TITLE 13

Zoning

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Chapter 2	Floodplain Zoning
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CHAPTER 1

Zoning

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ARTICLE A

Introduction

SEC. 13-1-1 AUTHORITY.

These regulations are adopted under the authority granted by Sections 61.35 and 62.23 of the Wisconsin Statutes.

SEC. 13-1-2 PURPOSE.

The purpose of this Chapter is to promote the health, safety, morals, and general welfare of this community.

State Law Reference: Sec. 62.23(7)(1), *Wis. Stats.*

SEC. 13-1-3 INTENT.

It is the general intent of this Chapter to regulate and restrict the use of all buildings, other structures, and lands without discrimination against temporary structures, and to regulate and restrict lot coverage, population density, and the size and location of all buildings and other structures so as to: lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and the general welfare; provide adequate light and air; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; and implement the community's development plan or plan components. It is further intended to provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

State Law Reference: Sec. 62.23(7)(a) and (c), *Wis. Stats.*

SEC. 13-1-4 ABROGATION AND GREATER RESTRICTIONS.

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

SEC. 13-1-5 INTERPRETATION.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, shall be liberally construed in favor of the Village, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. All references to State statutes or administrative codes
are intended to include any subsequent revisions or amendments of and to the same. Where the regulations in this Chapter impose higher standards than are required in any other part of this Code of Ordinances, the regulations in this Chapter shall govern.

State Law Reference: Sec. 62.23(7)(a) and (g), *Wis. Stats.*

SEC. 13-1-6 SEVERABILITY.

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

SEC. 13-1-7 TITLE.

This Chapter shall be known as the Zoning Code, Village of Gays Mills, Wisconsin, but may be referred to in this Chapter as "this Chapter."

SEC. 13-1-8 DEFINITIONS.

For the purposes of this Chapter, the following definitions shall be used. Words used in the present tense include the future, the singular number includes the plural number and the plural number includes the singular number. The word "shall" is mandatory and not optional.

(a) **Accessory Use or Structure.** A use or detached structure subordinate to the principal use of a building, other structure, or land and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal building or other structure.

(b) **Alley.** A public right-of-way affording only secondary access to abutting properties.

(c) **Bed and Breakfast Inn.** A commercial establishment in a pre-existing building offering overnight lodging and breakfast to registered overnight guests. The building and use are subject to all State building and health codes governing such purposes.

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

(e) **Building Area.** The total living area bounded by the exterior walls of a building at the floor levels but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.

(f) **Building Height.** The vertical distance measured from the mean elevation of the finished lot grade along a street yard face of the structure to the highest point of flat roofs, to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs, or to the deck line of mansard roofs.

(g) **Centerline.** A line equidistant from the edges of the median separating the main traveled ways of an existing or planned divided road or highway or the centerline of the main traveled way of a nondivided road or highway.

(h) **Conditional Uses.** Uses which are consistent with the use classification in a particular zone but may create special problems if allowed to develop as a matter of right in a particular district and which are
(i) expressly permitted by this Chapter as long as certain conditions are met and a conditional use permit obtained. The terms conditional use and special exception are synonymous.

(j) **Cutoff-type Fixture.** A light distribution pattern of a fixture (luminaire) that primarily directs light downward towards the ground with a strong cut-off and where only a small percentage of light is produced at a horizontal plane located at the bottom of the luminaire. Light above the horizontal plane is also limited to a negligible amount of the total output.

(k) **Dwelling.** A detached building designed or used exclusively as a residence or sleeping place for human habitation but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

(l) **Dwelling Unit.** One (1) or more rooms designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes.

(m) **Essential Services.** Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, and overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, communication systems and accessories thereto such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

(n) **Family.** Any number of persons related by blood, adoption or marriage or not to exceed four (4) persons not so related, living together in one dwelling as a single housekeeping entity.

(o) **Family Day Care Home.** A family day care home is a dwelling also licensed as a day care center by the State Department of Children and Families under Section 48.65 of the Wisconsin Statutes where care is provided for not more than eight (8) children between the ages of infancy and seven (7) years of age.

(p) **Front Yard.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and the line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards.

(q) **Frontage.** The dimension of a lot abutting a public street measured along the right-of-way line.

(r) **Group Home.** A facility licensed by the State Department of Children and Families under Section 48.625 of the Wisconsin Statutes for the care and maintenance of five (5) to eight (8) children.

(s) **Home Occupation.** Any occupation for gain or support conducted entirely within buildings operated by resident occupants which is customarily incidental to the principal use of the premises.

(t) **Loading Area.** A complete off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley.

(u) **Lot.** A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter.

(v) **Lot Lines and Area.** The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

(w) **Lot Line, Front.** The boundary of a lot which abuts an existing or dedicated public street. In the case of a corner lot or double frontage lot, it shall be the shortest dimension on a public street. If there is less than a one (1) foot difference between lot lines that abut a street, the lot owner shall choose the front lot line, and the decision shall be placed on file with the Village.

(x) **Lot Line, Rear.** The lot line which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

(y) **Lot Line, Side.** Any lot line that is not a front lot line, rear lot line, or street side lot line.

(z) **Lot Line, Street Side.** The boundary of a lot which abuts an existing or dedicated public street, but is not a front lot line.

(aa) **Lot Width.** The width of a parcel of land measured at the rear of the specified front yard.

(bb) **Garage, Private.** A detached accessory building or structure intended to be used for the parking of vehicles by the owners or tenants of a principal structure.

(cc) **Garage, Public**. A detached accessory or principal building or structure intended to be used for the parking of vehicles by persons other than the owners or tenants of a structure.

(dd) **Manufacturing, Heavy.** A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted raw materials or a sue engaged in storage of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive or nuisance conditions.

(ee) **Manufacturing, Light.** A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, and distribution of such products, but exclusively basic industrial processing.

(ff) **Mobile Home.** A structure transportable in one or more sections which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to required utilities. .

(gg) **Nonconforming Structures.** An established building or structure at the time of enactment of this Chapter or any amendment applicable thereto which does not conform to the regulations of this Chapter or any amendment applicable thereto for the district in which it is located.

(hh) **Nonconforming Uses.** The lawful use of a building or premises existing at the time of the adoption of this Chapter or amendments thereto which does not conform with the provisions of this Chapter or amendments thereto.

(ii) **Parking Lot.** A structure or premises containing parking spaces open to the public.

(jj) **Parking Space or Stall.** A graded and surfaced area of not less than one hundred eighty (180) square feet in an area either enclosed or open for the parking of a motor vehicle having adequate ingress and egress to a public street or alley.

(kk) **Pavement.** Pavement encompasses: concrete, asphalt, brick, and stone, regardless of permeability.

(ll) **Professional Home Offices.** Residences of doctors of medicine, practitioners, dentists, clergy, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other similar professions conducted within buildings by resident occupants which are incidental to the principal use of the premises.

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

(nn) **Side Yard.** A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal street.

(oo) **Signs.** Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.

(pp) **Street.** A street or highway not otherwise defined lying within a recorded subdivision with a right-of-way not less than fifty (50) feet wide providing primary access to abutting properties.

(qq) **Structure.** Any erection or construction such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.

(rr) **Structural Alterations/Structurally Alter.** Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.

(ss) **Utilities.** Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

(tt) **Variance.** An exception to the requirements of this Chapter not contrary to the public interest where, due to special conditions, strict application of this Chapter would result in a practical difficulty or unnecessary hardship not self-created by the property owner so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done.

(uu) **Village Board.** The Board of Trustees of the Village of Gays Mills, Crawford County, Wisconsin.

(vv) **Yard.** An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation, accessory structures, access drives/driveways, and other improvements as permitted by this ordinance. The front and rear yards extend the full width of the lot.

ARTICLE B

General Provisions

SEC. 13-1-9 JURISDICTION.

All lands which are located within the limits of the Village of Gays Mills are within the jurisdiction of this Chapter, except as provided otherwise in Chapter 2 and/or Chapter 3 of this Title 13.

SEC. 13-1-10 COMPLIANCE.

(a) **Prohibition.** No building, other structure, or land shall hereafter be used and no building or other structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without full compliance with the provisions of this Chapter and all other applicable local, county and State regulations, subject to the provisions of Article J concerning nonconforming uses and structures and of Section 62.23(7)(hm), *Wis. Stats.,* concerning repair or expansion of migrant labor camps, and Chapter 2 and Chapter 3 of this Title 13.

(b) **Village Duties.** The duty of the Village Plan Commission shall be to investigate all complaints, give notice of violations and to enforce the provisions of this Chapter. The Director of Public Works and Zoning Administrator may enter at any reasonable time onto any public or private land to make a zoning inspection.

SEC. 13-1-11 ZONING AND LAND USE PERMIT.

(a) **Application.** Applications for a zoning and land use permit shall be made in duplicate to the Village Clerk-Treasurer on forms furnished by the Village Clerk-Treasurer and shall include the following where applicable:

(1) Names and addresses of the applicant, owner of the site, architect, professional engineer or contractor;

(2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees and the zoning district within which the subject site lies;

(3) Plat plan, map, or survey showing the location, boundaries, dimensions, slope of terrain, uses and size of the following: subject site; existing and proposed buildings and other structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; and existing and proposed street, side and rear yards. The location, slope or terrain and use of any abutting lands and their structures within forty (40) feet of the subject site shall also be shown;

(4) Proposed sewage disposal plan if municipal sewerage service is not available. This plan shall be approved by an appropriate competent authority who shall certify in writing that satisfactory, adequate and safe sewage disposal is possible on the site as proposed by the plan in accordance

with applicable local, county and State health regulations. The applicable provisions of Chapter COMM 83 of the Wisconsin Administrative Code shall be complied with;

(5) Proposed water supply plan if municipal water service is not available. This plan shall be approved by an appropriate competent authority who shall certify in writing that an adequate and safe supply of water will be provided in accordance with applicable local, county and State health regulations;

(6) The number of families expected to be accommodated in the case of residential development;

(7) The existing and proposed use of each building or other structure and lot; and

(8) Additional information as may be required by the Village.

(b) **Procedure.** A zoning and land use permit shall be granted or denied in writing by the Zoning Administrator within sixty (60) days after Plan Commission review and approval of a project if such approval is required. The permit shall expire within nine (9) months after issuance of the permit unless substantial work has commenced. The Zoning Administrator may, for good cause shown, extend the zoning permit for an additional six (6) months. Any permit issued in conflict with the provisions of this Chapter shall be null and void.

SEC. 13-1-12 SITE RESTRICTIONS.

(a) **Suitability.** No land shall be used or building or other structure erected where the land is held unsuitable for such use or building or other structure by the Plan Commission by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Plan Commission, in applying the provisions of this Section, shall in writing cite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/she so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability. Plan Commission decisions may be appealed to the Board of Zoning Appeals.. A majority of the Board of Zoning Appeals is needed to overturn a Plan Commission decision.

(b) **Minimum Frontage.** All lots shall abut upon a public street and each fan-shaped lot shall have a minimum street frontage of sixty (60) feet.

(c) **Street Width.** No zoning permit shall be issued for a lot which abuts a public street that has not been dedicated to its required width.

(d) **Private Sewer and Water.** The suitability of a lot for private sewer and water in any district where a public water supply or public sewerage service is not available shall be determined in accordance with Chapter COMM 83 of the Wisconsin Administrative Code.

SEC. 13-1-13 USE RESTRICTIONS.

The following use restrictions and regulations shall apply:

(a) **Principal Uses.** Only those principal uses specified for a district, their essential services and the following uses in this Section shall be permitted in that district except as otherwise provided in this Chapter.

(b) **Accessory Uses.** Accessory uses and structures are permitted in any district except as otherwise provided for in this Chapter but not until their principal structure is present or under construction.
(c) **Conditional Uses.** Conditional uses and their accessory uses are considered as special exceptions requiring review and approval by the Plan Commission.
(d) **Temporary Uses.** Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Plan Commission.
(e) **Performance Standards.** The performance standards itemized in Article K of this Chapter shall be complied with by all uses in all districts.

SEC. 13-1-14 REDUCTION OR JOINT USE.

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

SEC. 13-1-15 FAMILY DAY CARE HOMES/COMMUNITY AND OTHER LIVING ARRANGEMENTS.

(a) **Family Day Care Homes.** Notwithstanding any provision to the contrary in this Chapter, a family day care home may be located in a zoned district in which a single family residence is a permitted use and no standards or requirements different from the licensing standards established under Section 48.65 of the Wisconsin Statutes shall apply to family day care homes. Nothing in this Section prevents the application to a family day care home of the zoning regulations applicable to other dwellings in the zoning district in which it is located.
(b) **Community and Other Living Arrangements.** Notwithstanding any provision to the contrary in this Chapter, the terms and provisions of Section 62.23(7)(i), *Wis. Stats.,* shall govern the community and other living arrangements specified therein.

State Law Reference: Sec. 66.1017, *Wis. Stats.*

SEC. 13-1-16 PROHIBITION, ENFORCEMENT, REMEDIES, AND PENALTIES.

(a) **Prohibition.** It shall be unlawful to erect, construct, reconstruct, or use any building, other structure, or land in violation of any of the provisions of this Chapter.
(b) **Enforcement and Remedies.** In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of this Chapter, the Village or any adjacent or neighboring property owner who would be specially damaged by such violation may, in addition to other remedies, institute appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the

occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(c) **Other Measures of Enforcement and Remedies.** Any building erected, constructed or reconstructed in violation of this Chapter is an unlawful structure, and the Village attorney or other official designated by the Village Board may bring action to enjoin such erection, construction or reconstruction, or cause such structure to be vacated or removed. In case any building or structure is or is proposed to be erected, constructed or reconstructed, or any land is or is proposed to be used in violation of this Chapter, the Village attorney or any adjacent or neighboring property owner who would be specially damaged by such violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent or enjoin or abate or remove such unlawful erection, construction or reconstruction.

(d) **Forfeiture.**

(1) Any person, firm, limited liability company, corporation, or other entity who fails to comply with the provisions of this Chapter shall upon conviction thereof, forfeit not less than Ten Dollars ($10.00) nor more than Five Hundred Dollars ($500.00) per violation plus any and all applicable costs, fees, surcharges, and assessments, for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding thirty (30) days.

(2) To ensure uniformity and equal treatment of all persons who violate any provision of this Chapter, the following Schedule of Deposits shall be the used to establish the deposit amount for forfeitures for violations of this Chapter.

