does not exceed thirty-five (35) feet in height and provided the requirements of Section 3(I)(2) for accessory Structures are met. Improvements to Structures listed under Wisconsin Statute § 59.692(1n)(d) are limited to the area within the three-dimensional building envelope of the existing structure. No permit, fee or Mitigation is required for compliance with this provision per Wisconsin Statute 59.692(1k)(a)2., 4. and (b). A permit and fee will be processed for compliance with all other provisions of this Ordinance.
 - (2) In addition to the above, an existing principal Structure may be expanded laterally within the Shore Setback, provided all of the following requirements are met:
 - (a) The use of the Structure has not been discontinued for a period of twelve months or

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more if a nonconforming use.

- (b) The existing principal Structure is at least 35 feet from the Ordinary High Water Mark.
 - (c) Lateral expansions are limited to a maximum of 200 square feet over the lifetime of the Structure.
 - (d) No portion of the expansion may be any closer to the Ordinary High Water Mark than the closest point of the existing principal Structure.
 - (e) A permit shall not be issued until such time the mitigation requirements of Section 3(S) are complied with.
 - (f) All other provisions of the Ordinance shall be met.
- (3) In addition to subsection (a)(1) above, an existing principal Structure may be expanded laterally beyond the Shore Setback provided the expansion complies with the Shore Setback and all other provisions of the Ordinance.
- (4) An existing principal Structure may be relocated within the Shore Setback, provided all of the following requirements are met:
- (a) The use of the Structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 - (b) The existing principal Structure is at least 35 feet from the Ordinary High Water Mark.
 - (c) No portion of the relocated Structure is located any closer to the Ordinary High Water Mark than the closest point of the existing principal Structure.
 - (d) The Zoning Administrator determines that no other location is available on the property to build a principal Structure of a comparable size (same footprint) as the existing Structure proposed for relocation that will result in compliance with the Shore Setback.
 - (e) A permit shall not be issued until such time the mitigation requirements of Section 3(u) are complied with.
 - (f) All other provisions of the Ordinance shall be met.
- b. *Nonconforming to Road Setback: (the following provisions do not apply to nonconforming structures located within the DOD Downtown Okauchee District):*
- (1) *Structures within 20 feet of a Base Setback Line* (as established in Section 3(H)(1)(a). An existing principal or accessory Structure may be replaced, restored, rebuilt, remodeled, maintained and repaired provided the existing footprint and three-dimensional building envelope of the nonconforming structure are not expanded, unless the expansion is necessary to comply with applicable state and federal requirements.
 - (2) *Structures 20 feet to within 35 feet of a Base Setback Line* (as established in Section 3(H)(1)(a).
 - (a) In addition to the improvements permitted by subsection (1) above, a Structure, may be expanded vertically, provided the height requirements of the Ordinance are met.

- (b) A principal Structure may be expanded laterally, provided the lateral expansion does not exceed 200 square feet over the lifetime of the Structure and provided no portion of the lateral expansion is located any closer to the Base Setback Line than the closest point of the existing Structure.
 - (c) All other provisions of the Ordinance shall be met.
 - (3) *Structures 35 feet or greater from a Base Setback Line* (as established in Section 3(H)(1)(a). All standards of subsection ii above apply and shall be complied with, except that lateral expansions of Principal Structures are not limited to 200 square feet in size over the lifetime of the Structure.
 - c. *Nonconforming to Offset: (the following provisions do not apply to Structures located within the DOD Downtown Okauchee District):*
 - (1) *Structures within five feet of a side or rear Lot Line.* An existing principal or accessory Structure may be replaced, restored, rebuilt, remodeled, maintained and repaired provided the existing footprint and three-dimensional building envelope of the nonconforming structure are not expanded, unless the expansion is necessary to comply with applicable state and federal requirements.
 - (2) *Structures greater than five feet from a side or rear Lot Line.*
 - (a) All standards of subsection ii. above apply and shall be complied with, except that lateral expansions that do not exceed 50% of the Building Footprint of the existing Structure, over the lifetime of the Structure and vertical expansions are permitted by right. Lateral expansions that exceed 50% of the Building Footprint of the existing Structure, over the lifetime of the Structure require a Special Exception from the Plan Commission. Lateral and vertical expansions shall not extend closer to a nonconforming side or rear Lot Line than the closest point of the existing Structure. For the purposes of this section, a lateral expansion is any horizontal expansion of an existing Structure.
 - (b) All other provisions of the Ordinance shall be met.
 - d. *Nonconforming to Boathouse Standards and/or District Provisions:*

Except in OR- Districts, a nonconforming Boathouse may be replaced, restored, rebuilt, remodeled, maintained, and repaired within the three-dimensional building envelope of the existing Structure. If a Boathouse is partially or wholly located below the Ordinary High Water Mark of a Navigable Waterway, no permit may be granted until a Chapter 30 DNR Permit has been obtained.
 - e. *Nonconforming to Building Footprint:*
 - (1) An existing principal or accessory Structure may be replaced, restored, rebuilt, remodeled, maintained and repaired provided the existing footprint of the nonconforming structure is not expanded, unless the expansion is necessary to comply with applicable state and federal requirements.
 - (2) If the Structure, or a combination of Structures, exceeds the maximum allowable Building Footprint, no lateral expansions are permitted.
 - (3) If the Structure, or a combination of Structures, exceeds the maximum allowable Building Footprint, vertical expansions are limited to the area of allowable Building Footprint for

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the Structure(s).

For example, if a Structure has a Building Footprint of 3,000 square feet, whereas a Building Footprint of 2,000 square feet is the maximum allowed, the vertical expansion, cumulatively, shall not exceed 2,000 square feet.

- (4) If the Structure is intended for residential purposes and does not meet the minimum required Building Footprint square footage for a principal Structure, the Structure shall not be reduced in size.

- (5) All other provisions of the Ordinance shall be met.

f. *Nonconforming to Height:*

- (1) An existing principal or accessory Structure may be replaced, restored, rebuilt, remodeled, maintained and repaired provided the existing footprint of the nonconforming structure is not expanded, unless the expansion is necessary to comply with applicable state and federal requirements.

- (2) Any lateral or vertical expansion to a Structure nonconforming to height shall comply with the height requirements of the Ordinance.

- g. *Building Footprint flexibility:* The Zoning Administrator has the authority to administratively approve a Building Footprint not to exceed 1,100 square feet when application of Offsets and setbacks do not otherwise provide a minimum 1,100 square foot Building Footprint. The Zoning Administrator is limited to providing Road, Floodplain and Wetland Setback relief only. The Building Footprint shall not extend into the established road right-of-way or within the Floodplain or Wetland.

5. **Record Keeping:** The Zoning Administrator shall keep a record, which lists all known Legal Nonconforming Structures and all Structures housing Legal Nonconforming Uses, regardless of their location, their equalized assessed value, the cost of all modifications or additions, which have been permitted, and the percentage of the Structure's total equalized assessed value those modifications represent.

6. **Regulation of Legal Nonconforming Use of Structures and lands:**

- a. No such use shall be expanded or enlarged.
- b. When any such Legal Nonconforming Use of a Structure or lands is discontinued for 12 consecutive months, any future use of the land or Structure shall conform to the use regulations of the applicable District.
- c. Total structural repairs or alterations to a Structure housing a Legal Nonconforming Use shall not equal or exceed 50% of the equalized assessed value of the Structure obtained from the County Real Property Tax Listing over the lifetime of the Structure. At such time as cumulative structural repairs or alterations to such a structure equal or exceed 50% of the equalized assessed value of the Structure, the use of the Structure shall be converted to conform with the applicable district regulations or the Structure shall be torn down.

7. **Regulation of Nonconforming Lots:** The size and shape of such Lots shall not be altered in any way which would increase the degree of such nonconformity to the applicable district regulations.

8. **Conditional Use status:** Subject to the provisions of Section 4, conditional use status may be granted to existing Legal Nonconforming Uses upon petition of the owner where such use is

determined to be not adverse to the public health, safety, or welfare, would not conflict with the spirit or intent of the Ordinance or would not be otherwise detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the approval of the Plan Commission following a joint public hearing in the manner provided in Section 43.

O. Prior permit

1. Construction permitted: Nothing herein contained shall require any change in the plans, construction, size or designated use of any Building or part thereof for which a building permit has been issued before the effective date of this Ordinance and the construction of which shall have been substantially started within six months from the date of such permit.
2. Subsequently Nonconforming: Any such use which does not conform to the use regulations of the District in which it is located shall, however, subsequently be considered a Legal Nonconforming Use.

P. Swimming Pool (as defined in Section 2(b))

1. Use permitted: Above and below ground Swimming Pools are permitted in any District other than the C-1 Conservancy Overlay District, subject to the following:
 - a. The pool must be intended to be used solely by the occupants of the principal use of the property on which the pool is intended to be located and their guests.
 - b. Any pool, together with its surrounding walks, patios, diving platforms, bathhouses, and accessory structures shall be so located that the parts of said complex are in conformity with the setback and offset requirements of the applicable District.
 - c. No mechanical equipment shall be located closer than five feet from a lot line.
 - d. Walls or fences of at least four feet in height shall be provided around the immediate area of the pool to act as a deterrent for unsupervised children gaining access to the pool. Where the pool is an above ground pool, no additional fence or wall shall be required if the walls of the pool are at least four feet above the grade of the land completely surrounding it and extending at least five feet from the walls of the pool. If an access ladder is provided, it shall be so designed so that it can be locked, tipped or otherwise placed to prohibit access to the pool by children.
2. Shoreland Restriction: No swimming pool shall be constructed within 75 feet of a shoreline. At-grade pool decks may encroach into the shoreland setback as allowances under Section 59.692(1v), WI Stats.
3. Permit required: No Swimming Pool shall be constructed unless a zoning permit has been issued pursuant to Section 3(C) of this Ordinance.

Q. Boathouses

1. **Use prohibited:** Boathouses, as defined by this Ordinance and in Section 30.01(1d) of the Wisconsin Statutes, are not permitted in the OR- Districts.
2. **Use permitted:** Boathouses, as defined by this Ordinance and in Section 30.01(1d) of the Wisconsin Statutes, are permitted in any District abutting a public or private body of water (except as restricted in Section (1) above, but cannot be located within a Floodplain or Wetland and are subject to the terms and the conditions set forth herein and Section 30.121 of the Wisconsin Statutes. Said Boathouse may be used for the storage of watercraft and associated materials used by the occupants of the Lot. Said Boathouse shall be placed on a permanent foundation extending below the frost line or a concrete slab and contain a garage type door.
3. **Habitation prohibited:** A Boathouse shall not be used for human occupancy or habitation. A Boathouse shall not contain plumbing.
4. **Accessory to a principal Structure:** No Boathouse is permitted unless a principal Structure is already present on the Lot. Only one Boathouse per Lot is allowed.
5. **Building location:** A Boathouse shall comply with all of the following locational requirements:
 - a. A Boathouse shall not be located closer than five feet to the Ordinary High Water Mark.
 - b. A Boathouse shall not be located farther than 50 feet from the Ordinary High Water Mark.
 - c. A Boathouse shall be located within the Access and Viewing Corridor as specified in Section 3(D)(9).
 - d. A Boathouse shall not be located within the Floodplain and/or Wetland.
 - e. A Boathouse shall comply with the Offset requirements set forth in Section 3(H)(3) of this Ordinance.
6. **Flat roofed** surfaces of Boathouses may be used as a Deck but shall not be permanently enclosed. Railings and access stairs shall be considered ordinary appurtenances.
7. The Maintenance and repair of nonconforming Boathouses that extend beyond the Ordinary High Water Mark of any Navigable Waterway shall be required to comply with Section 30.121 of the Wisconsin Statutes.
8. **Height:** A Boathouse may not contain more than one Story according to the provisions below:
 - a. The exterior wall height shall not exceed ten feet and the roof pitch shall not exceed eight to twelve (8:12) rise to run.
 - b. The exterior wall height shall not exceed 11 feet provided the roof is flat and where the slope at the location at the Boathouse does not exceed three to one (3:1).
 - c. If the slope at the location of the Boathouse exceeds three to one (3:1) or 33%, the exterior wall height may increase to 15 feet provided the roof is flat.
9. **Size limitations:** The following size limitations apply to all Boathouses:
 - a. A Boathouse shall contain a minimum of 200 square feet.
 - b. A Boathouse shall contain a maximum of 450 square feet.

- c. A Boathouse shall not exceed 15 feet in width, measured parallel to the shore.
 - d. A Boathouse is limited to 24" roof Overhangs and said Overhangs are not included in the above measurements.
10. **Stormwater Management:** All new boathouse construction requires the issuance of a Stormwater Permit from the Waukesha County Land Resources Division.

R. Impervious Surface Standards

1. **Purpose and Intent:** Impervious surface standards are intended to protect water quality, fish and wildlife habitat and protect against pollution of navigable waters.
2. **Applicability:** Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any Impervious Surface that is or will be located within 300 feet of the Ordinary High Water Mark of any Navigable Waterway on any of the following:
 - a. A riparian lot or parcel, or
 - b. Any non-riparian lot or parcel that is located entirely within 300 feet of the Ordinary High Water Mark of any Navigable Waterway.
3. **Calculation of Percentage of Impervious Surface:** The percentage of Impervious Surface shall be calculated by dividing the surface area of the existing and proposed Impervious Surfaces on the Lot or parcel by the total surface area of that Lot or parcel, and multiplying by one hundred (100). The following exceptions apply:
 - a. Treated Impervious Surfaces that comply with subsection 9 are excluded from the calculation.
 - b. The following minor surfaces are excluded from the calculation: utility boxes; footings for structures such as flag poles, mailboxes, birdhouses and birdbaths, fences, and basketball hoops; turf stone surfaces that contain a majority of its surface area as a vegetated surface; and other incidental natural or manmade surfaces as determined by the Zoning Administrator.
 - c. If an outlot lies between the Ordinary High Water Mark and the developable lot or parcel described in subsection 2 and both are in common ownership, the Lot or parcel and the outlot shall be considered one Lot or parcel for the purposes of calculating the percentage of Impervious Surface.
 - d. Roadways, as defined in s.340.01(54), Wisconsin Statutes, and sidewalks, as defined in s. 340.01, Wisconsin Statutes, are excluded from the calculation.
4. **Permitting Requirements:** A Zoning Permit shall be obtained from the Zoning Administrator for the construction, reconstruction, expansion, replacement or relocation of any Impervious Surface if the Impervious Surface is subject to the applicability requirements of subsection 2 above.
5. **General Standard:** A maximum of 15% Impervious Surface is permitted on the portion of a Lot that is within 300 feet of the Ordinary High Water Mark of a Navigable Waterway in accordance with the calculation requirements of subsection 3 above, with the following exceptions:
 - a. A maximum of 30% Impervious Surface is permitted provided the mitigation requirements of Section 3(R) are met.

- b. The Lot is classified as a highly developed shoreline in accordance with subsection 6 below.
 - c. Existing Impervious Surfaces may be maintained, replaced, modified and/or relocated in accordance with subsection 8 below.
6. **Standards for Highly Developed Shoreline:** The following standards apply to highly developed shorelines designated in accordance with subsection (g) below. A maximum of 30% Impervious Surface for residential uses or a maximum of 40% Impervious Surface for commercial, industrial or business uses is permitted on the portion of a Lot within 300 feet of the Ordinary High Water Mark of a Navigable Waterway in accordance with the calculation requirements of subsection 3 above, with the following exceptions:
- a. A maximum of 40% Impervious Surface is permitted for a Lot used for residential purposes provided the mitigation requirements of Section 3(R) are met.
 - b. A maximum of 60% Impervious Surface is permitted for a Lot used for commercial, industrial, or business land purposes provided the mitigation requirements of Section 3(R) are met.
 - c. Existing Impervious Surfaces may be maintained, replaced, modified and/or relocated in accordance with subsection 8 below.
7. **Designation and Mapping of Highly Developed Shoreline:** All lands that have been designated as highly developed shorelines are mapped as such on the highly developed shoreline zoning layer as depicted on the Waukesha County Geographic Information System (GIS) and have been approved by WDNR. The highly developed shoreline designation criteria are as follows:
- a. All areas identified as an Urbanized Area or Urban Cluster in the 2010 US Census.
 - b. A Shoreline that has a commercial, industrial, or business land use as of January 31, 2013.
 - c. Areas that include at least 500 feet of Shoreline, meet at least one of the following criteria and are subject to County and WDNR approval:
 - (1) A majority of the Lots are developed with more than 30% of Impervious Surface area,
 - (2) The Lots are located on a lake and served by a sewerage system as defined in s. 281.01 (14), Wis. Stats. or
 - (3) A majority of the Lots contain less than 20,000 square feet in area.
 - d. Additional lands may be designated as highly developed shorelines in accordance with subsection C provided a public hearing is held and approval is granted by the Village Board and WDNR.
8. **Existing Impervious Surface:** The following improvements can be made to existing Impervious Surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standards of this Section, provided all other ordinance requirements are met and that there is no increase in the percentage of Impervious Surface that existed on October 1, 2016.
- a. Maintain and repair all Impervious Surfaces.
 - b. Replace existing Impervious Surfaces with similar surfaces within the existing Building Footprint.
 - c. Relocate or modify existing Impervious Surface with similar or different Impervious Surfaces.

9. Treated Impervious Surface:

- a. Exclusion Standards: Impervious Surfaces that meet either of the following standards shall be excluded from the Impervious Surface calculations under subsection 3 above, provided the treated impervious surface performance standard of subsection (2) below is met:
- (1) The first one-half inch of Runoff from the Impervious Surface is treated by a Stormwater BMP, as defined in this Ordinance, or
 - (2) The first one-half inch of Runoff from the Impervious Surface discharges to an internally drained Pervious Area that retains the Runoff on or off the parcel and allows Infiltration into the soil.
- b. Performance Standard: The first one-half inch of Runoff from the area of Impervious Surface to be excluded from the calculation must either Infiltrate or be treated according to the exclusion standards contained in subsection A above. The stormwater infiltration or treatment system shall comply with an adopted County or State post-construction stormwater management technical standard or guidance document. The calculation of the runoff volume to be treated is the area of the Impervious Surface to be excluded multiplied by the runoff depth (1/2 inch or 0.04 feet).

For example: 1,000 square feet x 0.04 feet = 40 cubic feet.

- c. Permitting Requirements: A Stormwater Permit must be obtained from the Zoning Administrator for an Impervious Surface to be considered a treated Impervious Surface which is excluded from the impervious surface calculation. The following requirements apply:
- (1) The exclusion and performance standards of subsections (a) and (b) above shall be met.
 - (2) All technical standards of the Waukesha County Stormwater Management and Erosion Control Ordinance shall be met. Depending on the type of Stormwater BMP proposed, a qualified professional may be required to prepare any necessary plans.
 - (3) A financial guarantee in accordance with the requirements of the Waukesha County Stormwater Management and Erosion Control Ordinance must be submitted to ensure that the Stormwater BMP is installed correctly.
 - (4) 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.
 - (a) An inspection completed by the Applicant or agent (if necessary) must be completed and submitted to the Zoning Administrator for review one year after installation, three years after installation and every five years thereafter.
 - (b) After each required inspection, an inspection report must be submitted by the Applicant, including pictures and a detailed assessment of the mitigation area conditions, along with a description of planned remedial activities to ensure that the mitigation practice will conform substantially to the approved plan requirements.
 - (c) If the treatment practice includes verification of native plantings, a landscape architect or other qualified professional shall complete the inspection and prepare the report.
 - (d) A qualified professional may be required to complete the inspection. (Inspection qualifications will be specified at the time of permit issuance).

- (e) Village Staff may make periodic random inspections after year three to ensure success of self-certification system.

S. Mitigation

1. **Applicability:** Mitigation is required for the following activities:

- a. Placement of Impervious Surfaces that exceed specified thresholds as detailed in Section 3(Q).
- b. Lateral expansion of a Structure nonconforming to Shore Setback as detailed in Section 3(M)(2)(a)(2).
- c. Lateral expansion of a Structure nonconforming to Wetland Setback as detailed in Section 3(M)(2)(b)(2).
- d. Relocation of a Structure nonconforming to Shore Setback as detailed in Section 3(M)(2)(a)(4).