SCHEDULE OF FORFEITURE DEPOSITS
(Add all court costs, fees, assessments and surcharges to amounts listed)

ZONING CODE

SECTION	FIRST OFFENSE	SECOND AND SUBSEQUENT OFFENSE WITHIN 12 MONTHS
Entire chapter	50.00	150.00

(e) **Continuing Violations.** Each and every day a violation exists or continues shall constitute a separate offense.

State Law Reference: Sec. 62.23(7)(f) and (8), *Wis. Stats.*

ARTICLE C

Zoning Districts

SEC. 13-1-17 ESTABLISHMENT OF DISTRICTS.

Eight (8) zoning districts are provided as follows:
(a) R-1: Single and Two Family Residential District;
(b) R-2: Multifamily Residential District;
(c) B: Business District;
(d) AG-1: Single-Family Agriculture District;
(e) AG-2: Traditional Agriculture District;
(f) C-1 and C-2: Conservancy Districts I and II; and
(g) I: Industrial District.

Boundaries of these districts are hereby established as shown on a map entitled "Gays Mills Zoning District Map" dated March 20, 2000 as amended from time to time. Such boundaries shall be construed to follow: corporate limits; U.S. Public Land Survey Lines; lot or property lines; centerlines of streets, highways, alleys, easements and railroad rights-of-way or such lines extended unless otherwise noted on the zoning map. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

SEC. 13-1-18 ZONING MAP.

A certified copy of the zoning map shall be adopted and approved with the text as part of this Chapter and shall bear upon its face the attestation of the President and Village Clerk-Treasurer and shall be available to the public in the office of the Village Clerk-Treasurer. Changes thereafter to the districts shall be entered and attested on the certified copy of the zoning map.

SEC. 13-1-19 RULES FOR INTERPRETATION OF ZONING BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:
(a) Boundaries indicated as approximately following the centerlines of streets, highways, alleys, or waterways shall be construed to follow such centerlines.
(b) Boundaries indicated as approximately following platted lot lines, section lines or governmental survey lines shall be construed as following such lines.
(c) Boundaries indicated as approximately following municipal boundaries shall be construed as following municipal boundaries.
(d) Boundaries indicated as following railroad right-of-way lines shall be construed as following railroad right-of-way lines.
(e) Boundaries indicated as parallel to, or extension of, features indicated in the preceding shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

SEC. 13-1-20 LIMITED NUMBER OF BUILDINGS.

There shall be not more than one (1) principal structure or dwelling and one (1) accessory structure, with the following exceptions:

(a) One (1) additional accessory structure may be included, but only if it is a private detached garage in an area zoned for residential development. Residential units with an attached garage cannot also have a detached garage.

(b) One (1) additional accessory structure may be granted by conditional use for each increment of 100% over the minimum lot size for a given use or district. For example, the minimum lot size for single family residential in the R-1 district is 7,000 square feet, so one additional accessory structure may be granted by conditional use for R-1 single family lots of 14,000 to 20,999 square feet, and two additional accessory structures may be granted by conditional use for R-1 single family lots of 21,000 to 27,999 square feet.

SEC. 13-1-21 ZONING REGULATIONS.

No person shall use land or a building or other structure or erect, construct, reconstruct, move or structurally alter a building, or other structure or part thereof, except in conformance with the terms and provisions of this Article C and other terms and provisions of this Chapter except as otherwise provided for in this Chapter and Chapter 2 and Chapter 3 of this Title 13. Only those uses identified and listed for each zoning district in this Article C are permitted uses in such zoning district except as otherwise provided for in this Chapter.

SEC. 13-1-22 HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES IN DWELLINGS.

(a) **When Permitted.** Home occupations and professional home offices are permitted within a single dwelling unit only to the person or persons maintaining a dwelling therein provided that no more than two nonresident persons shall be employed in the home occupation.

(b) **Sign.** One (1) sign advertising a home occupation or professional home office having an area of not more than six (6) square feet shall be permitted.

SEC. 13-1-23 R-1: SINGLE AND TWO FAMILY RESIDENTIAL DISTRICT.

(a) **Purpose.** The single-family residential district is intended to provide a pleasant and quiet living environment that is protected from congestion and incompatible land uses.

(b) **Permitted Uses.** The following types of uses are permitted, unless otherwise described in part (d) or (e) of this section:
   (1) Detached single family homes.
   (2) Duplexes.
   (3) Home occupations and professional home offices.
   (4) Parks and playgrounds.
   (5) Family day care homes, as defined in and pursuant to Section 66.1017 of the Wisconsin Statutes.

(6) Community and other living arrangements as required by and pursuant to Section 62.23(7)(i) of the Wisconsin Statutes, including group homes, subject to the special zoning permission provisions of such statute.
(7) Essential services.

(c) **Accessory Structures Permitted.**
(1) One (1) private detached garage per dwelling unit of up to six hundred (600) square feet.
(2) One (1) accessory structure not to exceed one hundred forty-four (144) square feet in ground or lot coverage.

(d) **Conditional Uses.**
(1) Churches and other places of worship.
(2) Schools.
(3) Utility Buildings.
(4) Clinics.
(5) Kennels pursuant to Section 7-1-3 of this Code of Ordinances.
(6) Bed and breakfast inns.
(7) Municipal and government buildings.
(8) Accessory structures when they exceed one hundred forty-four (144) square feet.
(9) Detached garages that exceed six hundred (600) square feet.
(10) Structures built on slopes greater than twelve percent (12%).
(11) Additional accessory structures above requirements in subsection (c) above, provided that they comply with Section 13-1-20.

(e) **Prohibited Uses.** All uses not specifically permitted are prohibited.

(f) **Development Design Standards.**
(1) Minimum Lot Area. The minimum lot area required is as follows: Six thousand (6,000) square feet for a single family dwelling on lots platted and of legal record in the County Register of Deeds prior to 1970; otherwise seven thousand (7,000) square feet for a single family dwelling platted after January 1, 1970. Ten thousand (10,000) square feet for a two family dwelling.
(2) Yard Set Backs. Yard set backs shall be as follows:
a. Front, Minimum: Ten (10) feet from the front lot line. To preserve the built character of existing neighborhoods, for cases where there are homes built prior to December 1, 2009 adjoining a lot that lacks a principal structure, the minimum front set back for the lot shall be set at the average of the front setbacks of the adjoining properties or seventeen (17) feet, whichever is less. In no case shall a front setback be less than ten (10) feet.
b. Rear, Minimum: Twenty-five (25) feet for principal structures, five (5) feet for accessory structures.
c. Side, Minimum: Eight (8) feet for single and two family dwelling units;
Five (5) feet for accessory structures and driveways.
(3) Minimum Yard Width. Minimum yard width shall be as follows: fifty (50) feet for single family dwellings on lots platted and of legal record in the County Register of Deeds prior to 1970.Sixty (60) feet for single family dwellings on lots platted after January 1, 1970. Eighty (80) feet for two family dwellings.
(4) Maximum Building Height. The maximum building height shall be thirty-five (35) feet for principal structures.
(5) Maximum Lot Coverage. Not more than fifty percent (50%) of the lot may be covered by buildings, pavement/pavers, or impermeable surfaces. .
(6) Percent Slope. No structures shall be permitted on slopes twelve percent (12%) or greater except as a conditional use.

(7) Modifications. The requirements in this Subsection (f) may be modified in accordance with Article G of this Chapter.
(8) Parking and Loading Requirements. Parking and loading requirements are as specified in Section 13-1-48 and 13-1-49 of this Chapter.

SEC. 13-1-24 R-2: MULTIFAMILY RESIDENTIAL DISTRICT

(a) **Purpose.** The multi-family residential district is intended to provide a pleasant and quiet living environment that is protected from congestion and incompatible land uses.
(b) **Permitted Uses.** The following types of uses are permitted, unless otherwise described in part (d) or (e) of this section:
(1) Attached single family homes, such as townhomes.
(2) Multifamily dwellings with more than two (2) and less than eleven (11) units.
(3) Home occupations and professional home offices.
(4) Parks and playgrounds.
(5) Family day care homes, as defined in and pursuant to Section 66.1017 of the Wisconsin Statutes.
(6) Community and other living arrangements as required by and pursuant to Section 62.23(7)(i) of the Wisconsin Statutes, including group homes, subject to the special zoning permission provisions of such statute.
(7) Essential services.
(c) **Accessory Structures Permitted.**
(1) One (1) detached private garage per dwelling unit of up to six hundred (600) square feet.
(2) One (1) accessory structure per lot not to exceed one hundred forty-four (144) square feet in ground or lot coverage.
(d) **Conditional Uses.**
(1) Churches and other places of worship.
(2) Schools.
(3) Clinics.
(4) Bed and breakfast inns.
(5) Municipal and government buildings.
(6) Accessory structures when they exceed one hundred forty-four (144) square feet.
(7) Detached garages that exceed six hundred (600) square feet.
(8) Structures built on slopes greater than twelve percent (12%).
(9) Utility buildings.
(10) Assisted living facilities, nursing homes, and rest homes.
(11) Mobile homes and mobile home parks. All mobile home parks shall comply with Article N in addition to other requirements imposed by Village ordinance.
(12) Additional accessory structures above requirements in subsection (c) above, provided that they comply with Section 13-1-20.
(e) **Prohibited Uses.** All uses not specifically permitted are prohibited.
(f) **Development Design Standards.**
(1) Minimum Lot Area: Ten thousand (10,000) square feet. Each lot shall have a minimum of one thousand (1,000) square feet per bedroom. Units that have no bedrooms (efficiencies) shall count as having one bedroom.
(2) Yard Set Backs. Yard setbacks shall be as follows:
a. Front, Minimum: Seven and one-half (7.5) feet from the front lot line.

b. Rear, Minimum: Fifteen (15) feet for principal structures, five (5) feet for accessory structures and pavement, unless pavement is part of a shared drive with an adjoining parcel.

c. Side, Minimum: Ten (10) feet for principal structures;
Five (5) feet for accessory structures and driveways.

(3) Minimum Yard Width. Minimum yard width shall be as follows: eighty (80) feet.

(4) Maximum Building Height. The maximum building height shall be thirty-five (35) feet for principal structures.

(5) Maximum Lot Coverage. Not more than seventy percent (70%) of the lot may be covered by buildings, pavement/pavers, or impermeable surfaces.

(6) Percent Slope. No structures shall be permitted on slopes twelve percent (12%) or greater except as a conditional use.

(7) Modifications. The requirements in this Subsection (f) may be modified in accordance with Article G of this Chapter.

(8) Parking and Loading Requirements. Parking and loading requirements are as specified in Section 13-1-48 and 13-1-49 of this Chapter.

(9) Design Review. All development in this district is subject to Plan Commission Design Review, as described in Article H of this Chapter.

SEC. 13-1-25 B: BUSINESS DISTRICT.

(a) **Purpose.** The business district is intended to provide an area for the business, financial, professional and commercial needs of the community.

(b) **Permitted Uses.** The following types of uses are permitted, unless otherwise described in part (d) or (e) of this section:
(1) Retail sales.
(2) Restaurants and bars.
(3) Business and professional offices.
(4) Business and personal services.
(5) Educational services.
(6) Recreational facilities, provided all activities are enclosed within buildings.
(7) Outdoor display of items, provided that items are not kept outdoors overnight.
(8) Up to ten (10) dwelling units above the first floor. For the purposes of this permitted use, the first floor shall be established along the lot line where building height is measured from.
(9) Farmers' Markets
(10) Domestic animal veterinary clinics.
(11) Essential services.
(12) Post offices and postal services, excluding postal distribution centers.

(c) **Accessory Structures Permitted.** One accessory structure not to exceed one hundred forty-four (144) square feet in ground or lot coverage.

(d) **Conditional Uses.**
(1) Churches and other places of worship.
(2) Schools.
(3) Overnight outdoor display/storage of retail goods.
(4) Municipal, government, and cultural buildings or uses.
(5) Accessory structures when they exceed one hundred forty-four (144) square feet.
(6) Hospitals.

(7) Gas stations and convenience stores with gasoline sales.
(8) Auto repair.
(9) Hotels, motels, and extended stay facilities.
(10) Establishments with drive-through facilities.
(11) Structures built on slopes greater than twenty percent (12%).
(12) Utility buildings.
(13) Any building with over 20,000 gross square feet of non-residential uses.
(14) Additional accessory structures above requirements in subsection (c) above, provided that they comply with Section 13-1-20.
(15) Postal distribution centers.
(16) Food processing and slaughterhouses.
(17) Greenhouses.
(18) Overnight outdoor storage/display areas.
(19) Public and private campgrounds.

(e) **Prohibited Uses.** All uses not specifically permitted are prohibited.

(f) **Development Design Standards.**

(1) Minimum Lot Area. Three thousand (3,000) square feet.
(2) Minimum Lot Width. The minimum lot width shall be twenty-five (25) feet for fire proof construction; forty-five (45) feet for non-fire proof construction.
(3) Minimum Yard Set Back. Minimum yard set backs shall be as follows:
a. Front: Zero (0) feet.
To preserve the built character of existing business areas, for cases where there are structures built prior to December 1, 2009 adjoining a lot that lacks a principal structure, the minimum front set back for the lot shall be set at the average of the front setbacks of the adjoining properties. For structures built after December 1, 2009, Section 13-1-65(d) shall also be consulted in determining setbacks in addition to this Section.
b. Rear: Fifteen (15) feet. The Plan Commission may allow a building with double frontage
to have a lesser rear setback, provided that the building is designed to address all frontage on right-of-way as the front of the building, with design features that are typical to a building front, such as windows, doors, and quality façade materials.
c. Side:
No restriction when adjacent to other businesses and when construction is fire proof.
Ten (10) feet when adjacent a residential area or to other businesses when construction is not fire proof.
(4) Maximum Building Height. The maximum building height shall be thirty-five (35) feet.
(5) Minimum Lot Depth. The minimum lot depth shall be one hundred (100) feet.
(6) Parking and Loading Requirements. Parking and loading requirements are as specified in Sections 13-1-48, and 13-1-49 of this Chapter.
(7) Percent Slope. No alteration of natural terrain shall be permitted on slopes twenty percent (20%) or greater except as a conditional use.
(8) Modifications. The requirements in this Subsection (f) may be modified in accordance with Article G of this Chapter.
(9) Design Review. All development in this district is subject to Plan Commission Design Review, as described in Article H of this Chapter.

SEC. 13-1-26 AG-1: SINGLE FAMILY AGRICULTURE DISTRICT.

(a) **Purpose.** This district is intended to provide for small-scale farming in association with an on-site single-family residence. Parcels zoned to the AG-1 district should be part of a comprehensive development compatible with surrounding uses.

(b) **Permitted Uses.** The following types of uses are permitted, unless otherwise described in part (d) or (e) of this section:

(1) Small-scale farming operations to serve on-site residents and/or to produce food to be sold directly from the grower to the consumer, such as at a farmer's market.

(2) Animal husbandry to serve on-site residents and/or to produce food to be sold directly from the grower to the consumer, such as at a farmer's market. The total amount of animals on site shall not exceed 100 points for the minimum lot size, as outlined in the chart below. An additional 50 points are allowed per additional acre of lot area above the minimum lot size. Fractions of an acre shall not count towards the allowed point total.

Type of animal	Points per animal
Cows, Cattle, Calves, Horses	45
Pigs, Boars	20
Sheep, Goats, Ostriches, Alpacas	10
Turkeys, Geese	3
Chickens, Ducks, other small fowl	1
Not permitted: Roosters.	

(3) Single-family residences.

(4) Essential services.

(c) **Accessory Structures Permitted.**

(1) One (1) private detached garage of up to nine hundred (900) square feet.

(2) One accessory structure not to exceed four hundred (400) square feet.

(d) **Conditional Uses.**

(1) Structures built on slopes greater than twelve percent (12%).

(2) Transmitting and receiving towers.

(3) Utility buildings.

(4) Farm stands for agricultural products produced on site.

(5) Accessory structures in excess of four hundred (400) square feet.

(6) Additional accessory structures above requirements in subsection (c) above, provided that they comply with Section 13-1-20.

(e) **Prohibited Uses.** All uses not specifically permitted are prohibited.

(f) **Development Design Standards.**

(1) Minimum Lot Area. Two (2) acres.

(2) Maximum Lot Area. Eight (8) acres.

(3) Minimum Lot Width. One hundred fifty (150) feet.

(4) Minimum Yard Setbacks. The minimum yard set backs for residences, barns and accessory structures shall be:

a. Front: Thirty (30) feet.

b. Rear: Thirty-five (35) feet. Regardless of Section 13-1-52, seventy (70) feet for accessory structures if adjoining a residential or business district.

c. Side: Twenty (20) feet for residences. Regardless of Section 13-1-52, forty (40) feet for accessory structures and eighty (80) feet for accessory structures adjacent to a residential or business district.

(5) Maximum Building Height. Thirty-five (35) feet.
(6) Minimum Lot Depth. Two hundred (200) feet.
(7) Percent Slope. No alteration for building development purposes shall be permitted on slopes twelve percent (12%) or greater except as a conditional use.
(8) Modifications. The requirements in this Subsection (f) may be modified in accordance with Article G of this Chapter.
(9) All conditional uses in this district are subject to Plan Commission Design Review, as described in Article H of this Chapter.

SEC. 13-1-27 AG-2: TRADITIONAL AGRICULTURE DISTRICT.

(a) **Purpose.**
The agricultural district is intended to provide an area for general farming and related uses in those areas of the Village that have not been committed to urban development. An agricultural development is a development involving the construction or expansion of an agricultural related structure, home, or building that facilitates crop production, or the raising of livestock, or where pasture land, fields, and woodlands are located or maintained.

(b) **Permitted Uses.** The following types of uses are permitted, unless otherwise described in part (d) or (e) of this section:
(1) General farming, including agriculture, dairying, floriculture, forestry, grazing, hay, orchards, truck farming, and grape growing.
(2) Keeping and raising of domestic stock for agribusiness, show breeding, or other purposes incidental to the principal use of the premises and for the use of the occupants of the premises.
(3) Family day care homes, as defined in and pursuant to Section 66.1017 of the Wisconsin Statutes.
(4) Farm stands for agricultural products produced on-site.
(5) Essential services.

(c) **Accessory Structures Permitted.**
(1) Attached or detached private garages and carports accessory to permitted uses.
(2) General farm buildings, including barns, silos, sheds, and storage bins.
(3) One (1) farm dwelling.

(d) **Conditional Uses.**
(1) Churches and other places of worship.
(2) Schools.
(3) Structures built on slopes greater than twenty percent (12%).
(4) Housing for farm laborers and seasonal or migratory workers, subject to any applicable restrictions under Section 62.23(7)(hm) of the Wisconsin Statutes.
(5) Transmitting and receiving towers.
(6) Utility buildings.
(7) Veterinary establishments.
(8) Farmers' markets which sell goods that are not produced on-site.

(e) **Prohibited Uses.** All uses not specifically permitted are prohibited.

(f) **Development Design Standards.**

(1) Minimum Lot Areas. All the requirements of Chapter COMM 83 of the Wisconsin Administrative Code, whether regarding the minimum lot size to establish residence(s) on a farm or otherwise, shall be complied with. A minimum of five (5) acres of land used exclusively for agricultural production, field, pasture or woodland purposes is required in order for a development to be considered agricultural in nature and subject to the agricultural design standards as specified in this Subsection (f).

(2) Minimum Lot Width. The minimum lot width shall be one hundred fifty (150) feet.

(3) Minimum Yard Set Backs. The minimum yard set backs for residences, barns and accessory structures shall be:

a. Front: Thirty-five (35) feet from street or road right-of-way.

b. Rear: Thirty-five (35) feet.

c. Side: Twenty (20) feet for residences. Regardless of Section 13-1-52, two hundred (200) feet for barns and accessory structures if side lot line is within two hundred (200) feet of an adjacent residence, business or industry. Twenty (20) feet for barns and accessory structures if no residences are within two hundred (200) feet of the side lot line.

(4) Maximum Building Height. The maximum building height shall be thirty-five (35) feet for residences.

(5) Minimum Lot Depth. The minimum lot depth shall be two hundred (200) feet.

(6) Percent Slope. No alteration for building development purposes shall be permitted on slopes twelve percent (12%) or greater except as a conditional use.

(7) Modifications. The requirements in this Subsection (f) may be modified in accordance with Article G of this Chapter.

(8) All conditional uses in this district are subject to Plan Commission Design Review, as described in Article H of this Chapter.

SEC. 13-1-28 C-1 & C-2: CONSERVANCY DISTRICTS I AND II.

(a) **Purpose.**
The conservancy districts are intended to preserve, protect, and maintain the natural environment and character of areas exhibiting significant natural resource features which contribute to the productive, recreational, and/or aesthetic value of the community. The principal difference between the two districts is that District II is more restrictive in nature than District I.

(b) **District I Permitted Uses.** The following types of uses are permitted, unless otherwise described in part (c) or (f) of this section:

(1) Farming and related agricultural uses when conducted in accordance with conservation standards.
(2) Forest and game management.
(3) Hunting, fishing and hiking.
(4) Parks and recreation areas; arboreta; botanical gardens; greenways.
(5) Stables.
(6) Essential services.
(7) Harvesting of wild crops.
(8) Recreation related structures not requiring basements.
(9) Permanent tree stands and hunting towers.

(c) **District I Conditional Uses.**

(1) Animal hospitals, clinics, shelters and kennels.
(2) Archery and firearm ranges and sports fields

(3) Land restoration, flowage, ponds.
(4) Ski hills and trails.
(5) Recreation camps.
(6) Public and private campgrounds.
(7) Riding stables.
(8) Sewage disposal plants.
(9) Municipal, government, and cultural buildings or uses.
(10) Utilities buildings.
(11) Hunting and fishing clubs.
(12) Non-residential buildings used solely in conjunction with the raising of water, fowl or fish.
(13) Cemeteries.

(d) **District II Permitted Uses.** The following types of uses are permitted, unless otherwise described in part (e) or (f) of this section:
(1) Parks and recreation areas; arboreta; botanical gardens; greenways.
(2) Essential services.
(3) Recreation related structures not requiring basements.

(e) **District II Conditional Uses.**
(1) Farming and related agricultural uses when conducted in accordance with conservation standards.
(2) Forest and game management.
(3) Fishing and hiking.
(4) Cemeteries
(5) Non-residential buildings used solely in conjunction with the raising of water, fowl or fish.
(6) Harvesting of wild crops.
(7) Animal hospitals, clinics, shelters and kennels.
(8) Archery and firearm ranges and sports fields.
(9) Land restoration, flowage, ponds.
(10) Ski hills and trails.
(11) Recreation camps.
(12) Public and private campgrounds.
(13) Hunting and fishing clubs.
(14) Sewage disposal plants.
(15) Governmental, cultural and public buildings or uses.
(16) Utilities buildings.

(f) **Prohibited Uses in Both Districts.** All uses not specifically permitted in either district are prohibited.

(g) **Development Design Standards in Both Districts.**
(1) Definition. A conservancy development is a development involving the conservation and protection of scenic, historic, cultural, and natural features. Soil and water conservation efforts and historic building and archeological preservation are examples of a conservancy development.
(2) Minimum Lot Area. The minimum lot area will be established as part of a conditional use permit.
(3) Minimum Lot Width. The minimum lot width will be established as part of a conditional use permit.
(4) Minimum Yard Setbacks. The minimum yard set back will be established as part of a conditional use permit.
(5) Maximum Building Height. The maximum building height will be established as part of a conditional use permit.
(6) Minimum Lot Depth. The minimum lot depth will be established as part of a conditional use permit.

(7) Design Review. All conditional uses in this district are subject to Plan Commission Design Review, as described in Article H of this Chapter.

SEC. 13-1-29 I: INDUSTRIAL DISTRICT.

(a) **Purpose.** The industrial district is intended to provide an area for manufacturing where raw materials are processed or assembled into finished products or partially finished products. This district is further intended to provide an area for industrial uses or similar uses that create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions; on which for these or other reasons the Plan Commission and Village Board may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distances, in order to reduce, eliminate, or shield the public from such conditions.

(b) **Permitted Uses.**
(1) Light manufacturing.
(2) Food processing and slaughterhouses.
(3) Warehousing and distribution operations, not including predominantly retail sales to customers on site.
(4) Wholesaling to retail buyers.
(5) Postal services, post offices, and postal distribution centers.
(6) Printing, publishing, duplicating, bookbinding.
(7) Construction/contracting firms.
(8) Public works facilities.
(9) Lumber and building material yards that sell to wholesalers or contractors.
(10) Laboratories and research and development facilities.
(11) Telecommunications and utility facilities.
(12) Call centers.
(13) Breweries of less than twenty-five thousand (25,000) square feet gross floor area.
(14) Greenhouses.
(15) Offices ancillary to above uses.

(c) **Accessory Uses.** Essential Services.

(d) **Conditional Uses.** The following uses shall be subject to the consideration of the Plan Commission with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors.
(1) Heavy manufacturing.
(2) Gas stations and convenience stores with gasoline sales.
(3) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening.
(4) Retail sales to the general public of goods associated with a permitted or conditional use.
(5) A dwelling unit provided for a caretaker or superintendent, in the case of an industrial use which requires constant supervision.
(6) Waste material storage, processing, treatment, or disposal as a principal use.
(7) Animal kennels, animal hospitals, and animal crematories.
(8) Government facilities, except those expressly permitted above.
(9) Auto body uses.
(10) Mini-warehouses and self-storage.
(11) Wireless communications and towers.

(12) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
(13) Recreational uses, including indoor and outdoor: active and passive recreation, swimming pools, tennis and racquetball, exercise and fitness facilities, golf, soccer, baseball/softball, and similar uses and facilities.
(14) Breweries of more than twenty-five thousand (25,000) square feet gross floor area.
(15) Quarries and mining operations.

(e) **Development District Design Standards.**
(1) Minimum Lot Area. The minimum lot area shall be ten thousand (10,000) square feet
(2) Minimum Yard Set Backs. Minimum yard set backs shall be as follows:
a. Front: Thirty-five 35 feet from street right-of-way.
b. Rear: Thirty (30) feet.
c. Side: Twenty (20) feet.
(3) Minimum Lot Width. Minimum lot width shall be one hundred (100) feet.
(4) Maximum Building Height. The maximum building height shall be thirty-five (35) feet.
(5) Percent Slope. No building shall be permitted on slopes twenty percent (20%) or greater except as a conditional use.
(6) Modifications. The requirements of this Subsection (e) may be modified in accordance with Article G of this Chapter.
(7) Parking and Loading Requirements. Parking and loading requirements are as specified in Sections 13-1-48 and 13-1-49.
(8) Design Review. All development in this district is subject to Plan Commission Design Review, as described in Article H of this Chapter.

SEC. 13-1-30: WELLHEAD PROTECTION OVERLAY DISTRICT

(a) **Title; Purpose; Authority.**
(1) ***Title.*** This Ordinance shall be known, cited and referred to as the "Wellhead Protection Ordinance".
(2) ***Purpose***. The residents of the Village of Gays Mills depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Ordinance is to establish a wellhead protection overlay district to institute land use regulations and restrictions within a defined area which contributes water directly to the municipal water supply providing protection for the aquifer and municipal water supply of the Village of Gays Mills and promoting the public health, safety and general welfare of Village residents.
(3) ***Authority***. Statutory authority of the Village to enact these regulations was established by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection, in §59.97(1) {which has since been renumbered as §59.69(1)} and §62.23(7)(c), Wis. Stats., to the statutory authorization for county and municipal planning and zoning to protect the public health, safety and welfare. In addition, §61.35, Wis. Stats., the Village has the authority to enact this ordinance, effective in the incorporated areas of the Village, to encourage the protection of groundwater resources.

(b) **Application**. The regulations specified in this Wellhead Protection Ordinance shall apply within the area surrounding the municipal water supply well that has been designated as a "Wellhead Protection Area" by the Village in the most recent & up to date wellhead protection plan and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this chapter and the zoning ordinance, the more restrictive provision shall apply.

(c) **Definitions.**

(1) Aquifer. "Aquifer" means a saturated, permeable geologic formation that contains and can yield useable quantities of water.

(2) Existing Facility. "Existing Facility" means current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the village's wellhead protection area that lies within the corporate limits of the village. Existing facilities include but are not limited to the type listed in the DWI Department of Natural Resources' form 3300-215, Public Water Supply Potential Contaminant Use Inventory Form which is incorporated herein by reference as if fully set forth.