2. **Standards and Permitting Requirements:**

- a. Prior to the issuance of a Zoning Permit for an improvement that requires Mitigation in accordance with Section 3(R)1, a mitigation plan shall be provided by the property owner and be reviewed/approved by the Zoning Administrator. An implementation deadline shall be established by the Zoning Administrator as part of permit issuance.
- b. A mitigation plan shall include enforceable obligations of the property owner to establish or maintain measures that the Zoning Administrator determines are adequate to offset the impacts of the permitted activity on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
- c. The mitigation measures shall be proportionate to the amount and impacts of the Structure or Impervious Surfaces being permitted.
- d. The obligations and long-term maintenance requirements of the current and future property owners shall be evidenced by a deed restriction instrument that is reviewed and approved by the Zoning Administrator and recorded in the office of the Register of Deeds. A permit for the project will not be issued until the deed restriction instrument is recorded.
 - (1) An inspection completed by the Applicant or agent (if necessary) must be completed and submitted to the Zoning Administrator for review one year after installation, three years after installation and every five years thereafter.
 - (2) After each required inspection, an inspection report must be submitted by the Applicant, including pictures and a detailed assessment of the mitigation area conditions, along with a description of planned remedial activities to ensure that the mitigation practice will conform substantially to the approved plan requirements.
 - (3) If the mitigation practice includes verification of native plantings, a landscape architect or other qualified professional shall complete the inspection and prepare the report.
 - (4) If the mitigation practice includes a stormwater facility or treated Impervious Surface, a qualified professional may be required to complete the inspection (Inspection qualifications will be specified at the time of permit issuance).

- (5) Village Staff may make periodic random inspections after year three to ensure success of self-certification system.

1. Required Mitigation Practices – The Point System:

- a. Property owners must achieve a certain number of mitigation points in order to construct improvements that require Mitigation in accordance with Section 3(Q)1. above. Property owners are able to choose a range of practices, with each practice worth a pre-determined number of points, to achieve the total number of points required for the proposed project.
- b. Mitigation Point Requirements.

- (1) If Impervious Surface limits exceed the limits specified in Section 3(t).

General Standard Shorelines	Highly Developed Shorelines (Residential)	Highly Developed Shorelines (Commercial)	Number of Points Required
>15%-20% IS	>30%-35% IS	>40%-45% IS	3
>20%-25% IS	>35%-40% IS	>45%-50% IS	5
>25%-30% IS	NA	>50-55% IS	7
NA	NA	>55-60% IS	10

- (2) If a lateral expansion (maximum of 200 square feet) to a nonconforming principal Structure is proposed within the Shore or Wetland Setback or a nonconforming Principal Structure is proposed to be relocated within the Shore Setback, the following table applies.

Proposed Modification to Nonconforming Structure	Number of Points Required
Relocation within Shore Setback	5
Lateral expansion within Wetland Setback	5
Lateral expansion within \Shore Setback	7

- c. Options for Mitigation.

- (1) Maintain Existing or Establish Native Vegetative Buffer within 75 feet of Navigable Waterway.

- (a) Points: One point per seven feet of buffer depth, measured landward from the Ordinary High Water Mark, if groundcover, shrubs, and trees are provided, or one point per 15 feet of buffer depth if groundcover and shrubs are provided.

- (b) Required Standards: Development of a Shore Buffer Plan including the following:

- (i) Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must be prepared in accordance with Wisconsin Biology Technical Note 1: Shoreland Habitat: Please see following link: [http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCS BioTechNote.pdf](http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCS%20BioTechNote.pdf) or a hard copy may be viewed at the Waukesha County Planning and Zoning Division office. If an existing vegetative buffer exists, additional native trees, shrubs, and/or groundcover may be required in order to meet these standards.

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- (ii) Management Plan for the control of invasive species.
 - (iii) Erosion Control Plan for during and after construction until the site is 70% stabilized.
 - (c) Access and Viewing Corridor from the developed portion of the site to the water's edge can be maintained or established.
- (2) Maintain Existing or Establish Native Vegetative Buffer within 75 feet of Wetland.
- (a) Points: One point per seven feet of buffer depth, measured from the wetland boundary.
 - (b) Required Standards: Development of a Wetland Buffer Plan including the following:
 - (i) Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must be prepared in accordance with Wisconsin Biology Technical Note 1: Shoreland Habitat: Please see following link: <http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCS BioTechNote.pdf> or a hard copy may be viewed at the Waukesha County Planning and Zoning Division office. If an existing vegetative buffer exists, additional vegetation may be required in order to meet these standards.
 - (ii) Management Plan for the control of invasive species.
 - (iii) Erosion Control Plan for during and after construction until the site is 70% stabilized.
- (3) Decrease Width of Access and Viewing Corridor below 35% within 35 feet of Navigable Waterway.
- (a) Points
- 1. One point = 30% Access and Viewing Corridor
 - 2. Two points = 25% Access and Viewing Corridor
 - 3. Three points = 20% Access and Viewing Corridor
 - 4. A maximum of three points may be provided.
 - a. Required Standards: Development of a Shore Buffer Plan including the following:
 - 1. Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must be prepared in accordance with Wisconsin Biology Technical Note 1: Shoreland Habitat: Please see following link: <http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCS BioTechNote.pdf> or a hard copy may be viewed at the Village Hall office. If an existing vegetative buffer exists, additional native trees, shrubs, and/or groundcover may be required in order to meet these standards.

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2. Management Plan for the control of invasive species.
3. Erosion Control Plan for during and after construction until the site is 70% stabilized.
- b. The remaining Access and Viewing Corridor from the developed portion of the site to the water's edge can be maintained or established.
- (4) Maintain Existing or Establish New Native Vegetated Side-Yard Buffer (Between greater than 35 feet and 75 feet of Navigable Waterway or Wetland).
 - (a) Points:
 - i. Shore Mitigation: One point per seven feet of buffer, as measured from the Side Lot Line, if groundcover, shrubs, and trees are provided, or one-half (0.5) point per seven feet of buffer if groundcover and shrubs are provided.
 - ii. Wetland Mitigation: One point per seven feet of buffer, as measured from the Side Lot Line, if groundcover is provided.
 - iii. A maximum of four points may be provided.
 - (b) Required Standards: Development of a Side-yard Buffer Plan including the following:
 - (i) Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must be prepared in accordance with Wisconsin Biology Technical Note 1: Shoreland Habitat: Please see following link: <http://dnr.wi.gov/topic/ShorelandZoning/documents/NRCS BioTechNote.pdf> or a hard copy may be viewed at the Village Hall Division office.
 - (ii) Management Plan for the control of invasive species.
 - (iii) Erosion Control Plan for during and after construction until the site is 70% stabilized.
- (5) Maintain Existing or Establish New Native Vegetated Buffer Adjacent to a Neighboring Property with Naturalized Buffer Protected by EC Zoning Regulations or by Deed Restriction.
 - (a) Points: One point if mitigation types in subsections (c)(1), (2) or (4). are employed, provided that the shore buffer to be established is a minimum of 35 feet deep or the side yard buffer to be established is at least 20 feet wide.
 - (b) Required Standards: Compliance with standards of mitigation type (c)(1), (2) or (4). and evidence that the adjacent property has a naturalized vegetative buffer protected by EC Zoning Regulations or by deed restriction recorded in the Office of the Register of Deeds.
- (6) Screen Existing Retaining Walls within 75 feet of a Navigable Waterway with Vegetation.
 - (a) Points: One-half (0.5) point per 50 lineal feet of retaining wall screened. A

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maximum of two points may be provided. Credit is not provided if removal is required as part of another accredited mitigation type or by ordinance.

- (b) Required Standards: Development of a Screening Plan that includes vegetation that will cover at least 70% of the wall as viewed from the lake with vegetation within three years of implementation. If 70% wall coverage is not established within three years, additional plantings will be required.
- (7) Remove Existing Retaining Walls within 75 feet of Navigable Waterway and Replace with Native Vegetation.
- (a) Points: One point per 25 lineal feet of retaining wall removed. Credit is not provided if removal is required as part of another accredited mitigation type or by ordinance.
 - (b) Required Standards: Development of a Restoration Plan including the following:
 - i. Existing and Proposed Grading Plan prepared by a licensed professional.
 - ii. Vegetation Plan (including type, size, seeding mixtures, and location).
 - iii. Erosion Control Plan for during and after construction until the site is 70% stabilized.
- (8) Increased Setback of Structures beyond Required Shore Setback.
- (a) Points: One point per five feet of increased Shore Setback beyond minimum required. A maximum of five points may be provided.
 - (b) Required Standards: Survey verification that the setback has been adequately increased.
- (9) Removal of Improvements within 75 feet of the Navigable Waterway or Wetland (beaches, Boathouse approaches, fire pits, fountains, Impervious Surfaces).
- (a) Points: One point per 100 square feet of improvement that is removed and replaced with vegetation. Credit is not provided if removal is required as part of another accredited mitigation type or by ordinance.
 - (b) Required Standards: Removal of the area of improvement within 75 feet of the water resource and the Development of a Restoration Plan, including the following:
 - (i) Existing and Proposed Grading Plan prepared by a licensed professional (if necessary).
 - (ii) Vegetation Plan (including type, size, seeding mixtures, and location).
 - (iii) Erosion Control Plan for during and after construction until the site is 70% stabilized
- (10) Removal of Seawall/Riprap and Replacement with Natural, Non-structural Stabilization Materials.
- (a) Points: Five points for entire Shoreline, or five points per 100 lineal feet of Shoreline.
 - (b) Required Standards: Provide a Plan and a copy of the WDNR Permit for the

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removal of the seawall/riprap structure and replacement with natural, non-structural stabilization materials.

(11) Use of Earth-Tone Materials or Colors.

(a) Points: One point is provided.

(b) Required Standards: Use of earth-tone materials or colors for all existing and proposed Structures on the property as viewed from the shore. Practices must include the use of exterior building materials or treatments that are inconspicuous and blend with the natural setting of the site.

(12) Removal of a Nonconforming Structure; Second Story of a Boathouse; or a Reduction in the Area of a Boathouse to 450 square feet (minimum of 100 square feet size reduction required).

(a) Points:

- i. Three points for accessory structures less than 200 square feet in size.
- ii. Five points for accessory structures greater than 200 square feet in size, removal of the second story of a Boathouse, or a reduction in the area of a Boathouse to 450 square feet (minimum of 100 square feet size reduction required.)
- iii. Seven points for principal structures that are not otherwise required to be removed by ordinance.

(b) Required Standards: The Legal Nonconforming Structure must be removed prior to the issuance of a Zoning Permit for the proposed Development.

(13) Removal of a Conforming Boathouse or Restriction Prohibiting Future Development of a Boathouse.

(a) Points: Seven points are provided

(b) Required Standards: A deed restriction must be recorded against the property that restricts the construction of a future Boathouse on the property. If a Boathouse already exists on the property, the Boathouse must be removed prior to the issuance of a Zoning Permit for the proposed Development.

(14) Stormwater BMP.