(3) Hazardous chemical. "Hazardous Chemicals" are Compounds identified as such by OSHA under 29 CFR 1910.1200(c) and by OSHA under 40 CFR Part 370.

(4) Recharge Area. "Recharge Area" means the land area which contributes water to a well by infiltration of water into the aquifer and movement with groundwater toward the well.

(5) Wellhead protection area. "Wellhead Protection Area" are derived from hydrologic studies and are based on the area surrounding a well where groundwater takes 5-years or less to travel from the land surface to the pumping well and identified as such in the village wellhead protection plan which is incorporated herein by reference as if fully set forth. The wellhead protection area may be normalized to natural and political boundary lines.

(d) **Wellhead Protection Overlay District**. The location and boundaries of the zoning districts established by this chapter are set forth in the Village of Gays Mills's most recent and up to date wellhead protection plan on the map titled "Wellhead Protection Area" [on file in the Village of Gays Mills office] incorporated herein and hereby made a part of this ordinance. Said figures, together with everything shown thereon and all amendments thereto, shall be as much a part of this chapter as though fully set forth and described herein. This ordinance and thus promotes public health, safety, and welfare. The Wellhead protection overlay district is intended to protect the groundwater recharge area for the water supply from contamination.

(1) *Note*: Wellhead protection areas are derived from hydrologic studies and are based on the area surrounding a well where groundwater takes 5-years or less to travel from the land surface to the pumping well

(e) **Permitted Uses**. The following uses are permitted in the Wellhead protection overlay district subject to the separation distances in Section (h) **Separation Distances**.

(1) Parks, playgrounds or wildlife areas, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.

(2) Non-motorized trails, such as bike, skiing, nature and fitness trails.

(3) Residential, commercial and industrial establishments that are municipally sewered and whose use, *Aggregate of Hazardous Chemicals* in use, storage, handling and/or production may not exceed 20 gallons or 160 pounds at any time, with the exception for those uses listed as "conditional" or "prohibited" in Sections 4 or 5 (Hazardous chemicals are identified by OSHA under 29 CFR 1910.1200(c) and by OSHA under 40 CFR Part 370.).

(4) Routine tillage, planting, and field management operations in support of agricultural crop production, where nutrients from legume, manure, and commercial sources are accounted for and credited toward crop nutrient need. The combination of all nutrient sources applied or available on individual fields may not exceed University of Wisconsin soil test recommendations for that field.

(f) **Conditional Uses.** The following uses may be conditionally permitted in the Wellhead protection overlay district in accordance with Title 13, Chapter 1 Article D Conditional Uses and subject to the separation distances in Section (h) **Separation Distances**.

(1) Hydrocarbon, petroleum or hazardous chemical storage tanks.

(2) Motor vehicle services, including filling and service stations, repair, renovation and body work.

(3) Residential, commercial and industrial establishments that are municipally sewered and whose use, *Aggregate of Hazardous Chemicals* in use, storage, handling and/or production exceeds 20 gallons or 160 pounds at any time.

(4) Stormwater infiltration basins

(5) Geothermal wells, systems or heat exchange drilling, along with any associated piping and/or ground loop component installations.

(g) **Prohibited Uses**. The following uses are prohibited in the Wellhead protection overlay district.

(1) Animal waste storage areas and facilities.

(2) Application of fertilizer to manicured lawns or grasses in excess of the nutrient requirements of the grass.

(3) Asphalt product manufacturing plants.

(4) Dry cleaning establishments.

(5) Fertilizer manufacturing or storage facilities.

(6) Foundries and forge plants.

(7) Hazardous chemical processing or manufacturing facilities.

(8) Industrial liquid waste storage areas.

(9) Landfills or other areas for dumping, disposal or transferring of garbage, refuse, recycling, trash, or demolition material, including auto salvage operations.

(10) Metal reduction or refinement facilities.

(11) Mining operations, including metallic, gravel pits, industrial or frac-sand mining.

(12) Motor freight terminals.

(13) Petroleum or hazardous chemical storage greater than 110 gallons in any single wall petroleum storage tank (double wall storage tanks installations shall meet the requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110.

(14) Road salt or de-icing materials storage areas.

(h) **Separation Distances**. The following separation distances as specified in s. NR 811.12(5)(d), Wis. Adm. Code, shall be maintained within the Wellhead protection overlay district.

(1) Ten feet between a well and an emergency or standby power system that is operated by the same facility which operates the well and that has a double wall above ground storage tank with continuous electronic interstitial leakage monitoring. These facilities shall meet the installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110.

(2) Fifty feet between a well and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints. Gravity sanitary sewers shall be successfully air pressure tested in place. The air pressure test shall meet or exceed the requirements of the 4 psi low pressure air test for plastic gravity sewer lines found in the latest edition of Standard Specifications for Sewer & Water Construction in Wisconsin. Force mains shall be successfully pressure tested with water to meet the AWWA C600 pressure and leakage testing requirements for one hour at 125% of the pump shut-off head.

(3) Two hundred feet between a well field and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or two family residential heating fuel oil underground storage tank or above ground storage tank or private onsite wastewater treatment system (POWTS) treatment tank or holding tank component and associated piping.

(4) Three hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(5) Three hundred feet between a well field and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of s. ATCP 93.260, Wis. Admin. Code, and receive written approval from the department of commerce or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(6) Four hundred feet between a well field and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.

(7) Six hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(8) One thousand feet between a well field and land application of municipal, commercial, or industrial waste; the boundaries of a land spreading facility for spreading of petroleum-contaminated soil regulated under state administrative regulations while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.

(9) Twelve hundred feet between a well field and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; any property with residual groundwater contamination that exceeds ch. NR 140 enforcement standards; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank that has or has not received written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code, for a single wall tank installation. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances; and bulk pesticide or fertilizer handling or storage facilities.

(i) **Existing Non-Conforming Uses**. *N*onconforming uses, structures or land existing at the time of the adoption or amendment of this ordinance may be continued although the use does not conform with the provisions of this ordinance in accordance with Title 13, Chapter 1 Article J, Nonconforming Uses Structures and Lots. However, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this ordinance.

SECTION 2. CONFLICT AND SEVERABILITY. If any section, subsection, sentence, clause, paragraph or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or other applicable administrative or governing body, such decision shall not affect the validity of any other section, subsection, sentence, clause, paragraph or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, paragraphs, or phrases may be declared invalid or unconstitutional.

ARTICLE D

Conditional Uses

SEC. 13-1-31 APPROPRIATE AUTHORITY.

The Village Plan Commission shall hear applications for conditional use permits. Subsequent to holding a public hearing on a proposed conditional use, the Plan Commission shall forward its recommendation concerning the permit to the Village Board, which shall either approve or deny the permit.

State Law Reference**:** Sec. 62.23(7)(e)7., *Wis. Stats.*

SEC. 13-1-32 APPLICATION.

Application for conditional use permits shall be submitted to the Village Clerk-Treasurer or Zoning Administrator on forms provided and shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, and the existing and proposed use of each structure and lot. Village staff and the Plan Commission may request additional information if the information is needed to judge against the standards for granting a conditional use included in this Article. The cost of conditional use permits shall be established by the Village Board.

SEC. 13-1-33 PROCEDURE.

(a) **Public Hearing.** When the Village Zoning Administrator has received a complete application with application fee, the information shall be forwarded to the Plan Commission. The Plan Commission shall establish a date for a public hearing before the Commission on all Conditional Use proposals. A Class 1 Notice shall be given prior to such hearing. At least ten (10) days prior to the hearing, written notice shall be given to the Clerk of any municipality whose boundaries are within one thousand (1,000) feet of any lands affected by a proposed change in use under this article. Failure to give such notice to nearby municipalities shall not invalidate the hearing or the use, if adopted. The public hearing shall be conducted by the Plan Commission in accord with the notice, unless recessed and rescheduled in accord with state law.

(b) **Notice to Property Owners.** At least ten (10) days prior to the public hearing, written notice shall be given by first-class mail to owners of record of all lots or parcels within the protest petition area under Wis. Stat. 62.23(7).

(c) **Review.** In all cases of proposed establishment of a conditional use specified in this Chapter, the Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and other aspects of the proposed use against the standards outlined in this article. Conditional uses that propose new structures are subject to Design Review under Article H.

(d) **Plan Commission Action.** Subsequent to holding a public hearing, the Plan Commission shall recommend approval, approval with conditions, or denial of the conditional use permit to the Village Board. The decision of the Plan Commission, including any and all conditions placed upon the permit,

(e) shall be recorded in the minutes, which shall be distributed to the applicant and forwarded to the Village Board.

(f) **Village Board Action.** Within thirty days of the Plan Commission public hearing, the Village Board shall review the Plan Commission minutes, conditional use permit application, and any ancillary materials, and either approve the permit, approve it with the Plan Commission's recommended conditions, or deny the permit. At the Board's discretion, conditions may be recorded in legal documentation filed in relation to the property at the County Register of Deeds.

(g) **Zoning Administrator Action.** The Zoning Administrator shall issue a permit within five (5) business days after Village Board approval or approval with conditions.

SEC. 13-1-34 STANDARDS.

No permit for a conditional use shall be granted unless the Village Plan Commission finds that the following conditions are present:

(a) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(b) That the users, values and enjoyment of other property in the neighborhood used for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

(c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(d) That adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided.

(e) That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion and traffic hazards in the public streets.

(f) Mobile home parks shall comply with Article N of this Chapter, in addition to requirements imposed as part of the conditional use process.

SEC. 13-1-35 CONDITIONS AND GUARANTEES.

Prior to granting a permit for a conditional use, the Village Plan Commission may stipulate such conditions and restrictions upon the establishment, maintenance and operation of the conditional use as it may find necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards specified in Section 13-1-34 above. Establishment, maintenance and operation shall be construed to include, but shall not be limited to, such factors as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restrictions, access restrictions, yard and parking requirements insofar as the Village Plan Commission shall find that conditions applying to these factors are necessary or desirable to fulfill the purpose and intent of this Chapter. In all cases in which a permit for conditional use is granted, the Village Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. At the Board's discretion, conditions may be recorded in legal documentation filed in relation to the property at the County Register of Deeds. All conditions, whether recorded at the Register of Deeds or not, shall be fully binding upon the property as if they were specific terms of this Ordinance.

SEC. 13-1-36 COMPLIANCE WITH OTHER PROVISIONS.

Conditional uses shall comply with all other provisions of this Chapter such as lot width and area, yards, height, parking and loading.

SEC. 13-1-37 RESUBMITTING APPLICATION AFTER DENIAL.

No application for a conditional use which has been denied wholly or in part by the Village Plan Commission shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds that substantial new evidence or proof of change to compliance with the applicable conditions is included in the resubmitted application.

SEC. 13-1-38: RESERVED FOR FUTURE USE.

ARTICLE E

Variances

SEC. 13-1-39 APPROPRIATE AUTHORITY.

The Zoning Board of Appeals shall hear applications for variances. Subsequent to holding a public hearing on a proposed conditional use, the Board of Appeals shall forward its recommendation concerning the permit to the Village Board, which shall either approve or deny the permit.

SEC. 13-1-40 APPLICATION.

Application for variances shall be submitted to the Village Clerk-Treasurer or Zoning Administrator by the owner of the premises to be affected. The application shall contain the following information:

(a) Names and addresses of the applicant and all abutting and opposite property owners.
(b) A statement that the applicant is the owner of the property.
(c) Address and legal description of the property.
(d) A site plan to scale showing an accurate depiction of the property and all structures on the property.
(e) A statement of facts showing the following:
    (1) That the variance will not be contrary to the public interest;
    (2) That owing to special conditions a literal enforcement of this Chapter will result in practical difficulty and unnecessary hardship not self-created by the property owner such that no lawful and feasible use of the property can be made in the absence of a variance; and
    (3) That granting the variance will promote the public safety and welfare and substantial justice and will be in accordance with the spirit of this Chapter.
(f) Additional information required by the Zoning Board of Appeals.
(g) A fee in an amount determined by the Village Board.

Village staff and the Zoning Board of Appeals may request additional information if the information is needed to judge against the standards for granting a variance included in this Article.

SEC. 13-1-41 PROCEDURE.

Due to the flood-prone nature of some portions of Gays Mills the Zoning Board of Appeals should favorably interpret height variance requests that are necessary as part of a flood mitigation project. This paragraph shall not be construed as requiring the Board of Appeals to approve all height variance requests related to flood mitigation projects.

(a) **Public Hearing.** When the Village Zoning Administrator has received a complete application with application fee, a meeting shall be scheduled and the information shall be forwarded to the Zoning Board of Appeals. A Class 1 Notice shall be given prior to such hearing. The public hearing shall be conducted by the Zoning Board of Appeals in accord with the notice.

(b) **Notice to Property Owners.** At least ten (10) days prior to the public hearing, written notice shall be given by first-class mail to owners of record of all lots or parcels within the protest petition area under Wis. Stat. 62.23(7).

(c) **Review.** In all cases of proposed variances, the Zoning Board of Appeals shall review the site plan, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and other aspects of the proposed use against the standards outlined in this article. The Board of Appeals, in its discretion, may also view the site.

(d) **Zoning Board of Appeals Action.** Subsequent to holding a public hearing, the Board of Appeals shall recommend approval, approval with conditions, or denial of the variance request to the Village Board. The decision of the Board of Appeals, including any and all conditions placed upon the variance, shall be recorded in the minutes, which shall be distributed to the applicant and forwarded to the Village Board.

(e) **Village Board Action.** Within thirty days of the Plan Commission public hearing, the Village Board shall review the Board of Appeals minutes, variance application, and any ancillary materials, and either approve the variance, approve it with the Board of Appeals' recommended conditions, or deny the variance. At the Village Board's discretion, conditions may be recorded in legal documentation filed in relation to the property at the County Register of Deeds.

SEC. 13-1-42 STANDARDS.

No variance shall be granted by the Zoning Board of Appeals unless:

(a) The variance will not be contrary to the public interest.

(b) A literal enforcement of this Chapter will result in practical difficulty or unnecessary hardship not self-created by the property owner such that no lawful and feasible use of the property can be made in the absence of a variance.

(c) The granting of the variance will promote the public safety and welfare and substantial justice and will be in accordance with the spirit of this Chapter.

State Law Reference: Sec. 62.23(7)(e)7., *Wis. Stats.*; *Snyder v. Waukesha County Zoning Board of Adjustment,* 74 Wis.2d 468, 247 N.W.2d 98 (1976); *State v. Board of Appeals of City of Milwaukee,* 27 Wis.2d 154, 133 N.W.2d 795 (1965); *State v. Winnebago County,* 196 Wis.2d 836, 540 N.W.2d 6 (App. Ct. 1995).

SEC. 13-1-43 CONDITIONS AND GUARANTEES.

Prior to granting a variance, the Zoning Board of Appeals may stipulate such conditions and restrictions upon the establishment, maintenance and operation of the variance as it may find necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards specified in Section 13-1-42 above. Establishment, maintenance and operation shall be construed to include, but shall not be limited to, such factors as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restrictions, access restrictions, yard and parking requirements insofar as the Zoning Board of Appeals shall find that conditions applying to these factors are necessary or desirable to fulfill the purpose and intent of this Chapter. In all cases in which a variance is granted, the Zoning Board of Appeals shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in

connection therewith are being and will be complied with. At the Village Board's discretion, conditions may be recorded in legal documentation filed in relation to the property at the County Register of Deeds. All conditions, whether recorded at the Register of Deeds or not, shall be fully binding upon the property as if they were specific terms of this Ordinance.

SEC. 13-1-44 RESUBMITTING APPLICATION AFTER DENIAL.

No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds that substantial new evidence or proof of change to compliance with the applicable conditions is included in the resubmitted application.

SEC. 13-1-45: RESERVED FOR FUTURE USE.

ARTICLE F

Traffic, Parking and Access

SEC. 13-1-46 TRAFFIC VISIBILITY.

A vision triangle shall be required at the intersection of any two (2) existing or proposed highways, streets, or alleys. Within such vision triangle, no obstructions such as structures, fences, parking or vegetation shall be permitted in any district between the heights of two (2) feet and ten (10) feet above the plane through the mean pavement grade. The triangle area required shall consist of the area from the corner of the street intersection then fifteen (15) feet along the lot lines, then diagonally along a line connecting the end points of these lines.

SEC. 13-1-47 ACCESS REQUIREMENTS.

Adequate access to a public street shall be provided for each lot or parcel through a driveway complying with Sections 6-3-1 and 6-3-2 of this Code of Ordinances.

SEC. 13-1-48 LOADING REQUIREMENTS.

Adequate off-street loading space appropriate to the use and structure in question shall be provided as part of the design review process in Article H.

SEC. 13-1-49 PARKING REQUIREMENTS.

In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with this section. Parking areas that are part of a development must comply with Article H. Construction, reconfiguration, or expansion of any parking areas, even if not accompanying an otherwise included development, if it involves twelve (12) or more parking spaces, must also comply with Article H.

(a) **Adequate Access.** Adequate access to a public street shall be provided for each parking space through driveways complying with Sections 6-3-1 and 6-3-2 of this Code of Ordinances.

(b) **Size.** Size of each parking space shall be not less than one hundred sixty-two (162) square feet exclusive of the space required for ingress and egress. A single stall in a garage may replace any single required parking space.

(c) **Location.** Location to be on the same lot as the principal use or not over three hundred (300) feet from the principal use.

(d) **Screening.** Fences or shrubs shall be erected as screening in accordance with Section 13-1-65(n) and Section 13-1-53 of this Chapter.

(e) **Lighting.** If parking lots are lighted, the lights shall be shielded to prevent undesirable glare or illumination of adjoining residential property. Lighting shall conform with Section 13-1-65(o).

(f) **Surfacing.** All off-street parking areas shall be graded and surfaced so as to be dust-free and properly drained. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.

(g) **Curbs or Barriers.** Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.

(h) **Alleys.** All parcels zoned single-family residential or multifamily residential that have access to an alley shall meet parking requirements by providing alley-loaded parking.

(i) **Bicycle Parking.** A minimum number of two (2) bicycle spaces (the equivalent of one two-sided bike rack) is required for nonresidential uses. More bicycle spaces may be required at the discretion of the Plan Commission.

(j) **Number of Parking Stalls Required.** The number of off-street parking stalls required are shown in the following table:

Use	Minimum Number of Stalls	Maximum Number of Stalls
Residential – Family Living		
Single-Family Detached Dwelling	2	3, not including driveway space that leads to a garage or carport.
Two-Family Dwelling	3 (total)	4, not including driveway space that leads to a garage or carport.
Single-Family Attached Dwelling	1 per d.u.	2 per d.u.
Multifamily Dwelling	1 per efficiency or 1 BR	1.5 per efficiency or 1 BR
	2 for 2 or more BR	2.5 for 2 or more BR
Mobile Home	1 per d.u.	2 per d.u.
Residential – Group Living		
Community Living Arrangement[1]	1 per 2 bedrooms	1 per bedroom
Retirement Home, Assisted Living, Congregate Care	1 per 4 d.u.	1 per d.u.
Civic, Institutional, and Medical		
General Government, Utility, Transportation Facilities	1 per 400 sq. ft.	None
Clinic, medical, dental, or optical	1 per 300 sq. ft.	1 per 150 sq. ft.
Day Care	1 per 15 clients	1 per 7 clients
Hospital	1 per 4 beds, or based on parking study	None
Library, Museum	0	1 per 400 sq. ft.
Medical Laboratory	1 per 400 sq. ft.	1 per 200 sq. ft.
Physical, Occupational, or Massage Therapy	1 per 400 sq. ft.	1 per 200 sq. ft.
Church or Place of Worship	1 per 6 seats in the main worship area. If no fixed seats, 1 per 30 s.f. of floor area in main worship space	150% of minimum
Public and Private Schools	1 space per classroom plus 1 space per 5 students of legal driving age based on the maximum number of students attending classes at any one time	1 space per classroom plus 1 space per 3 students of legal driving age based on the maximum number of students attending classes at any one time
Veterinary Clinic, Animal Hospital	1 per 400 sq. ft.	1 per 200 sq. ft.
Business/Commercial Uses		

General Business Services (copy shop, postal services, etc.)	1 per 400 sq. ft.	1 per 200 sq. ft.
General Offices	1 per 400 sq. ft.	1 per 200 sq. ft.
General Retail & Food/Beverage Sales	1 per 400 sq. ft.	1 per 200 sq. ft.
Animal Boarding Facility/Kennel	1 per 400 sq. ft.	1 per 200 sq. ft.
Bank, Financial Institution	1 per 400 sq. ft.	1 per 200 sq. ft.
Call Center	1 per 2 employees	1 per employee
Catering	1 per 2 employees	1 per employee
Dry Cleaning, Commercial Laundry	1 per 2 employees	1.25 per employee
Furniture & Household Goods Sales	1 per 1,000 sq. ft.	1 per 400 sq. ft.
Garden Center, Greenhouse, Nursery	1 per 600 sq. ft. floor area plus 1 per 1,000 sq. ft. of outdoor sales and display area	1 per 300 sq. ft. floor area plus 1 per 500 sq. ft. of outdoor sales and display area
Laundromat (self-service)	1 per 400 sq. ft.	1 per 200 sq. ft.
Mortuary, Funeral Home	1 per 200 sq. ft. assembly area	1 per 100 sq. ft. assembly area
Outdoor Commercial Uses	1 per 1,000 sq. ft. of outdoor sales and display area	1 per 500 sq. ft. of outdoor sales and display area
Payday Loan Business	1 per 400 sq. ft.	1 per 200 sq. ft.
Restaurant, Coffee Shop, Deli, Restaurant/Tavern, Tavern, Brewpub	20% of capacity of persons	40% of capacity of persons
Small Appliance Repair	1 per 2 employees	1 per employee
Recreation, Entertainment, Lodging		
Bed and Breakfast	1 per 2 bedrooms, plus requirement for any permanent dwellings	1 per bedroom
Health/Sports Club	10% of capacity of persons	25% of the capacity of persons
Hotel, Inn, Motel, Extended Stay	0.75 per bedroom	2 per bedroom
Indoor Recreation	20% of capacity of persons[2]	40% of capacity of persons
Lodge, Private Club, Reception Hall	10% of capacity of persons	25% of capacity of persons
Outdoor Recreation (mini-golf, driving range, etc.)	As determined by Clerk/ Zoning Administrator/ Plan Commission	None
Theater, Assembly Hall, Concert Hall	20% auditorium capacity	40% auditorium capacity
Automobile Services		
Auto Service Station, Body Shop, Repair Station	1 per 2,000 sq. ft. of floor area, excluding service bays, plus 2 spaces per service bay	1 per 1,000 sq. ft. of floor area, excluding service bays, plus 2 spaces per service bay
Auto Sales, Auto Rental, Auto Storage/Towing (Excluding Junked and Unlicensed Vehicles)	None	None
Car Wash, Self Service	None, aside from service bays	1 per 3 service bays
Car Wash, Full Service	1 per 4 employees	1 per 2 employees
Convenience Store/Market[3]	1 per 1,000 sq. ft.	1 per 500 sq. ft.
Industry, Production, Storage		
Concrete, Asphalt, Rock Crushing, Quarry	1 per 4 employees	None.

Facilities		
Contractor's Yard, Lumberyard	1 per 500 sq. ft. office or sales area plus 1 per 3,000 sq. ft. storage area	1 per 300 sq. ft. office or sales area plus 1 per 1,500 sq. ft. storage area
Food Processing	1 per 2 employees	1 per employee
Laboratories, Research & Development	1 per 2 employees	1 per employee
Mail Order House	1 per 2 employees	1 per employee
Manufacturing (Light and Heavy)	1 per 2 employees	1 per employee
Printing and Publishing	1 per 2 employees	1 per employee
Recycling Center	1 per 2 employees	1 per employee
Notes: sq. ft. = square feet; d.u. = dwelling unit. 1: Adjustments may be granted by the Plan Commission with proof from the applicant that fewer or more spaces are required. 2: Adjustments may be granted by the Plan Commission with proof from the applicant that fewer spaces are required. 3: May include a car wash ancillary to a gas station/convenience store without extra parking spaces.		

(k) **Notes on Parking Stalls Required.** For the chart listed in (j) above, the following shall apply:

(1) In the case of structures or uses not mentioned, the provisions for a use which is similar shall apply.

(2) Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.

(3) Where the number of employees is used to determine parking, it shall be based on the number of employees on the maximum working shift at the time the occupancy permit is requested. Parking requirements based on number of employees shall not change unless new construction or expansion is proposed. A new parking requirement shall be calculated at such time.

(4) Floor area used to calculate parking and loading requirements is defined as the sum of the gross horizontal areas of the floors or parts of a building devoted to the use, measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. It does not include porches, garages, or space in a basement or cellar when used for storage, utilities, or other incidental uses.

(5) Fractional space requirements of us to one-half (½) space shall be rounded down to the next whole number, and greater than one-half (½) rounded up to the next whole number).

(6) The provisions contained in Section 101.12, 346.503, and 346.56 of Wisconsin Statutes, and any related Wisconsin Administrative Code sections, are hereby adopted by reference and made applicable to all parking facilities wherever constructed.

(l) Downtown Parking Overlay District. Commercial/business development in the Downtown Parking Overlay District does not have to meet required off-street parking in Section 13-1-49(j).

SEC. 13-1-50: RESERVED FOR FUTURE USE

ARTICLE G

Modifications and Miscellaneous Regulations

SEC. 13-1-51 HEIGHT.

(a) **Communication Structures.** Communication structures such as radio and television transmission and relay towers, aerials and observation towers shall not exceed in height three (3) times their distance from the nearest lot line unless permitting taller structures is required by law.
(b) **Agricultural Structures.** Agricultural structures such as barns, silos and windmills shall not exceed in height twice their distance from the nearest lot line unless permitting taller structures is required by law.
(c) **Public or Semipublic Facilities.** Public or semipublic facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, government offices and stations may be erected to a height of sixty (60) feet provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

SEC. 13-1-52 YARDS.

The yard requirements stipulated elsewhere in this Chapter may be modified as follows:
(a) **Uncovered Stairs.** Uncovered stairs, landings and fire escapes may project into any yard but not to exceed six (6) feet and not closer than three (3) feet to any lot line.
(b) **Architectural Projections.** Architectural projections such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard but such projection shall not exceed two (2) feet.
(c) **Accessory Uses.** Accessory uses and detached accessory structures are permitted in the rear yard only. They shall not be closer than eight (8) feet to the principal structure, shall not exceed twenty (20) feet in height, shall not occupy more than twenty (20) percent of the rear yard area and shall not be closer than five (5) feet to any lot or to an alley line. In no case may an accessory structure be taller than the principal structure.
(d) **Essential Services.** Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.

SEC. 13-1-53 FENCES, WALLS, AND HEDGES.

Fences, walls, and hedges may be erected, placed, or maintained in any yard along or adjacent to a lot line in accordance with the requirement identified in this section. The owner shall be responsible for properly locating all property lines before construction of any fence.
(a) **Height in Residential Districts.**
    (1) The height of a fence or hedge within required side and rear setbacks in a residential zoning district shall not exceed seven (7) feet. A fence of up to eight (8) feet in height may be constructed on a district boundary line between a residential district and a business or industrial district.
    (2) The height of a solid fence or hedge within a required street side setback shall not exceed four (4) feet. The decorative side of a fence or wall shall face outward from the property.
(b) **Height in Business and Industrial Districts.**

(1) The height of a fence or hedge within required side and rear setbacks in a business or industrial zoning district shall not exceed eight (8) feet.
(2) The height of a solid fence or hedge within a required front or street side setback shall not exceed four (4) feet. The decorative side of a fence or wall shall face outward from the property.

(c) **Height Measurement.** Fence height shall be measured from natural or approved grade. In the case o grade separation, such as the division of properties by a retaining wall, fence height shall be determined based on measurement from the average point between highest and lowest grade. If the fence is setback from the retaining wall by a distance of at least four (4) feet, the fence height shall be measured from the base of the fence.

(d) **Vision Triangle.** Fences, walls, and hedges shall comply with the vision triangle requirements of 13-1-46.

(e) **Materials.** Fences and walls located in the front or street side yard, or in yards that are in or border residential districts, must be made of materials such as wood, ornamental metal, brick, vinyl-coated chain link, vinyl, or stone. Uncoated chain link fences may be used in business and industrial districts that do not border right-of-way a residential district.

(f) **Temporary Fencing.** Temporary fencing, such as for the prevention of snow drifting, protection of excavation and construction sites, protection of plants during grading and construction, and similar uses, is permitted for a time period consisted with an approved zoning or building permit or up to one hundred eighty (180) consecutive days per calendar year.