(a) Points: Three points are provided for mitigation purposes only if the Stormwater BMP is not also proposed as an exclusion to the Impervious Surface calculations per Section 3(Q)(9) of the Ordinance.

(b) Required Standards: The TIS standards of Section 3(Q) of this Ordinance shall be met.

(c) Examples of Stormwater BMP include, but are not limited to, rain gardens, infiltration trenches, chambers, or dry wells, internally drained areas, pervious pavement, and grass swales.

(15) Maintenance or Restoration of Property to Natural State (such as native woodlands and prairies).

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(a) Points:

- (i) Greater than 20% to 40% natural area = one point
- (ii) Greater than 40% to 60% natural area = two points
- (iii) Greater than 60% natural area = three points
- (iv) Credit is not provided for existing Wetlands.

(b) Required Standards: Development of a Natural Area Plan including the following:

- (i) Vegetation Plan of existing/proposed native vegetation (type, size, seeding mixtures and location). The plan must be prepared in accordance with 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.
- (ii) Management Plan for the control of invasive species.
- (iii) Erosion Control Plan for during and after construction until the site is 70% stabilized.

(16) Maintain Existing or Establish New Shoreline Habitat (fallen trees or fish sticks).

- (a) Points: Two points per tree cluster as specified in the DNR/WI Lakes Partnership Fact Sheet for Fish Sticks. See following link:
<http://dnr.wi.gov/topic/fishing/documents/outreach/FishSticksBestPractices.pdf>

(b) Required Standards:

- (i) Obtain a Chapter 30 DNR Permit.
- (ii) Development of a Shoreline Habitat Plan in compliance with the standards set forth per the DNR Best Practices Manual for Fish Sticks. See below link:
<http://dnr.wi.gov/topic/fishing/documents/outreach/FishSticksBestPractices.pdf>

(17) Alternative Method Approved by Zoning Administrator and Plan Commission

- (a) Points: Points based on proposal.
- (b) Required Standards: Applicant must demonstrate a connection between the proposed Mitigation and the intent/purpose of the mitigation requirements of the Village of Lac La Belle Zoning and Shoreland Protection Ordinance and this Handbook. For example, an Applicant could provide engineering information showing that the proposal could accomplish the same outcome as one of the mitigation strategies outlined. Points would be awarded in line with the comparable mitigation points.

(18) If Mitigation is required because of a lateral expansion within the Wetland Setback, ONLY mitigation types (2), (4), (5), (9), (12), (14), (15) and (17) apply.

Note: A Mitigation Handbook is obtainable and describes available mitigation practices and sets

forth requirements for specific practices that require Mitigation in accordance with subsection 1 above.

T. First Amendment Protected Adult-Oriented Establishments

1. Findings of Fact

- a. The Village Board finds that Adult-Oriented Establishments, as defined in this Ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the County.
- b. Based on its review of studies conducted in Phoenix, AZ, Garden Grove, CA, Los Angeles, CA, Whittier, CA, Indianapolis, IN, Minneapolis, MN, St. Paul, MN, Cleveland, OH, Oklahoma City, OK, Amarillo, TX, Austin, TX, Beaumont, TX, Houston, TX, Seattle, WA and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Colman A. Young v. American Mini- Theaters, Inc., 427 U.S. 50 (1976), the Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
- c. The Village Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
- d. It is not the intent of the Village Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.
- e. In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the Village, it is the intent of the Village Board to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
- f. Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Village Board finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.

2. Location of First amendment protected Adult-Oriented Establishments:

- a. The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult- Oriented Establishments, as defined by this Ordinance, are entitled to certain protections, including the opportunity to locate in shorelands governed by this Ordinance. Therefore, an Adult-Oriented Establishment shall be a permitted use in the A-B zoning district and shall be a prohibited use in any other zoning district. The Adult-Oriented Establishment may locate in the specified District only if an Adult-Oriented Establishment License has been granted by the Village, and all the requirements of this section and the applicable zoning district's regulations are met.
- b. Adult-Oriented Establishments shall be located at least 1,000 feet from:

- (1) any residential district line, playground lot line, or public park lot line;
 - (2) any structure used as a residence, place of religious worship, public or private school, or "Youth Facility" as defined in the Village's Zoning and Shoreland Protection Ordinance;
 - (3) any other structure housing an Adult-Oriented Establishment;
 - (4) any structure housing an establishment which holds an alcohol beverage license.
- c. Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the residential district boundary lines, to the lot line of any lot used for a park, playground, or any structure listed in 2(b) (2 – 4) above.
 - d. The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
 - e. For Adult-Oriented Establishments located in conjunction with other Buildings such as in a shopping center, and clearly separate from other establishments, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.
 - f. For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency exits).
 - g. A licensed Adult-Oriented Establishment is not disqualified from holding an Adult- Oriented Establishment License by the subsequent location of any of the establishments described in (B), above, within 1,000 feet of the licensed premises after the grant or renewal of its license. This provision applies only to renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

U. Recreational Chicken Use.

This use includes those recreational or hobby uses involving the keeping, breeding and raising of chickens as uses accessory to a principal residential use on a property and/or to supplement the household food supply. This use does not include any use defined as farm use or agricultural use in this Ordinance.

1. **Applicability.**

This section shall apply throughout lands that were attached to the Village on January 1, 2025.

2. **Purpose and Intent.**

The intent of this section is to establish standards for the keeping of chickens for recreational (hobby) use on certain property in the jurisdiction of the Village of Lac La Belle Zoning and Shoreland Protection Ordinance. These provisions are intended to prevent nuisances, undesirable odors, and other negative impacts on neighboring properties, protect human and animal health, satisfy the needs of animals for exercise space, and protect water quality and the environment. Further, it is the purpose of this section to:

- a. Provide for affordable, fresh, healthy, nutritious, sustainable, locally grown and raised food

sources.

- b. Provide for self-sufficiency and a connection to the environment.
 - c. Increase education and knowledge regarding healthy eating and food production.
 - d. Provide the public with an interest in animals and a chance to learn how to care for animals.
 - e. Continue to provide for and not endanger the health, safety, comfort, peace, quiet, enjoyment, and the general welfare of the public, or otherwise become a nuisance to nearby residents or occupants or a place of business, as well as provide for adequate air and sanitation, and preserve the general attractiveness and character of the community environment.
 - f. Minimize conflicting land uses, and regulates coop and pen placement and height.
3. **Lot Size.** Chickens kept for the purpose and intent of this section are allowed on any lot a minimum of one (1) acre in size or larger provided all of the dimensional provisions of the Ordinance are met. All lands utilized for the keeping of chickens must be under the same ownership; leasing of adjacent lands is prohibited.
4. **Number and type of Recreational Chickens allowed.** Up to five chickens kept for the purpose and intent of this section are allowed on any lot a minimum of one acre in size or larger. No roosters are allowed.

5. Recreational Chicken keeping regulations.

- a. Recreational chicken keeping shall be a noncommercial use. No commercial activities shall be permitted, including barter, and including but not necessarily limited to the sale of eggs, live or dressed chickens, live chicks, feathers, etc. All products must be for the personal consumption of the owner.
- b. Onsite slaughter of chickens is prohibited.
- c. Dead birds shall be removed promptly either by burial, incineration, or landfill. Check with Village Hall regarding the regulations for the acceptable disposal methods in your area.
- d. Feed shall be stored indoors or, alternatively, in an attached garage or detached accessory building, if possible. If not stored in a building, the feed shall be stored in a sealed metal container so as not to attract vermin, rodents, or wild birds.
- e. Waste shall not be left to accumulate. Those practicing recreational chicken keeping under this section must comply with standard manure disposal practices such as those found in NR151 and ATCP50, and the property owner shall indicate at the time of registration how the manure will be disposed of and removed from the property, or prepare a manure management plan and submit the plan to the Zoning Administrator for review and approval at the time of registration. If waste containers are used, they should be sealed yet aerated so as not to attract vermin.
- f. The Village recommends compliance with the *Best Management Practices for the keeping of recreational chickens*.

6. Coop and Pen regulations.

- a. Only one chicken coop and pen shall be allowed on any one property. Coop size and location must

be approved by the Zoning Administrator. An up to date, scaled site plan or plat of survey (preferred) showing all property lines, the road rights of way, the location of the residence and any appurtenances, and the proposed coop and pen shall be submitted. A sketch of the coop and pen plan shall also be submitted.

- b. Chicken coops, poultry houses or enclosures are considered structures as defined in this Ordinance and must meet the locational requirements of this Ordinance including but not limited to offset, setback, and height, and the accessory building regulations of this Ordinance (Section 3(I)(4)), with the exception that the coop shall not count toward the number of accessory buildings permitted on a lot, but shall be limited in size to no more than 50 square feet. However, in accordance with Section 3(G)(3)(a)(3), any building or structure housing chickens shall be a minimum of 50 feet from all property lines.
 - c. The coop and pen shall be located behind the rear line of the principal residence as the structure faces any road.
 - d. The coop and the pen shall be a minimum of 10 feet from any portion of the principal residence or its appurtenances for sanitary reasons.
 - e. The pen shall meet the offset and setback requirements of the chicken coop.
 - f. The coop shall have a roof, sides, and a floor, be kept dry and well ventilated, with fans if necessary, in the warmer months, and well insulated, and with heat if necessary, in the winter months.
 - g. All outdoor areas used by the chickens (pen) shall be fenced to a minimum of 42 inches in height and the top and sides of the pen shall be covered with fencing to prevent intrusion or escape.
 - h. No free ranging of chickens is allowed and chickens must be kept within a coop or pen (run and any fencing) at all times.
 - i. The chicken coop, pen and all fencing shall be removed no later than six months after the keeping of chickens is no longer a use on the property. The owner shall notify the Zoning Administrator at the time of termination of the use so an inspection of the site can be conducted to determine compliance.
7. **State and Federal Standards.** The use allowed in this Section may also be subject to State and Federal laws, codes, licenses, requirements, and rules, most of which are not administered by the Village. It is the responsibility of the property owner to adhere to such laws and rules, as applicable, which, at the time of adoption of this chapter, included, but were not necessarily limited to, the following:
- a. Agricultural performance standards in ATCP 50, NR 151, and 243 Wis. Adm. Code, as applicable.
 - b. All State manure and nutrient management statutes and rules, including §281.16(3), Wis. Stats.
 - c. Ch. 951, Wis. Stats., involving crimes against animals.
 - d. Ch. 93, Wis. Stats., enabling legislation for the Department of Agriculture Trade and Consumer Protection (ATCP) and also includes animal regulations, including the registration of chickens.
 - e. Ch. 95, Wis. Stats., regarding animal health, as applicable.
 - f. Ch. 97, Wis. Stats., involving food regulations. Several ATCP rules also

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cover various aspects of food processing.