SEC. 13-1-54 ADDITIONS.

Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

SEC. 13-1-55 AVERAGE STREET YARDS.

The required street yards may be decreased in the districts other than the industrial district to the average of the existing street yards of the abutting structures on each side.

SEC. 13-1-56 NOISE.

Sirens, whistles and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this Chapter.

SEC. 13-1-57 SCREENING REGULATIONS.

Any use required by this Chapter to be screened in accordance with this Section shall be confined within an opaque fence or wall eight (8) feet high or a visual screen consisting of evergreen or evergreen type hedges or shrubs, spaced at intervals of not more than six (6) feet to provide an effective visual screen within five (5) years of establishment and reaching a height of eight (8) feet. In case of a conflict between the screening requirements of this Section and the specific screening requirements of other sections of this Chapter, the most restrictive applicable screening requirements shall apply.

SEC. 13-1-58 PARKING ON LAWNS.

It shall be unlawful to park any automobile, truck, or motorcycle on an unpaved portion of a front or street side yard for any one (1) period exceeding seventy-two (72) hours.

SEC. 13-1-59 NUMBER OF TENANTS.

It shall be unlawful for any owner of any dwelling unit to lease or enter any lease of any one (1) dwelling unit to more than five (5) persons living together as a single housekeeping unit and using common cooking facilities, subject to any applicable exceptions in Section 66.1017 of the Wisconsin Statutes, which concerns family day care homes, and Section 62.23(7)(i) of the Wisconsin Statutes, which concerns community and other living arrangements.

SEC. 13-1-60 RESERVED FOR FUTURE USE.

ARTICLE H

Design Review

SEC. 13-1-61 APPROPRIATE AUTHORITY.

The Plan Commission shall decide applications for design review. The purpose of this section is to promote the health, safety, and general welfare of the community under the general municipal zoning authority.

State Law Reference: Sec. 62.23(7)(1), *Wis. Stats.*

SEC. 13-1-62 DEVELOPMENT REQUIRING DESIGN REVIEW.

Design review shall apply to exterior structural and design features, landscaping, and site planning/site layout. Site and structural development in the following areas must undergo design review and receive design review approval by the Plan Commission prior to a building or zoning permit being issued:

(a) **Multifamily Residential District.** Permitted and conditional uses in Section 13-1-24 R-MF: Multifamily Residential District.
(b) **Business District.** Permitted and conditional uses in Section 13-1-25 B: Business District.
(c) **Agricultural Districts.** Conditional uses in Section 13-1-26 AG-1: Single Family Agriculture District and Section 13-1-27: AG-2: Traditional Agriculture District.
(d) **Conservancy Districts.** Conditional uses in Section 13-1-28 C-1 & C-2: Conservancy District I and II.
(e) **Industrial District.** Permitted and conditional uses in Section 13-1-29 I-Industrial District.
(f) **Parking.** Construction, reconfiguration, or expansion of any parking areas, even if not accompanying an otherwise included development, if it involves twelve (12) or more parking spaces.

SEC. 13-1-63 ADMINISTRATION.

(a) **Applications.** The Village Clerk-Treasurer or Zoning Administrator shall advise applicants when they apply for zoning permits or other approvals whether design review applies. If design review applies, the applicant will be given an application form, which shall have prior Plan Commission approval as to format and content. Applicants may request and have a pre-application meeting with staff.
(b) **Completed Applications.** Completed applications and supporting materials must be reviewed by staff prior to placement on the Plan Commission agenda. Staff must be satisfied that a complete packet of information will be available to the Plan Commission prior to the commencement of the Plan Commission meeting at which the item is set for review.
(c) **Plan Commission Review.** The Plan Commission will review applications for design review. Following such review and any necessary discussion with applicants, applicants' agents, within the Plan Commission, and with staff, the Commission shall render a decision of approval, conditional approval or rejection. Decisions shall be included in the minutes for the meeting. Reasons for denial shall be listed by the Plan Commission and recorded in the minutes. In the case of a conditional approval, all items not specifically identified as suggestions shall be considered mandatory. Receipt

and acceptance of a zoning and/or building permit by the applicant shall constitute acknowledgement of the Plan Commission's design review decision and any conditions contained therein.

(d) **Approval.** A project that has had design review and that has received a zoning/building permit is approved for execution only in accord with the directives included in the design review approval. Construction or execution that deviates from directives may not occur within the terms of this Ordinance without prior Village approval. The Village Clerk-Treasurer or Zoning Administrator is responsible for determining whether to give staff approval to such deviations on a finding that they are minor variations as to the Plan Commission's decision or whether full Plan Commission review and approval is needed upon a finding that the deviations are major.

SEC. 13-1-64 APPLICATION.

A Design Review application, which shall have prior Plan Commission approval as to format and content, shall be made available to the public. Application for design review shall be submitted to the Village Clerk-Treasurer or Zoning Administrator on forms provided. The cost of design review shall be established by the Village Board. Applications shall be accompanied by the following items, in sufficient detail to address Section 13-1-65, Design Review Standards:

(a) **Plan Set.** A plan set that shows the location, size and shape of the lot(s) involved and of any proposed structures, and the existing and proposed use of each structure and lot, utilities to serve the development, and the existing and proposed contours of each lot. The Plan Commission may direct staff to include a specific checklist of all relevant dimensions, square footages, structures, utilities, and any other improvements or changes being made to the property in question that must be shown on the plan set as part of an application for design review.

(b) **Erosion control and stormwater management plan.** Erosion control and stormwater management plans meeting the requirements of NR 151 and NR 216 of the Wisconsin Administrative Code shall be provided.

(c) **Lighting Plan.** Proposed lighting for the site, including location, pole height, luminaire type, manufacturer's specifications, and pictures/diagrams of proposed fixtures.

(d) **Elevations.** Color elevations of proposed buildings that illustrate and list proposed materials and colors. Elevations shall include necessary views to determine that all mechanicals, including rooftop mechanicals, are adequately screened to reduce both noise and visibility from ground level.

(e) **Other Materials.** This section shall be considered the minimum amount of information that must be provided to Village staff and the Plan Commission to adequately judge the design review application against the standards contained in Section 13-1-65. It shall not prohibit the Plan Commission from requiring other materials or information as part of any design review process that are deemed necessary to adequately judge the proposed development against the standards contained in Section 13-1-65.

SEC. 13-1-65 DESIGN REVIEW STANDARDS.

The following specific design standards are established, and are intended to be applied in the informed judgment of the Plan Commission. Unless otherwise noted, the standards below apply to all development requiring design review under Section 13-1-62.

(a) **Appearance.** No building shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards. The Plan Commission or Zoning Administrator shall make necessary interpretations as to the substance of community standards.

(b) **Color.** Because the selection of building colors has a significant impact upon the public and neighboring properties, color shall be selected in general harmony with existing neighborhood or area buildings.

(c) **Facades, Generally.** This standard is recommended for all structures in 13-1-62, except for industrial buildings within the center core of an industrial district. No blank walls shall be permitted to face the public street, sidewalks, or other public spaces such as plazas. Elements such as windows, doors, columns, changes in material, and similar details shall be used to add visual interest.

(d) **Business District Entrance Orientation.** This standard is recommended for structures in the Business district only. Primary building entrances on all new buildings shall be oriented to the primary abutting public street. The entrance shall have a functional door that is open to the public during the businesses' established hours of operation. Additional secondary entrances may be oriented to a secondary street or parking area. Entries shall be clearly visible and identifiable from the street, and delineated with elements such as roof overhangs, awnings, recessed entries, landscaping, or similar design features. The distance from the front entrance to the sidewalk shall be minimized to encourage pedestrian friendliness.

(e) **Door and Window Openings.** This standard is recommended for all structures in the Business and Multifamily Residential districts only.

(1) For nonresidential uses at ground floor level, windows and doors or other openings shall comprise at least sixty percent (60%) of the length and at least forty percent (40%) of the area of the ground floor of the primary street façade. At least fifty percent (50%) of the windows on the primary street façade shall have the lower sill within three (3) feet of grade.

(2) A minimum of twenty percent (20%) of the ground level of residential facades or side and rear facades not fronting a public street shall consist of windows and door openings.

(3) On upper stories containing business and/or residential uses, window or balcony openings shall occupy a minimum of 20% of the upper-story wall area.

(4) Glass on windows and doors shall be clear or slightly tinted, allowing views into and out of the interior. Views shall not be blocked by equipment.

(f) **Siting of Structures.** No site plan shall be permitted that would have a negative impact on the general health, safety, and welfare of the community.

(g) **Traffic Circulation.** Site plans shall provide for safe traffic circulation and safe driveway locations. Uses and structures that typically have frequent deliveries by large vehicles shall provide loading and unloading areas as necessary so as to not cause undue traffic hazards or congestion on Village streets. The Plan Commission shall consider typical delivery patterns for similar businesses when determining what shall be required for an individual use or building. Traffic, parking, and site access shall comply with Article F of this code.

(h) **Topography and Drainage.** Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical by minimizing soil and tree removal that is not essential to project development and by retaining grades and contours in keeping with the general appearance of neighboring developed areas.

(i) **Stormwater Management and Erosion Control.** Appropriate stormwater management and erosion control measures shall be utilized in all new construction as required by Village ordinance, County ordinance, and state law. Stormwater management measures shall be well integrated with the landscaping plan and overall site design.

(j) **Outdoor Storage.** Unless otherwise authorized by ordinance or permit, all outdoor storage, service, or loading areas that are visible from adjacent residential uses or public streets or public walkways, shall be screened by a decorative fence, wall or plant material in compliance with Section 13-1-53.

(k) **External Garbage and Refuse Containers.** All external garbage or refuse containers shall be screened from the street and neighboring properties by walls, fences, berms, and/or effective landscaping.

(l) The required area for garbage and refuse containers shall not be in the front or street side yard, except in industrial districts.

(m) **Signage.** Signage shall comply with Article I of this code.

(n) **Lighting.**

(1) All outdoor lighting fixtures shall be cutoff-type fixtures.

(2) All outdoor lighting fixtures shall be placed so as to eliminate trespass greater than 0.5 footcandles on the ground at the lot line. The Plan Commission may grant exceptions to this standard for uses in the business district that abut a lot line.

(3) All outdoor lighting fixtures must be installed, maintained, and operated according to approved plans, including any restrictions on hours of use.

(4) No pole-mounted luminaire shall be higher than thirty-five (35) feet, except for lighting for athletic fields.

(5) Visible glare from beyond the property line is prohibited.

(6) Building-mounted lights shall be mounted and installed so that all light is directed downward, unless the lights are decorative in nature.

(7) No lights shall be mounted above the parapet, or for pitched roofs, above the eave, except for motion detection security lighting and decorative lighting.

(8) Decorative lighting is permitted, provided that lighting fixtures are aimed and shielded so that light is directed only onto the building façade and not towards adjacent properties or right-of-way.

(o) **Fencing.** Fencing shall comply with Section 13-1-53 of this code.

(p) **Mobile Homes.** Mobile homes shall comply with Article N of this code in addition to the requirements of this article.

SEC. 13-1-66 RECOMMENDATIONS.

Other features of site design and construction, building and structural design and construction and landscaping that are not listed under design review standards may also be addressed by Plan Commission advisory suggestions within the design review process upon a finding that the suggestion would be desirable to make the development a positive asset to the visual appearance of the community and positive contribution to the growth and stability of the community tax base.

SEC. 13-1-67 RESUBMITTING APPLICATION AFTER DENIAL.

No application design review which has been denied wholly or in part by the Plan Commission shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds that substantial new evidence or proof of change to comply with the applicable conditions and standards is included in the resubmitted application. The Village Clerk-Treasurer or Zoning Administrator shall determine whether a resubmitted application adequately addresses compliance with applicable conditions and standards that were cited by the Plan Commission as reasons for denial of the original application.

SEC. 13-1-68 Outside Heating Furnaces

Prohibition on installation and use of outdoor furnaces. No person within the platted portion of the Village of Gays Mills shall install or use any exterior located furnace for the heating of any building. Such furnaces included, but are not limited to, outdoor water circulating/recycling wood fire furnaces, coal furnaces, waste oil furnaces, or any other furnace not located within the interior walls of the building for which it is providing heat.

ARTICLE I

Signs

SEC. 13-1-69 PERMITTED LOCATION OF SIGNS.

District	Types of Signs Permitted
Residential	2, 3, 6, 8
Business	1, 2, 3, 4, 5, 6, 7, 8
Industrial	1, 2, 3, 4, 5, 6, 7, 8
Agricultural	1, 2, 3, 4, 5, 6, 7
Conservancy	1, 3, 6, 7

SEC. 13-1-70 TYPES OF SIGNS, MAXIMUM SIZE, NUMBER AND LOCATION.