- g. The U.S. Natural Resources Conservation Service (NRCS) Nutrient Management standards.
 - h. Compliance with all applicable USDA and FDA regulations.
8. **Use shall not become hazardous, harmful, noxious, offensive or a nuisance.** In accordance with Section 3(D)(4) of this Ordinance, the uses permitted in Section 3(T) of this Ordinance shall not become hazardous, harmful, noxious, offensive, a nuisance, or have a substantial adverse effect. Section 3(D)(4) may be used to make such a determination and correct, improve, or abate the same using the Best Management Practices, or any other measures as mutually determined and directed by the Zoning Administrator.
9. **Inspection.** The Village reserves the right to inspect any property that has chickens to ensure compliance with this Ordinance. The Village also reserves the right to inspect properties that are the subject of violation complaints related to this Section.
10. **Violation and penalties.**
- a. Conduct not in compliance with this section is prohibited.
 - b. Violations of this section may result in the requirement to register non-compliant chickens, revocation of an existing registration, and/or requiring the use to cease on the property.
 - c. A use not in compliance with this section shall be subject to the penalties outlined in Section 44 of the Ordinance, and possible revocation of the use. If the use is revoked, all chickens and items related to the use shall be removed from the property within 30 days of the violation determination.

V. Vacation Rental Establishments

1. **Purpose.** The following vacation rental establishment licensing regulations are created, to ensure that applicable State laws are followed, to protect persons engaged in this practice either as landlord or tenant; to protect against adverse impacts of noise, odor, disturbance, adverse visual impacts, or other nuisances, that this practice could have upon neighboring properties; to preserve property values for the commercial benefit of the Village; and also to control the impacts of such operations on municipal services, including snow plowing, garbage collection, sanitation, law enforcement and fire protection.
2. **License Required.** No vacation rental establishment may operate in the Village unless a vacation rental establishment license ("Village License") for such operation is granted by the Village, and only in full compliance with such license. A separate license is required for each vacation rental establishment.
3. **Application.** Application for Village License shall be made by the property owner in writing to the Village Administrator upon forms provided by the Village. Such application must be filed with the Village Administrator no later than 1 week (168 hours) prior to the proposed vacation rental period of use. The Village Administrator is authorized to issue the vacation rental license if the Administrator finds that the application meets all requirements of this Ordinance, and the Administrator may include such conditions as the Administrator deems to be necessary or appropriate to ensure compliance with this Ordinance. The application must include all of the following:
 - a. Address of vacation rental establishment.

- b. Name (include full legal name with middle initial), address, telephone number and email address of vacation rental establishment owner.
 - c. Name (include full legal name with middle initial), address, telephone number and email address of vacation rental establishment operator, if different from the owner or if owner is a trust or entity other than an individual.
 - d. If the owner resides more than 20 miles from the vacation rental establishment, name (include full legal name with middle initial), address, telephone number and email address of owner's agent who is located within 20 miles of the vacation rental establishment.
 - e. Starting date of the 180-day annual rental period.
 - f. A copy of the "State Tourist Rooming House License" for the vacation rental establishment.
 - g. Proof that the vacation rental establishment complies with the Wisconsin Uniform Dwelling Code Section SPS 320-325.
 - h. Proof of property and liability insurance covering the vacation rental establishment property and use.
 - i. A list of all property that may be used by the vacation rental establishment tenants including for example whether tenants are permitted to use the house, any guest house, any boathouse, any garage, any dock, any boats, or particular amenities of the vacation rental establishment property.
 - j. The total square footage of the principal structure used as a vacation rental establishment.
 - k. The total number of bedrooms, and total number of beds used for the vacation rental establishment.
4. **Fees.** The applicant shall pay such fee as may be established from time to time by the Village Board by separate resolution, for each vacation rental establishment license ("Village License") application.
5. **Renewal.** Any past noncompliance, complaints, issues, fees, or fines related to an existing Village License may be taken into consideration by the Town upon an applicant's request for renewal of a Town License.
6. **Minimum Standards.**
Conditions Under Which Permitted. A Village License shall not be granted for a vacation rental establishment unless all of the following conditions are met:
- a. Transfer of a Village License because of transfer or sale of property is not permissible. Should property subject to a Town License be sold, then the Village License shall become void.
 - b. All vacation rental establishments shall be subject to and comply with Wisconsin Statutes Chapter 97 including maintaining a tourist rooming house annual license as required by Wisconsin Statutes Section 97.605(1)(a), which sections are incorporated herein by reference.
 - c. All vacation rental establishments shall be subject to and comply with Uniform Dwelling Code Section 320-325, which is hereby incorporated by reference.
 - d. Each vacation rental establishment shall be required to keep a register and require all guests to sign such register using their actual legal names including middle initial and address before being assigned quarters. The register shall be available for inspection by the Village of Lac La Belle Police Department and Village Administrator or designee for a period of not less than one year.
 - e. A minimum of one off-street parking stall shall be provided for every guest bedroom with a minimum of three parking stalls. All parking areas shall meet the size and location requirements of the Village Code and shall be hard-surfaced and maintained in a reasonable dustless condition. Absolutely no parking of vehicles on the street, except for an occasional guest during the day. Additional parking is available in a Municipally Owned Parking Lot.
 - f. Every vacation rental establishment shall be properly addressed with numbers on the street side of the structure, meeting the Village of Lac La Belle Address Sign Standards so as to be

visible from the street.

- g. The Village Administrator shall consider the potential impact to the surrounding neighborhood and proximity to any existing bed and breakfast establishment or vacation rental establishment when reviewing a request for a vacation rental establishment license (Village License). If a new owner obtains approval of a Tourist Rooming House License, the previously established annual 180-day period shall remain applicable.
- h. Whenever the property changes ownership, a new Village License is required to ensure compliance with all State and local regulations and ordinances.
- i. All trash, refuse, recyclables, etc. shall be placed inside appropriate containers and no trash, refuse, recyclables, etc. may be placed outside the containers at any time. All refuse containers shall be screened from view.
- j. If the Village finds that any statement made on the Village License application is incorrect, at any time, the Village may immediately and summarily revoke the license.
- k. Sleeping quarters related to a vacation rental establishment use shall only be located within the principal structure on the lot. Accessory buildings, including legal non-conforming guest houses, cannot be used for sleeping quarters.
- l. Tents or temporary structures are prohibited on the property during the rental period.
- m. Property that is used for a vacation rental establishment must have clearly delineated property lines, by approved fences, vegetation or other means to the satisfaction of the Village Administrator. Such clear delineation must be maintained for the duration of the Village License, to ensure that all users of the property are clearly aware of the boundaries of the property and confine their use to the applicable parcel.
- n. Unless the property is connected to a municipal sewer system, the petitioner/owner must provide to the Village Administrator, proof that is satisfactory to the Village Administrator that the septic system is properly sized for purposes for the proposed use. Such septic system must be properly maintained at all times for the duration of the Village License.
- o. The vacation rental establishment occupancy limits shall not exceed the lesser of the following occupant limitations at any time.
 - (1) The number of occupants allowed by Wisconsin Administrative Code Section ATCP 72.14(2)(b) per bedroom.
 - (2) The number of occupants for which there are beds available within the proposed vacation rental establishment structure provided that the beds do not include temporary beds (cots, air beds, fold-out beds, or futon couches) and each bed shall count for one occupant except each queen- and/or king-sized bed shall count for two (2) occupants.
 - (3) Eight (8) occupants.
- p. The parcel cannot have more people on site than the higher of eight (8) people or the maximum number of people allowed under Wisconsin Administrative Code Section ATCP 72.14(2)(b).
- q. The petitioner/owner must provide a copy of this section and a copy of the Village License, to all parties using the property for vacation rental purposes, prior to commencement of each such use.
 - (1) Annual Limit. If a vacation rental establishment is rented for periods of more than 6, but fewer than 29 consecutive days the vacation rental establishment shall not operate outside of the 180 consecutive day period that begins on the date of the first such rental, for a 365-day period. The owner of the vacation rental establishment shall notify the Village Clerk in writing when the first 365-day period begins, and all subsequent 365-day periods shall be measured from that date. This limitation shall be interpreted in compliance with Wisconsin Statutes Section 66.1014(2)(d)1.
 - (2) Prohibition. Rental of a residential dwelling for 6 consecutive days or fewer is prohibited. For purpose of this subsection "rental" includes any real property that is subject to any verbal or written contract, lease, sublease, rental agreement, easement, instrument or other device (the "Agreement"), if all of the following circumstances apply (i) the Agreement or Agreements create a right to occupy said property; (ii) such rights of occupancy have an actual duration of less than 7 consecutive days; and (iii) the Agreement requires payment or other remuneration or barter, for the benefit of the

property owner.

7. **Additional Standards.** Conditions Under Which a License Holder Must Operate.
 - a. All vacation rental establishments, and the owners, operators, guests, invitees, and agents at all vacation rental establishments, are subject to and must comply with Village of Lac La Belle Ordinance Chapter 100, Article 1, Section 100-1 “Number of dogs limited”; Section 100-2 “Keeping vicious, noisy or barking dogs or other animals”; Section 100-3 “Dogs running at large; impounding”, and Section 100-6 “Dog nuisance”. Failure to comply with any of the foregoing Village Ordinances shall result in the imposition of the penalties set forth in the related Ordinances against the property, and related license holder, in possession of a Village License.
 - b. All vacation rental establishments, and the owners, operators, guests, invitees, and agents at all vacation rental establishments, are subject to and must comply with Village of Lac La Belle Ordinance Chapter 207 related to Nuisances and all provisions therein. Failure to comply with any provision of Village of Lac La Belle Ordinance Chapter 207 shall result in the imposition of the penalties set forth in Village of Lac La Belle Ordinance Chapter 207 against the property, and related license holder, in possession of a Village License. In addition to the penalties set forth in Village of Lac La Belle Ordinance Chapter 207, if a property in possession of a Village License pursuant to this Chapter 216 is deemed to have Chronic Nuisance Activity, as defined in Village of Lac La Belle Ordinance Chapter 207, then such Village License is subject to immediate revocation by the Village as well as all penalties and fines as set forth in Chapter 207.
 - c. All vacation rental establishments shall establish quiet hours between 11:00 PM to 7:00 AM

8. **Penalties.**

Owners and operators of a vacation rental establishment shall ensure that the property is in compliance with this Ordinance at all times, and shall be liable for all violations, jointly and severally. Violation of this ordinance is subject to the Village of Lac La Belle standard penalties in Chapter 1 of the Municipal Code, entitled, “General Provisions”, including such amendments as may be made thereto from time to time, which are hereby incorporated herein by reference, except that the penalty amounts are modified as follows. Violations of this Ordinance are subject to penalties in the maximum amount of \$10,000 and minimum amount of \$3,000 for each day of violation, and under no circumstances shall a penalty be imposed that is less than the rental amount charged. Citations for violation of this Ordinance shall be written as “must appear”.

W. Fences

1. No fence located within a Residential (R-1, R-2, and R-3) Zoning District shall be erected, constructed, built, enlarged or replaced within the Village of Lac La Belle unless a Building Permit therefor shall be first obtained by the owner or his/her agent from the Building Inspector.
2. Application. An application for a fence permit shall be made in writing upon a form to be furnished by the Building Inspector and shall state the name and address of the owner of the land upon which it is to be intended to be erected and shall include a detailed site plan (drawn to scale) showing the abutting streets, lot lines and their dimensions, existing buildings and their dimensions, and the location of the proposed fence and any other information required by the Building Inspector. A detailed drawing or pictorial sketch of the fence along with a fee, as established by the Village Board, shall accompany each application.
3. Fences and/or walls may be erected or maintained in any yard along or adjacent to a lot line in accordance with the requirements of this Section. The owner shall be responsible for properly locating all property lines before construction of the fence. The following requirements apply to all fences and walls located on Residential (R-1, R-2, and R-3) zoned properties:

- a. Location: No fence or wall shall be located closer than three feet to any side or rear lot line and no closer than one foot from any road right of way. In addition, no fence shall be located closer than 35 feet to the Ordinary High Water Mark of any navigable body of water as determined by the Wisconsin Department of Natural Resources.
- b. Maximum Height: The maximum height of any fence or wall shall be the following:
 - (1) Four feet when located within a required front yard or required street yard.
 - (2) Five feet when located along the side and rear property lines, but not within a required front yard or required street yard.
- c. Orientation: Any and all fences or walls shall be constructed so as to have the decorative side facing the neighboring property and/or street and the supportive side facing the inside of the property on which the fence is constructed.
- d. Maintenance: Any and all fences or walls shall be maintained in a structurally sound and attractive manner.
- e. Materials: Acceptable materials for constructing fencing and walls include wood, stone, brick, wrought iron, chain link, wire mesh, and any other materials determined to be similar by the Zoning Administrator. Wire mesh fencing is not permitted within required front yard or street yard areas. Any fence within a street yard, including along property lines which intersect a right-of-way, shall be a maximum of 50% opaque.
- f. Temporary Fencing: Temporary fencing, including the use of wood or plastic snow fences for the purposes of limiting snow drifting between November 1 to April 1, protection of excavation and construction sites, and the protection of plants during grading and construction is permitted for up to 180 consecutive days and no more than 180 consecutive days.

SECTION 4 CONDITIONAL USES

A. Approval required.

Certain land uses are likely to have characteristics that merit additional review to ensure the proposed use is compatible with the surrounding area. This section provides a process by which the context of the specific location can be considered and special mitigation measures applied as needed. Conditional uses enumerated below in subsection (E) require the approval of a Conditional Use Permit by the Plan Commission according to the application process described below.

B. Application.

Application for a conditional use permit may be made by a property owner, or by a tenant with property owner's written consent, or by the Village Board. A Conditional Use Permit application filed with the zoning administrator shall include the following information at a minimum:

A map of the lot drawn to a scale of not less than 200 feet to one inch; location and use of existing buildings; existing sanitary systems and water supplies within 100 feet of the lot; the high-water elevation of any navigable waters within 100 feet of the boundaries of the lot; and proposed location and use of buildings and site features; proposed sanitary systems and private water supplies; names and mailing addresses of the owners of properties within 300 feet of the lot; additional information as may be required by the Zoning Administrator, the county health department, or the Plan Commission in order to ensure requirements of applicable codes can be met; a plan of operation; and the Conditional Use Permit application fee.

A fee, as may be established and periodically modified under Section 42(B)(3) shall accompany each application, except those submitted by a governmental body or agency.

Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of conditional use applications and preparation of conditions to be imposed on such uses shall be charged to the Applicant.

Where necessary, to comply with certain regulations established by the Wisconsin Statutes and the federal government, applications will be required to be submitted to the WDNR and the U. S. Army Corps of Engineers.

A Conditional Use application which is filed and does not contain required information shall not be accepted for consideration by the Plan Commission. An incomplete application shall be returned to the applicant with a statement of the required information that is needed for a complete application.

C. Review process.

Upon receipt and acceptance of an application, the Zoning Administrator shall establish a date for a public hearing by the Plan Commission and shall publish notice of hearing once each week for two consecutive weeks in a newspaper of general circulation in the area of the proposed Conditional Use. Notice of the public hearing shall be given by first class mail to the owners of all lands within 300 feet of any part of the land included in such Conditional Use at least seven days before such public hearing.

Testimony of all interested parties will be recorded at the public hearing and the Plan Commission shall take action within 45 days of the public hearing to either approve or disapprove of the application along with any conditions of approval or reasons for denial. If additional time is necessary beyond 45 days, such time may be extended with the consent of the Applicant. The conditional use permit shall be issued if the Plan Commission fails to take action within the time period.

Any requirement or condition required for issuance of the Conditional Use Permit must be reasonable, and to the extent practical, measurable, and may include conditions such as the permit's duration, transfer, or removal. The Conditional Use Permit shall not be issued unless or until the applicant demonstrates to the satisfaction of the Zoning Administrator that the application and all requirements and conditions established by the Plan Commission relating to the Conditional Use Permit are or will be satisfied, both of which must be supported by substantial evidence.

Conditions imposed by the Plan Commission shall generally relate to the physical development of the property rather than operational practices. Specific conditions related to hours of operation may be appropriate also.

D. Amendment or termination

1. **Amendment.** A conditional use permit issued with an expiration date must be renewed through the same application process required to obtain the conditional use permit. A permit holder who wishes to extend or alter the terms of said permit must apply for extension or amendment through the same procedure of application for a new conditional use permit.
2. **Termination by owner.** A conditional use permit may be terminated by the property owner by discontinuing the conditional use for 12 months or more; by written notice to the zoning administrator, or by allowing a time limit, if one applies, to expire without renewal.
3. **Termination by Plan Commission.** The Plan Commission may terminate a conditional use permit by holding a public hearing on the matter and making findings that there has been noncompliance with the conditions of the permit, or findings that the conditional use has been discontinued for a period of 12 consecutive months, or for 18 cumulative months during a 36-month period. A use is not considered to be discontinued during periods when it is expected to be inactive because of the seasonal nature of the use.

4. **Conformity following termination.** Upon termination of a conditional use permit, the owner of the premises shall bring all uses of the property into conformity with the applicable district regulations within 60 days from such termination.

E. Conditional uses.

The following uses are considered conditional and may be permitted upon Plan Commission approval. The list below outlines standard conditions that typically apply to specific land uses. In addition, the Plan Commission may impose any further conditions they find reasonable, measurable, and consistent with the purpose and intent of this Ordinance.

Each application for, and instance of, a conditional use shall be considered a unique situation and shall not be construed as precedence for similar requests. If a conditional use is identified within a zoning district section but not listed in this Conditional Uses section, the use still requires conditional approval. In such cases, the Plan Commission shall establish any applicable conditions at the time of approval.

246. **Standard Conditions.** For all Conditional Uses, the following conditions apply:
 - a. The use shall meet all other zoning, building, fire, health, and other Village and County Codes.
 - b. The use shall submit and acquire approval of the Plan Commission for site, architectural, lighting, sign and parking plans and plan of operation prior to issuance of the Conditional Use Permit.
 - c. In shoreland areas, conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance.
247. **Commercial kennel**
 - a. The property shall have a minimum area of five acres.
 - b. Any kennel building shall be a minimum of 50 feet from a property line.
 - c. Any kennel building shall have sound-proof exterior walls.
 - d. No dogs shall be allowed outside kennel buildings between 8:00 p.m. and 6:00 a.m.
 - e. No exterior lighting shall be used in the kennel runs between 8:00 p.m. and 6:00 a.m.
 - f. A fenced outdoor run or exercise area shall be located at least 300 feet from any residential district.
 - g. The Plan Commission may establish a vegetative buffer area or berm from residential districts as deemed appropriate.
 - h. The Plan Commission may establish a maximum number of animals kept at the kennel at a time.
248. **Fueling station**
 - a. The property shall have a minimum area of one acre.
 - b. The property shall be located on a Collector or Arterial Street as designated in the Waukesha County Established Street and Highway Width Map.
 - c. Site plan shall demonstrate that the on-site truck turning movements for any product or fuel delivery vehicles will not interfere with customer parking or fueling stations.
 - d. Any fuel pump or canopy structure shall be located at least 300 feet from any residential district.
 - e. The maximum height of a canopy structure shall be 16 feet.
 - f. Where a canopy contains a logo or message, it shall be considered a sign structure subject to freestanding sign regulations.
 - g. Outdoor lighting shall be designed, installed, and directed so there is no glare extending to

adjacent properties and rights-of-way.

249. **Bed and breakfast**

- a. The use shall be accessory to an owner-occupied single-family dwelling and may be located within the principal structure or an accessory structure.
- b. Up to five guest rooms may be authorized by the conditional use permit.
- c. A two-sided freestanding sign with up to eight square feet per side may be authorized by the conditional use permit.
- d. Food and beverages may be provided only for guests of the establishment, unless the district otherwise permits restaurants.
- e. Guest stays are limited to fewer than 30 days.

5. **Commercial vehicles and construction equipment parking**

- a. The property shall have a minimum area of one acre.
- b. The property shall be located on a Collector or Arterial Street as designated in the Waukesha County Established Street and Highway Width Map.
- c. No more than one such vehicle shall be allowed to be parked or stored on the property.
- d. No more than two construction vehicles (e.g. backhoe, trailer, bobcat) shall be allowed to be parked or stored on the property.
- e. Parking or keeping a commercial vehicle in a residential district for more than 14 days within a calendar year shall require a conditional use permit.
- f. The size of the vehicle or equipment, the noise it generates, and location where it is kept shall be such that there is no undue nuisance experienced on adjoining properties.
- g. A Conditional Use approved under this Section shall be reviewed by the Plan Commission at least every other calendar year for the purposes of confirming conformance to these conditions.
- h. This requirement shall not apply to equipment and vehicles associated with construction where there is an active construction permit, where construction is being pursued diligently.