(a) **Type 1.** Directory signs advertising a business or activity conducted, an area of interest or a service available at a specific location. Such signs shall be not more than twenty-two (22) square feet in gross area. There shall be not more than two (2) such signs relating to any one (1) such use in the approaching direction along any one (1) street. Such signs may be placed at the right-of-way line of the street. A larger number of signs may be permitted by the Plan Commission if the Commission shall find it necessary for directing the traveling public. *A permit must be obtained from the Village Clerk-Treasurer.*

(b) **Type 2.** Signs advertising a customary home occupation or professional office. Such signs shall not exceed four (4) square feet in gross area, shall be attached to the building and if illuminated, shall be indirectly lighted. *No permit is required.*

(c) **Type 3.** Signs advertising the sale, rent or lease of the property on which the sign is placed. Temporary signs such as rummage, garage sale, and political elections signs, which shall have a sixty (60) day limit. Such signs shall not exceed six (6) square feet in gross area and may be placed at the right-of-way line of the street. *No permit is required.*

(d) **Type 4.** Signs located off premises advertising a general brand or product, an area of interest, a business conducted or a service available. Such signs shall not be more than one hundred (100) square feet per side in area and erected outside a line parallel to and twenty-five (25) feet from the street right-of-way line. *A permit is required to be obtained from the Village Clerk-Treasurer.*

(e) **Type 5.** Signs on the premises of commercial, industrial and agricultural buildings advertising a business conducted or a service available on the premises. No sign shall exceed two hundred (200) square feet in gross area, be higher than ten (10) feet above the top of the roofline, shall not extend more than six (6) inches outside of buildings wall surface and shall not exceed twenty (20) feet in height above the main centerline of the street. *A permit is required to be obtained from the Village Clerk-Treasurer.*

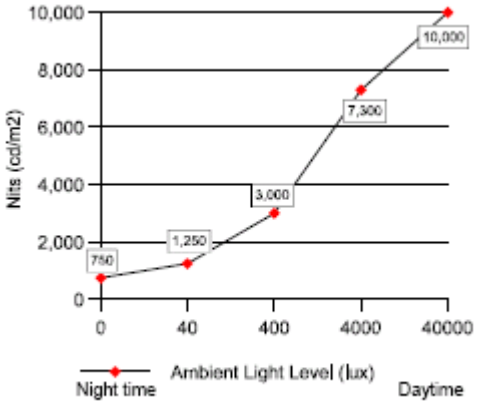
(f) **Type 6.** On-premises signs advertising a public or semipublic use. Such signs shall not exceed thirty-two (32) square feet in gross area. There shall be no more than one (1) sign for each street upon which the property faces. *A permit is required to be obtained from the Village Clerk-Treasurer.*

(g) **Type 7.** Recreational directory signs indicating the direction to a cottage, resort residence or similar use. Such signs shall not be more than one (1) square foot in gross area. Where a common posting standard

is provided, all such signs shall be attached to the standard recreational directory. *A permit is required to be obtained from the Village Clerk-Treasurer.*

(h) **Type 8.** A Type 1, 4, 6 or 8 sign that displays an electronic message or digital image. Signs may be illuminated provided, however, that the surface/face illumination of any sign shall not exceed the levels shown in Figure 1 below for different conditions of ambient light. Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been preset not to exceed the above illumination levels, and the preset intensity level is protected from end user manipulation by password protected software or other method approved by the Plan Commission. Such an illuminated sign shall be equipped with a sensor and/or timer or other device approved by the Plan Commission to automatically adjust the day/night light intensity levels in accordance with Figure 1 below.

Figure 1 - Maximum Sign Brightness with Varying Ambient Light



Routine messages and digital images shall not repeat in intervals of less than 4 seconds. Transitions between messages are permitted but such transitions may only fade, scroll, travel or reveal and the transition shall not exceed a duration of two seconds. *The Plan Commission must find that the character of the sign is compatible with the general area, and that limited visual impacts will occur to nearby residential areas prior to approving such signs.*

SEC. 13-1-71 PROHIBITED CHARACTERISTICS OF SIGNS.

(a) **Interference with Visibility.** No sign shall be so placed as to interfere with the visibility or effectiveness of any official traffic sign or signal or with driver vision at any access point or intersection.

(b) **No Resemblance to Traffic Signs.** No sign will be permitted that resembles the size, shape, form or color of official traffic control signs, signals or devices.

(c) **Flashing Lights Prohibited.** No sign shall contain or be illuminated by a flashing light if within or adjacent to a residential development.

(d) **Condition of Signs.** No sign in a conspicuous state of disrepair shall be permitted to exist. The Village Clerk may order removal on a twenty (20) day public notice or immediately if public danger exists.

SEC. 13-1-72 BONDS AND INSURANCE.

Every applicant for a permit for a “Type 4" sign may, before the permit is granted, be required by the Zoning Administrator or Village Board to execute a surety bond or show evidence of liability insurance coverage in an amount to be set by the above mentioned individual or agency. Removal of any sign shall be the financial obligation of the sign and/or property owner.

SEC. 13-1-73 RESERVED FOR FUTURE USE.

ARTICLE J

Nonconforming Uses, Structures and Lots.

SEC. 13-1-74 EXISTING NONCONFORMING USES.

The lawful use of a building or premises existing at the time of the adoption or amendment of this Chapter may be continued although such use does not conform with the provisions of this Chapter subject to the provisions of Section 62.23(7)(h) of the Wisconsin Statutes and this Article J.

State Law Reference: Sec. 62.23(7)(h), *Wis. Stats.*

SEC. 13-1-75 EXISTING NONCONFORMING STRUCTURES.

A lawful structure which existed at the time of the adoption or amendment of this Chapter may be continued as a legal nonconforming structure although the structure's size or location does not conform to all the requirements of this Chapter; subject to the provisions of Section 62.23(7)(h) of the Wisconsin Statutes and this Article J.

SEC. 13-1-76 EXISTING NONCONFORMING LOTS.

A lot lawfully filed and of record in the Crawford County Register of Deeds Office before the adoption or amendment of this chapter may be continued as a legal nonconforming lot although the lot does not conform with the provisions of this Chapter, however, if a legal nonconforming lot is not in separate ownership from abutting lots, and the abutting lots are vacant, none of the lots shall be sold or used without all of the nonconforming lots being in full compliance with the provisions of this Chapter.

SEC. 13-1-77 REVERSION.

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

SEC. 13-1-78 NO EXTENSION.

No nonconforming use may be extended.

State Law Reference: Sec. 62.23(7)(h), *Wis. Stats.*

SEC. 13-1-79 STRUCTURAL REPAIRS AND ALTERATIONS.

The total structural repairs or alterations of a nonconforming structure shall not during its life exceed fifty percent (50%) of the assessed value of the building unless permanently changed to a conforming use.

State Law Reference: Sec. 62.23(7)(h), *Wis. Stats.*

SEC. 13-1-80 DISCONTINUANCE.

If a nonconforming use is discontinued for a period of twelve (12) months, any future use of the building and premises shall conform to this Chapter.

State Law Reference: Sec. 62.23(7)(h), *Wis. Stats.*

SEC. 13-1-81 RESTORATION OF CERTAIN NONCONFORMING STRUCTURES.

(a) Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in this Chapter do not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to sub. (b)., location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:
   (1) The nonconforming structure was damaged or destroyed on or after March 2, 2006.
   (2) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(b) The size of a structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

SEC. 13-1-82 RESERVED FOR FUTURE USE.

ARTICLE K

Performance Standards

SEC. 13-1-83 COMPLIANCE.

This Chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or districts. No building, other structure, or land shall hereafter be used except in compliance with their district regulations and with the following performance standards.

SEC. 13-1-84 SOUND.

Noise generated on a parcel shall not exceed 65 decibels at the lot line, and shall not vary in frequency or oscillate so as to cause disturbance. The sound or noise generated from a premises shall be controlled so as not to tend to unreasonably disturb the peace and quiet of the persons in the vicinity thereof, including adjacent uses, unless the making and continuing of the noise cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life, or limb of some person. Such noise is hereby declared to be a public nuisance.

State Law Reference: *City of Madison v. Baumann,* 162 Wis.2d 660, 470 N.W.2d 296 (1991).

SEC. 13-1-85 VIBRATION.

An operation which creates vibrations that can be measured or readily detected without instruments, such as heavy drop forges or heavy hydraulic surges, shall be set back:

(a) In an Industrial District with open storage, a distance of not less than five hundred (500) feet from the district boundaries.

(b) In an Industrial District without open storage and in all other districts, a distance of not less than five hundred (500) feet from all lot lines.

SEC. 13-1-86 ODORS.

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises.

State Law Reference: Sec. 66.0415, *Wis. Stats.*

SEC. 13-1-87 GLARE AND HEAT.

No activity shall emit glare or heat that is visible or measurable outside its premises. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be sheltered so as not to be visible outside their premises.

State Law Reference: Sec. 66.0415, *Wis. Stats.*

SEC. 13-1-88 SMOKE EMISSIONS.

(a) **Smoke.** The emission of dense smoke into the open air within the limits of the Village of Gays Mills and one (1) mile from those limits is prohibited.

State Law Reference: Sec. 254.57, *Wis. Stats.*

(b) **Installation and use of Outside Heating Furnaces**
No person within the Village of Gays Mills shall install or use any exterior located furnace for the heating of any building. Such furnaces include, but are not limited to, outdoor water circulating/recycling wood fire furnaces, coal furnaces, waste oil furnaces, or any other furnace not located within the interior walls of the building for which it is providing heat.

SEC. 13-1-89 RESERVED FOR FUTURE USE.

ARTICLE L

Further Procedural Matters

SEC. 13-1-90 ZONING BOARD OF APPEALS.

The terms and provisions of Section 2-4-2 of this Code of Ordinances shall govern the establishment, powers, meetings and rules of the Zoning Board of Appeals.

SEC. 13-1-91 ZONING PERMIT DETERMINATION.

(a) **Officer Responsible.** The Village Clerk-Treasurer shall enforce this Chapter by means of building permits, the cost of which shall be established by resolution or ordinance of the Village Board.

(b) **Standards.** The Village Clerk-Treasurer shall not issue a permit for a structure or a use that is not allowed by this Chapter; provided, however, that structural repairs or alterations to a nonconforming building are permitted until the total structural repairs or alterations during the life of the nonconforming building exceed fifty percent (50%) of the assessed value of the building unless permanently changed to a conforming use, and no structures shall be built, moved or altered and no land use shall be substantially altered until a building permit has been issued, provided, however, that this provision shall not interfere with any repair or expansion of migrant labor camps within the purview of Section 62.23(7)(hm) of the Wisconsin Statutes.

(c) **Applications.** Applications for zoning permits shall comply with Section 13-1-13.

SEC. 13-1-92 AMENDMENTS.

The Village of Gays Mills may amend this Chapter following the procedures prescribed by Section 62.23 of the Wisconsin Statutes.

SEC. 13-1-93 RESERVED FOR FUTURE USE.

ARTICLE M

Solar Access

SEC. 13-1-94 PURPOSE.

The purpose of this section is to provide a means for the Village of Gays Mills to guarantee solar access rights pursuant to s. 66.0403 of Wisconsin Statutes.

SEC. 13-1-95 GENERAL REGULATIONS

Any owner who has installed or intends to install a solar collector may apply to the Village Clerk-Treasurer or Zoning Administrator for a solar access permit. A permit fee may be established by the Village Board by ordinance. A permit may not affect any land except land that, at the time the permit is granted, is within the platted portion of the Village. This article may not be construed to require that an owner obtain a permit prior to installing a solar collector. This section may not be construed to mean that acquisition of a renewable energy resource easement under 700.35 of Wisconsin Statutes is in any way contingent upon the granting of a permit under this section.

SEC. 13-1-96 PERMIT APPLICATIONS

(a) **Application.** The Village Clerk-Treasurer or Zoning Administrator shall determine if an application is satisfactorily completed and shall notify the applicant of its determination. If an applicant receives notice that an application has been satisfactorily completed, the applicant shall deliver by certified mail or by hand a notice to the owner of any property that the applicant proposes to be restricted by the permit under Section 13-1-96(e). The applicant shall submit to the Village Clerk-Treasurer or Zoning Administrator a copy of a signed receipt for every notice delivered under this paragraph. The Village Clerk-Treasurer or Zoning Administrator shall supply the notice form. The information on the form shall include:

(1) The name and address of the applicant, and the address of land upon which the solar collector is or will be located.
(2) That an application has been filed by the applicant.
(3) That the permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.
(4) The telephone number, address and office hours of the Village Clerk-Treasurer or Zoning Administrator.
(5) That any person may request a hearing under 13-1-96(b) within 30 days after receipt of the notice, and the address and procedure for filing the request.

(b) **Hearing.** Within 30 days after receipt of the Notice under 13-1-96(a), any person who has received a notice may file a request for a hearing on the granting of a permit or the Village Clerk-Treasurer or Zoning Administrator may determine that a hearing is necessary even if no such request is filed. If a request is filed or if the Village Clerk-Treasurer or Zoning Administrator determines that a hearing is necessary, the Plan Commission shall conduct a hearing on the application within 90 days after the last notice is delivered. At least 30 days prior to the hearing date, the Plan Commission shall notify the applicant, all owners notified under 13-1-96(a) and any other person filing a request of the time and place of the hearing.

(c) **Permits.**

(1) The Plan Commission shall grant a permit if it determines that:

a. The granting of a permit will not unreasonably interfere with the orderly land use and development plans of the municipality.

b. No person has demonstrated that she or he has present plans to build a structure that would create an impermissible interference by showing that she or he has applied for a building permit prior to receipt of a notice under 13-1-96(a) has expended at least $500 on planning or designing such a structure or by submitting any other credible evidence that she or he has made substantial progress toward planning or constructing a structure that would create an impermissible interference.

c. The benefits to the applicant and the public will exceed any burdens.

(2) The Plan Commission may grant a permit subject to any condition or exemption it deems necessary to minimize the possibility that the future development of nearby property will create an impermissible interference or to minimize any other burden on any person affected by granting the permit. Such conditions or exemption may include but are not limited to restriction on the location of the collector and requirements for the compensation of persons affected by the granting of the permit.

(d) **Record of Permit.** If the Plan Commission grants a permit:

(1) The Commission shall specify the property restricted by the permit under 13-1-96(e) and shall prepare notice of the granting of the permit. The notice shall include the identification required under 13-1-96(a) for the owner and the property upon which the solar collector is or will be located and for any owner and property restricted by the permit under 13-1-96(e), and shall indicate that the property may not be developed and vegetation may not be planted on the property so as to create an impermissible interference with the solar collector which is the subject of the permit unless the permit affecting the property is terminated under 13-1-96(g) or unless an agreement affecting the property is filed under 13-1-96(h).

(2) The applicant shall record with the Register of Deeds of the County in which the property is located the notice under 13-1-96(a) for each property specified under 13-1-96(a) and for the property upon which the solar collector is or will be located.

(e) **Remedies for Impermissible Interference.**

(1) Any person who uses property which he or she owns or permits any other person to use the property in a way which creates an impermissible interference under a permit which has been granted or which is the subject of an application shall be liable to the permit holder or applicant for damages, except as provided under 13-1-96(b) for any loss due to the impermissible interference, court costs and reasonable attorney fees unless:

a. The building permit was applied for prior to receipt of a notice under 13-1-96(a) or the Plan Commission determines not to grant a permit after a hearing under 13-1-96(b).

b. A permit affecting the property is terminated under 13-1-96(g).

c. An agreement affecting the property is filed under 13-1-96(h).

(2) A permit holder is entitled to an injunction to require the trimming of any vegetation that creates or would create an impermissible interference as defined under 13-1-96(e). If the court finds on behalf of the permit holder, the permit holder shall be entitled to a permanent injunction, damages, court costs, and reasonable attorney fees.

(f) **Appeals.** Any person aggrieved by a determination by the Plan Commission under this section may appeal the determination to the Village Board.