6. **Contractor yard**

- a. The property shall have a minimum area of three acres.
- b. Any building or storage area shall be located at least 100 feet from any residential district.
- c. A continuous screen at least six feet in height shall be provided between the contractor yard and any abutting property line or right of way, consisting of evergreen plantings spaced to create a continuous visual screen; or a solid fence six feet in height.
- d. Exception: Screening is not required across the street entrance of the contractor yard.

7. **Fur farms, pig farms, poultry farming, egg production, creamery, condensery, or grain drying operations.**
 - a. Any building, structure, or yard associated with the activity shall be located at least 500 feet from any residential district line.
 - b. Animal waste shall be handled in a safe and healthful manner.
 - c. The minimum lot size for such a use shall be 25 acres.
8. **Land altering activity**
 - a. Any land altering activity not associated with a development with an approved site plan, such as a borrow or fill site, site shall require a conditional use permit.
 - b. The land altering activity shall be carried out in conformance with the construction erosion and sediment control and stormwater management codes.
9. **Accessory Dwelling Unit**
 - a. The location, building plan, site plan and plan of operation shall be submitted to and approved by the Plan Commission. No variance from bulk regulations are permitted for Accessory Dwelling Units.
 - b. If the property is not on public sanitary sewer, the Waukesha County Department of Parks and Land Use, Environmental Health Division shall certify that the septic system will accommodate the proposed use and in accordance with SPS 383, county and State Sanitary Codes.
 - c. Maximum living area of the Accessory Dwelling unit shall not exceed 800 square feet and shall contain no more than two bedrooms.
 - d. There shall be an additional parking space for the Accessory Dwelling unit.
 - e. There shall be no more than one Accessory Dwelling unit per single-family lot.
 - f. Architecture shall be compatible with the adjacent residential neighborhood and shall appear to be a single-family residence.
 - g. All other zoning district bulk requirements shall be met.
 - h. If within the same building as the single-family dwelling, a common entrance to the residence and Accessory Dwelling unit should be designed into the structure so that a separate front entrance off of the common entrance is available and the structure does not appear to be a duplex.
 - i. A Deed Restriction shall be filed in the Waukesha County Register of Deeds Office and a copy of the recorded document presented to the Building Inspector prior to issuance of the Building Permit. This Deed Restriction shall identify the date of Plan Commission approval and that the Conditional Use is not transferable without formal approval of the Plan Commission, without necessity of a public hearing.
10. **Home occupation (In the following Districts: OR-1, OR-2, OR-3, OR-4, OR-5, OR-6, OR-7 and OR-8)**
 - a. A conditional use permit may be issued for low-intensity uses that are compatible with a residential setting. Such uses may include a home office or a personal service such as salon, barber, tailoring, individual music instruction, tutoring, and similar uses as determined by the zoning administrator.
 - b. Only occupants of the dwelling may participate in the home occupation.

- c. Activities must be conducted entirely within a principal or accessory building and there shall be no noise, odor, or other nuisance detectable on any surrounding property.
- d. The home occupation may occupy up to 300 square feet of the dwelling.
- e. A sign, if provided, shall be subject to the sign regulations for residential districts.

11. Marinas and boat liveryies

- a. Marinas and boat liveryies shall be designed and located to avoid or eliminate interference with adjacent owners' use of the water for swimming, fishing, or boating, and provide for free navigation of the water by public users.
- b. Fuel pumps shall be located two feet above the regional flood elevation and be located outside of the floodway. Fuel storage tanks shall be located 50 feet or more from the ordinary highwater mark, shall be located above ground, and shall be screened and fireproofed. The offset requirements for fuel pumps shall be at least 20 feet from the side lot line and storage tanks shall be at least 50 feet from any side lot line.
- c. Outdoor lighting shall be designed and oriented to prevent glare extending to adjacent properties and rights-of-way.
- d. No pier may be permitted to extend beyond the pierhead line if established. The total length of all piers, and extensions thereof, may not exceed the total length of the lake frontage of the property.
- e. No pier or extension thereof may extend more than 150 feet from shore.
- f. Activities associated with the operation such as boat storage, launching, indoor entertainment, eating and drinking, retail or other associated commercial activity on the site may be considered for inclusion in the terms of the permit in order to make the facility compatible with surrounding properties.

12. Multiple family units

- a. Buildings with two or more dwelling units may be permitted in any district with a conditional use permit.
- b. A minimum area of the lot for a multiple family development shall be calculated by multiplying the number of dwelling units by 9,000 square feet.
- c. A multiple family development shall be served by municipal sanitary sewer and water.
- d. Outdoor lighting shall be designed, installed, and directed so there is no glare extending to adjacent properties and rights-of-way.
- e. The minimum floor area per unit shall comply with the construction code.
- f. A minimum of one parking space shall be provided for each dwelling unit.
- g. No parking area may be located between the building and the street.

13. Event barn

- a. The event barn must have been originally constructed for agricultural purposes prior to January 1, 1970, and shall retain architectural features consistent with its historic character. Additions or structural modifications to the barn may be permitted only if:
 - (1) The proposed addition does not exceed 25% of the existing building footprint.
 - (2) The Plan Commission determines that the addition, replacement, modification, or repair is necessary to maintain the structural integrity or functionality of the barn for its approved use.
 - (3) The Plan Commission determines that the proposed changes do not conflict with the intent and purpose of the zoning code, including goals related to historic preservation, rural character, and land use compatibility. Materials shall be consistent with the existing building materials.

- b. Any outdoor activities that may generate noise, glare, odor, dust, or other nuisance shall be located or otherwise mitigated to minimize or eliminate spillover of those effects to adjacent properties.
- c. Site shall consist of at least 5 acres.
- d. The applicant shall provide on-site parking, shuttle service, and/or valet service if off-site parking is provided.
 - (1) Generally, 1 space per 3 guests at max capacity shall be provided on-site.
 - (2) The Plan Commission may grant an exception when shuttle service or valet parking is provided.
- e. A traffic management plan shall be submitted and reviewed by the Plan Commission. Requiring shuttles in lieu of on-site parking may be permitted.
- f. Events must end by 10:00 p.m. on weekdays and 11:00 p.m. on weekends, unless otherwise specified in the conditional use permit.
- g. If outdoor lighting is proposed, a photometric plan showing light levels generated at adjacent property lines.
- h. Temporary tents may be included in the plan of operations as approved by the Plan Commission.
- i. The event barn must provide adequate restroom facilities to accommodate the maximum number of guests under the conditional use permit. Restroom facilities may be provided in permanent indoor bathrooms or in portable restroom units. The Plan Commission may require permanent facilities if the barn hosts events regularly or exceeds a specified number of guests or events per year.

14. Yacht club

- a. The yacht club shall be located on a lot with direct access to navigable waters.
- b. All docks, piers, and water-related structures shall comply with applicable state and federal regulations, including WDNR and U.S. Army Corps of Engineers requirements.
- c. The applicant shall provide a plan of operation that includes the proposed hours of operation, membership structure and maximum capacity, schedule and frequency of events, noise mitigation measures, and waste management and sanitation provisions.
- d. Outdoor lighting shall be designed and oriented to prevent glare extending to adjacent properties and rights-of-way.
- e. No pier may be permitted to extend beyond the pierhead line if established. The total length of all piers, and extensions thereof, may not exceed the total length of the lake frontage of the property.
- f. No pier or extension thereof may extend more than 150 feet from shore.
- g. Activities associated with the operation such as boat storage, launching, indoor and outdoor entertainment, or other associated activity on the site may be considered for inclusion in the terms of the permit in order to make the facility compatible with surrounding properties.

15. Veterinarian clinic or animal hospital

- a. The property shall have a minimum area of one acre.
- b. No building associated with this use shall be closer than 50 feet to the lot line of an adjoining lot in an agricultural or residential zoning district.

16. Boarding stable and/or riding arena

- a. The property shall have a minimum area of 10 acres.
- b. The property shall include one residential unit, permanently occupied by either the property owner or employee.

- c. No building, other than one used only for residence purposes, shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
- d. A maximum one horse or head of livestock is permitted per acre for the first 10 acres. A maximum of ten horses or head of livestock per acre for every acre over 10.
- e. Must provide adequate food, forage, water, pasture, shelter and fencing and must comply with standard manure disposal practices such as those found in NR151 and ATCP50 and the property owner shall provide a manure management plan prepared by a qualified professional and submit the plan to the Waukesha County Department of Parks and Land Use for review and approval.

17. Legal Non-Conforming Use

- a. Notwithstanding the provisions of Section 3(M). The Plan Commission may approve a conditional use permit to allow the continuation, but not expansion or enlargement, of a non-conforming use that existed at the time of the enactment of this Ordinance or any amendment thereto. Although such use does not conform with the provisions of this Ordinance for the district in which it is located, it may be continued through the approval of such conditional use permit.
- b. The granting of a Conditional Use Permit shall only take place where the Plan Commission shall determine:
 - (1) said use to not be adverse to the Public Health, Safety, or Welfare;
 - (2) would not conflict with the spirit and intent of this Ordinance; and
 - (3) would not be otherwise detrimental to the community and particularly the surrounding neighborhood.
- c. Such Conditional Use shall only be granted with the approval of the Plan Commission following a joint public hearing in the manner provided in Section 4(C).

SECTION 5 (RESERVED.)

SECTION 6 DISTRICTS

A. Establishment of Districts

For the purpose of this Ordinance, the Village is hereby divided into zoning districts which shall be designated as follows:

C-1	Conservancy Overlay District
C-W	Original Village Conservancy-Wetland District
EC	Environmental Corridor Overlay District
FLC	Farmland Conservancy District
FLP	Farmland Preservation District
A-T	Agricultural Transition District
A-B	Agricultural Business District
RRD-5	Rural Residential Density District
A-5	Mini-Farm District
A-1	Agricultural District
A-2	Rural Home District
A-3	Suburban Estate District
HG	High Groundwater District
R-1	Residential District
R-2	Residential District
R-3	Residential District
OR-1	Original Village Residence District I
OR-2	Original Village Residence District II

OR-3	Original Village Residence District III
OR-4	Original Village Residence District IV
OR-5	Original Village Residence District V
OR-6	Original Village Residence District VI
OR-7	Original Village Residence District VII
OR-8	Original Village Residence District VIII
P-I	Public and Institutional
OI-1	Original Village Institutional District
OPPL	Original Village Park and Public Lands District
B-1	Restricted Business District
B-2	Local Business District
B-3	General Business District
DOD	Downtown Okauchee District
M-1	Limited Industrial District

B. Zoning map

1. **Districts mapped:** The boundaries of zoning districts are shown upon maps as referred to in Section 3 of this Ordinance for the Village and entitled Village of Lac La Belle Zoning and Shoreland Protection Map which is made a part of this Ordinance and adopted by reference.
 - a. *Wetlands:* The Final Wisconsin Wetlands Inventory Maps for Waukesha County, dated September 6, 1984 and subsequently amended, were utilized to assist in the preparation and identification of wetlands identified on the aerial photographs and accordingly are made a part of this Ordinance and are adopted by reference. The review and adoption of amendments to the Wisconsin Wetland Inventory Map shall be completed in accordance with Section NR 117.06(2)(b) Wis. Admin. Code. The Wisconsin Wetland Inventory Maps are also depicted on the Department of Natural Resources Surface Water Data Viewer <https://dnrmaps.wi.gov/H5/?viewer=SWDV> and on the Waukesha County GIS. All the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said maps were all fully described herein. Said maps shall be kept on file in the offices of the County Zoning Agency and are periodically updated as amendments are made, and are for general informational purposes only. For the purpose of local administration, a copy of the appropriate maps shall also be kept on file in the office of each town.
 - b. All other wetlands subsequently identified by the Zoning Administrator, SEWRPC, ACOE or the WDNR within the shoreland boundaries but not noted on the Wisconsin Wetland Inventory Maps, are subject to regulations contained in the C-1 Conservancy Overlay District. Said newly determined areas shall be noted on the Zoning and Shoreland Protection Map as a C-1 Conservancy Overlay designated area within six (6) months of said determination.
2. **Determination of boundaries:** 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 Ordinance.

Unless otherwise specifically indicated or dimensioned on the maps, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the centerline of streets, highways, railways or alleys.

3. **Determination of boundaries for C-1 Conservancy Overlay District and FLC Farmland Conservancy District:** The boundaries of the C-1 Conservancy Overlay District and FLC Farmland Conservancy District as drawn are intended to represent the edge of marsh lands, 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, 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. An appeal to this determination may be made in conformance with Section 41(D) of this Ordinance. It is generally the intent of this Ordinance to place all wetlands in the C-1 Conservancy Overlay District.

If an area is found that has not been previously identified or mapped as a Wetland and not zoned as C-1 Conservancy Overlay, or a determination of navigability is made and a stream is subsequently found to be navigable, said stream and any Shoreland or Wetland shall immediately become subject to the provisions of this Ordinance. New floodplain studies or in-field determination of floodplain boundaries may result in the need to establish or refine Shoreland Zoning Districts. Appropriate procedures to establish Shoreland Zoning districts beyond that which is considered C-1 Conservancy Overlay shall be initiated under the mapping amendment procedure pursuant to Section 42 of this Ordinance and as set forth above. Water quality related standards of the Shoreland Protection Ordinance are in effect immediately upon a determination of navigability or identification of a shoreland/Wetland (i.e., setback, grading, and land altering activities, vegetation removal).

4. Discrepancy of Wetland boundaries: In the case of any discrepancy regarding a boundary between any mapped or newly determined Wetland, the Zoning Administrator shall consult with the WDNR and coordinate the appropriate onsite investigation to determine the exact boundary. If the WDNR staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately deny or grant a zoning permit in accordance with the regulations applicable to the correct zoning district designation as it may be modified by such field determination. A notation shall be made on the map indicating that such a change has been made for future reference purposes. Utilizing the procedures above, if an area is found to be inappropriately mapped in a C-1 Conservancy Overlay or FLC Farmland Conservancy District category, the Zoning Administrator shall have the authority to designate a District for the subject area consistent with the upland category which may exist adjacent to the site without necessity of a formal amendment process and shall note said changes on the zoning map within 6 months of said determination.

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250. FILLED WETLANDS

Wetlands which are filled prior to November 3, 1988, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this ordinance.

251. WETLANDS LANDWARD OF A BULKHEAD LINE

Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982, under Wis. Stats. § 30.11, are not subject to this ordinance.

SECTION 7 C-1 CONSERVANCY OVERLAY DISTRICT

A. Applicability

This District includes all shoreland areas that are considered Wetlands as defined in this Ordinance and as mapped and/or determined as Wetlands in Sections 3(A) and 6(B) of this Ordinance.

Shoreland/Wetlands designated on the Wisconsin Wetland Inventory Maps prepared by the WDNR as also depicted on the Department of Natural Resources Surface Water Data Viewer are also referred to as being located in the "Shoreland-Wetland Zoning District" as defined in this Ordinance. Said Shoreland/Wetlands are subject to the regulations of this Section.

The underlying base zoning district regulations shall only be applicable if an in-field determination finds that the portion of the property in question within said overlay district is erroneously mapped.

B. Purpose and intent

This District is intended to preserve and protect environmentally sensitive lands by limiting the uses and intensity of uses that may be placed upon them to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in said conservancy areas whenever possible. When development is permitted, it shall occur in a manner that minimizes adverse impacts upon the area in question.

These lands are often in a natural, relatively undisturbed state and shall include wetlands, marshlands, swamps, floodlands and areas up to the Ordinary High Water Mark along streams or other navigable water.

C. Use regulations

1. **Permitted uses:** The following uses shall be allowed, subject to compliance with all other provisions of this Ordinance, the provisions of Chapters 30 and 31 Wisconsin Statutes and § 281.36, Wis. Stats., and the provisions of all other applicable Village, state, and federal laws. WDNR and ACOE permits may be required prior to any activities being permitted pursuant to this section.
 - (1) Hiking, fishing, trapping, hunting, swimming and boating, harvesting of wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds in a manner that is not injurious to the natural reproduction of such crops and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.
 - (2) Pasturing of livestock and the construction and maintenance of fences, provided no filling, flooding, draining, dredging, ditching, tiling or excavating is done, with the exception of limited excavating and filling necessary for the construction and maintenance of fencing.
 - (3) The practice of silviculture including planting, thinning and harvesting of timber in accordance with Section 3(D)(8)(a) and agricultural cultivation, provided that filling, flooding, draining, dredging, ditching, tiling or excavation is limited to the following associated activities:
 - (a) The installation of temporary water level stabilization measures necessary to alleviate

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abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.

(b) The construction and maintenance of roads that are necessary to conduct silvicultural activities or agricultural cultivation if the following provisions are met:

(i) The road cannot as a practical matter be located outside of the C-1 Conservancy Overlay District;

(ii) The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland enumerated in Section 42(C)(2);

(iii) The road is designed with the minimum cross-sectional area practical to serve the intended use;

(iv) Road construction activities are carried out in the immediate area of the roadbed only; and

(v) All fill material associated with the construction and maintenance of roads necessary to conduct temporary silvicultural activities must be removed from the conservancy zoned lands after any temporary silvicultural activities are completed.

- (4) The maintenance and repair of existing agricultural drainage systems, including flooding, draining, ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue any existing Agricultural Use. Filling attendant to the disposal of dredged spoil material adjacent to the drainage systems may be allowed in the wetland provided that dredged spoil is placed on existing spoil bands where possible or immediately adjacent to the ditches.
- (5) Functionally water-dependent uses, such as docks, piers or wharves, walkways built on pilings, flowage areas, water monitoring devices, culverts, navigational aids and river crossings of transmission lines, and pipelines, including limited excavating and filling necessary for such construction and maintenance. Commercial docks, piers, moorings and wharves are permitted subject to issuance of a Conditional Use Permit under Sections 4(E)(10) and (17) of this Ordinance.
- (6) Dam construction and abandonment, provided a Conditional Use Permit is obtained in accordance with Section 4 of this Ordinance and all applicable permits are obtained from the WDNR pursuant to Chapter 31 of the Wisconsin Statutes and from the ACOE pursuant to federal requirements. Maintenance of an existing dam shall comply with the standards of this Ordinance, but shall not require the issuance of a Conditional Use Permit.
- (7) Maintenance, repair, replacement, reconstruction or new construction of Village, county and state streets, highways and bridges, and normal driveway construction and related bridges that are necessary in order to provide access to a property, including limited excavating and filling as necessary, provided such facilities are deemed essential or provided that failure of existing streets, driveways and bridges would endanger public health or safety. The standards of Section 3(D)(5) of this Ordinance shall be met.
- (8) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided the following provisions are met:
- (1) Any private development shall be used exclusively for the permitted use and the Applicant shall receive a permit or license under Chapter 29, Wisconsin Statutes, where applicable.
- (2) Filling or excavating necessary for the construction or maintenance of public boat launching

ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in Section 7(C)(1)(c)(2) above; and

- (3) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- i. The construction and maintenance of electric, gas, telephone, cable, fiber optic, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
 - (1) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the C-1 Conservancy Overlay District and provided such facilities are deemed essential or failure of existing facilities would endanger public health or safety.
 - (2) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the Wetland enumerated in Section 42(C)2. Major electrical generative facilities and high voltage transmission lines that have obtained a certificate of public convenience and necessity under Section 196.491, Wisconsin Statutes, are not subject to the requirements of this Ordinance.
- j. The construction or maintenance of nonresidential buildings and duck blinds. Nonresidential buildings are permitted only if the following provisions are met:
 - (1) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other Wetland or aquatic animals or some other use permitted in the C-1 Conservancy Overlay District;
 - (2) The building cannot, as a practical matter, be located outside the wetland;
 - (3) The building is not designed for human habitation and shall not exceed 500 square feet in floor area; and
 - (4) Limited filling and excavating necessary to provide structural support for the building is permitted.
- 2. **Specific prohibition:** Any uses not permitted above are considered to be prohibited, including, but not limited to, the following uses, unless the area is rezoned to another appropriate district in accordance with the provisions of Section 42 of this Ordinance and sec. 62.23 Wis. Stats.
 - a. Habitable structures, including modular homes, mobile homes and recreational vehicles; and those structures not associated with the permitted uses in the C-1 Conservancy Overlay District;
 - b. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
 - c. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
 - d. Any new public or private wells and appurtenant structures or modifications to an existing well, which are used to obtain potable water, except those that are located to benefit recreational areas. The wells and appurtenant structures shall meet the requirements of other ordinances, and Chapters NR 811 and NR 812, Wisconsin Administrative Code.