(g) **Termination of Solar Access Rights.**

(1) Any right protected by a permit under this section shall terminate if the Plan Commission determines that the solar collector who is the subject of the permit is:

a. Permanently removed or is not used for 2 consecutive years, excluding time spent on repairs or improvements.
b. Not installed and functioning within 2 years after the date of issuance of the permit.

(2) The Plan Commission shall give the permit holder written notice and an opportunity for a hearing on a proposed termination under 13-1-96(a).

(3) If the Plan Commission terminates a permit, the Commission may charge the permit holder for the cost of recording and record a notice of termination with the Register of Deeds, who shall record the notice with the notice recorded under 13-1-96(a) or indicate on any notice recorded under (B) that the permit has been terminated.

(h) **Waiver.** A permit holder by written agreement may waive all or part of any right protected by a permit. A copy of such agreement shall be recorded with the Register of Deeds, who shall record such copy with the notice recorded under 13-1-96(d)(2).

(i) **Preservation of Rights.** The transfer of title to any property shall not change the rights and duties under this section.

ARTICLE N

Mobile Home Parks

SEC. 13-1-97 MINIMUM SIZEOF PARKS AND ADDITIONS TO PARKS

Mobile home parks shall contain a minimum of ten (10) acres. Additions to or extensions of mobile home parks shall contain a minimum of five (5) acres.

SEC. 13-1-98 MINIMUM SPACE SIZES

An individual space for a single-wide mobile home shall be not Less than five thousand (5,000) square feet in area.

SEC. 13-1-99 SETBACKS

Each mobile home space shall afford the following setbacks, measured from the closest point of a unit placed on the space to the closest point of the object of the setback:

(a) Fifty (50) feet from the nearest point on the right-of-way limit of every public street or highway;
(b) Twenty-five (25) feet from the nearest point on the surfaced portion of any internal park drive or common area, including common parking areas;
(c) Forty (40) feet from the nearest point on any exterior boundary line of the mobile home park;
(d) Twenty (20) feet from the nearest point on any other unit, building, or structure;
(e) Twenty (20) feet from the lot line.

Accessory structures, such as awnings, cabanas, storage sheds, utility buildings, storage cabinets, car-ports, windbreaks, or attached porches shall be considered part of the unit for purposes of determining compliance with this provision.

SEC. 13-1-100 MOBILE HOME PARK DESIGN REQUIREMENTS

(a) **Municipal Water and Sewer Required.** No mobile home park shall be laid out, constructed, or operated without Village water supply and sanitary sewer service.
(b) **Liquid Waste Disposal.** All liquid wastes originating at units, service, or other buildings shall be discharged into a sewerage system extended from and connected with the Village sewerage system.
(c) **Utility Distribution System Requirements.** All television antenna systems, electrical, and telephone distribution lines and oil or gas piping serving the park or spaces therein shall be installed underground. Distribution systems shall be new and all parts and installations shall comply with all applicable federal, state, and local codes.
(d) **Topographical and Other Conditions.** Conditions of soil, ground water level, drainage, and topography shall not create hazards to the property, health, or safety of occupants of mobile home spaces or living units.
(e) **Drainage Requirements.** The ground surface in all parts of every mobile home park shall be graded and equipped to eliminate soil erosion and drain all surface water in a safe, sanitary, and efficient manner.

(f) **Lighting Requirements.** All parks shall be furnished with lighting so spaced and equipped with luminaries placed at such heights as will provide levels of illumination for the safe movement of pedestrians and vehicles at night. Lighting shall comply with design review standards in Article H.

(g) **Interior Street Access and Paving Requirements.** All interior streets and parking areas shall be paved with a smooth, hard, and dense surface such as hot mix asphalt or Portland cement, which shall be will drained under normal use and weather conditions for the area. Pavement edges shall be curbed or protected to prevent raveling of the wearing surface and shifted of the pavement base. Grades of streets shall be sufficient to insure adequate surface drainage but not more than eight (8) percent, provided a maximum grade of twelve (12) percent may be used if approved by the Village Engineer. All mobile home spaces shall abut upon interior street. Minimum widths of interior streets within a mobile home park shall be as follows:

(1) If no parking is allowed either side of the street: Eighteen (18) feet
(2) If parking is allowed on one side of the street: Twenty-six (26) feet
(3) If parking is allowed on both sides of the street: Thirty-two (32) feet

(h) **Recreation Area Requirements.** In all mobile home parks there shall be one or more recreation areas easily accessible to all park residents. Such areas shall include a total minimum area of four thousand (4,000) square feet for each twelve (12) lots in the park.

(i) **Vehicular Access from Public Streets.** All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home space. Entrances to parks shall be designed to minimize congestion and traffic hazards and allow free movement of traffic on adjacent streets.

"CHAPTER 2

Floodplain Zoning

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ARTICLE A

Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions

SEC. 13-2-1 STATUTORY AUTHORIZATION

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

SEC. 13-2-2 FINDING OF FACT

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

SEC. 13-2-3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

(a) Protect life, health and property;

(b) Minimize expenditures of public funds for flood control projects;

(c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;

(d) Minimize business interruptions and other economic disruptions;

(e) Minimize damage to public facilities in the floodplain;

(f) Minimize the occurrence of future flood blight areas in the floodplain;

(g) Discourage the victimization of unwary land and homebuyers;

(h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

(i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

SEC. 13-2-4 TITLE

This ordinance shall be known as the Floodplain Zoning Ordinance for Gays Mills, Wisconsin.

SEC. 13-2-5 GENERAL PROVISIONS

(a) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(b) OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see s. Article H *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk, Village of Gays Mills. If more than one map or revision is referenced, the most restrictive information shall apply.

OFFICIAL MAPS: Based on the FIS:

Flood Insurance Rate Map (FIRM), panel numbers 55023C0203F, 55023C0204F, 55023C0205F, 55023C0211F and 55023C0212F dated October 16, 2015; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated October 16, 2015, Volume number 55023CV000B;

Approved by: The DNR and FEMA

(c) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

The regional floodplain areas are divided into three districts as follows:

(1) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.

(2) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.

(3) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway
(4) boundary determined, including A, AH and AO zones on the FIRM.

(d) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (1) or (2) below. If a significant difference exists, the map shall be amended according to Article H *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 13-2-27(c) and the criteria in (1) and (2) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Article H.

(1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(e) REMOVAL OF LANDS FROM FLOODPLAIN

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

(f) COMPLIANCE

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

(g) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

(h) ABROGATION AND GREATER RESTRICTIONS

(1) This ordinance supersedes all the provisions of any Village zoning ordinance enacted under s. 62.23 amd s. 61.35 of the Wisconsin Statute or s. 87.30, Stats.,

which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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

(i) INTERPRETATION

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(j) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) SEVERABILITY

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

(l) ANNEXED AREAS FOR CITIES AND VILLAGES

The Crawford County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

ARTICLE B

General Standards Applicable to All Floodplain Districts

The community shall review all permit applications to determine whether proposed building sites

will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 13-2-25(b). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

13-2-6 HYDRAULIC AND HYDROLOGIC ANALYSES

(a) No floodplain development shall:

(1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or

(2) Cause any increase in the regional flood height due to floodplain storage area lost.

(b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Article H are met.

SEC. 13-2-7 WATERCOURSE ALTERATIONS

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 13-2-6 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Article H, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

SEC. 13-2-8 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT

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

according to Article H.

SEC. 13-2-9 PUBLIC OR PRIVATE CAMPGROUNDS

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

(a) The campground is approved by the Department of Health Services;

(b) A land use permit for the campground is issued by the zoning administrator;

(c) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;

(d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;

(e) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (d) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;

(f) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

(g) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;

(h) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;

(i) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

(j) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Article C, D or E for the floodplain district in which the structure is located;

(k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

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

ARTICLE C

Floodway District (FW)

SEC. 13-2-10 APPLICABILITY

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 13-2-20.

SEC. 13-2-11 PERMITTED USES

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
- they meet the standards in s. 13-2-12 and 13-2-13; and
- all permits or certificates have been issued according to s. 13-2-25.

(a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 13-2-12(d).

(d) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 13-2-12 and 13-2-13.

(e) Extraction of sand, gravel or other materials that comply with s. 13-2-12(d).

(f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.

(g) Public utilities, streets and bridges that comply with s. 13-2-12(c).

SEC. 13-2-12 STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY

(a) GENERAL

(1) Any development in the floodway shall comply with Article B and have a low flood damage potential.

(2) Applicants shall provide the following data to determine the effects of the proposal according to s. 13-2-6 and 13-2-25(b)(3):

1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

2. An analysis calculating the effects of this proposal on regional flood height.

(3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (2) above.

(b) STRUCTURES

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

(1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;

(2) Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) Must be anchored to resist flotation, collapse, and lateral movement;

(4) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and

(4) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(c) PUBLIC UTILITIES, STREETS AND BRIDGES

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

(1) Adequate floodproofing measures are provided to the flood protection elevation; and

(2) Construction meets the development standards of s. 13-2-6.

(d) FILLS OR DEPOSITION OF MATERIALS

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

(1) The requirements of s. 13-2-6 are met;

(2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;

(3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(4) The fill is not classified as a solid or hazardous material.

SEC. 13-2-13 PROHIBITED USES

All uses not listed as permitted uses in s. 13-2-11 are prohibited, including the following uses:

(a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

(b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;

(e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(f) Any solid or hazardous waste disposal sites;

(g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and

(h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

ARTICLE D

Floodfringe District (FF)

SEC. 13-2-14 APPLICABILITY

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 13-2-20.

SEC. 13-2-15 PERMITTED USES

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 13-2-16 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 13-2-25 have been issued.

SEC. 13-2-16 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE

Section 13-2-16 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Article F *Nonconforming Uses*;

(a) RESIDENTIAL USES

Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Article F *Nonconforming Uses*;

(1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s 13-2-16(a)(1) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.

(2) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

(3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (4).

(4) In developments where existing street or sewer line elevations make compliance with subd. (3) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:

a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

b. The municipality has a DNR-approved emergency evacuation plan.

(b) ACCESSORY STRUCTURES OR USES

Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(c) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of s. 13-2-16(a). Subject to the requirements of s. 13-2-16(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) MANUFACTURING AND INDUSTRIAL USES

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s 13-2-29. Subject to the requirements of s. 13-2-16(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) STORAGE OF MATERIALS

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 13-2-29. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) PUBLIC UTILITIES, STREETS AND BRIDGES

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

(1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 13-2-29.

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

(g) SEWAGE SYSTEMS

All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood

water into the system, pursuant to s. 13-2-29(c), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(h) WELLS

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 13-2-29(c), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) SOLID WASTE DISPOSAL SITES

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

(j) DEPOSITION OF MATERIALS

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

(k) MANUFACTURED HOMES

(1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

(2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

a. have the lowest floor elevated to the flood protection elevation; and

b. be anchored so they do not float, collapse or move laterally during a flood

(3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 13-2-16(a).

(l) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 13-2-16(k) (2) and (3). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

ARTICLE E

General Floodplain District (GFP)

SEC. 13-2-17 APPLICABILITY

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

SEC. 13-2-18 PERMITTED USES

Pursuant to s. 13-2-20, it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (s. 13-2-11) and Floodfringe (s. 13-2-15) Districts are allowed within the General Floodplain District, according to the standards of s. 13-2-19, provided that all permits or certificates required under s. 13-2-25 have been issued.

SEC. 13-2-19 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

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

(a) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

(1) at or above the flood protection elevation; or

(2) two (2) feet above the highest adjacent grade around the structure; or

(3) the depth as shown on the FIRM

(b) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

SEC. 13-2-20 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

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

(a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.

(b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.

(1) A Hydrologic and Hydraulic Study as specified in s. 13-2-25(b)(3).

(2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;

(3) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

ARTICLE F

Nonconforming Uses

SEC. 13-2-21 GENERAL

(a) APPLICABILITY

If these standards conform with s. 62.23(7)(h), Wis. Stats., they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

(1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;

(3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

(4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance

with s. 13-2-16(a). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

(5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 13-2-16(a).

(6) If on a per event basis the total value of the work being done under (4) and (5) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 13-2-16(a).

(7) Except as provided in subd. (8), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

(8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

a. Residential Structures

1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 13-2-29(b).

2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

3. Shall be constructed with electrical, heating, ventilation, plumbing

and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.

5. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 13-2-19(a).

6. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

1. Shall meet the requirements of s. 13-2-21(b)(8)a.1-6.

2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 13-2-29(a) or (b).

3. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in 13-2-19(a).

(c) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 13-2-12-(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 13-2-29 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 13-2-21(b)(8)a. if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

SEC. 13-2-22 FLOODWAY DISTRICT

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

(1) Has been granted a permit or variance which meets all ordinance requirements;

(2) Meets the requirements of s. 13-2-21;

(3) Shall not increase the obstruction to flood flows or regional flood height;

(4) Any addition to the existing structure shall be floodproofed, pursuant to s. 13-2-29, by means other than the use of fill, to the flood protection elevation; and

(5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

d. The use must be limited to parking, building access or limited storage.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 13-2-29(c) and ch. SPS 383, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 13-2-29(c) and chs. NR 811 and NR 812, Wis. Adm. Code.

SEC. 13-2-23 FLOODFRINGE DISTRICT

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of s. 13-2-16 except where s. 13-2-23(b) is applicable.

(b) Where compliance with the provisions of subd. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 13-2-27, may grant a variance from those provisions of subd. (a) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(1) No floor is allowed below the regional flood elevation for residential or commercial structures;

(2) Human lives are not endangered;

(3) Public facilities, such as water or sewer, shall not be installed;

(4) Flood depths shall not exceed two feet;

(5) Flood velocities shall not exceed two feet per second; and

(6) The structure shall not be used for storage of materials as described in s. 13-2-16(e).

(c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, 13-2-28(c) and ch. SPS 383, Wis. Adm. Code.

(d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 13-2-28(c) and ch. NR 811 and NR 812, Wis. Adm. Code.

ARTICLE G

Administration

SEC. 13-2-24 ADMINISTRATION

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

SEC. 13-2-25 ZONING ADMINISTRATOR

(a) DUTIES AND POWERS

The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

(1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(2) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.

(3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

(4) Keep records of all official actions such as:

a. All permits issued, inspections made, and work approved;

b. Documentation of certified lowest floor and regional flood elevations;

c. Floodproofing certificates.

d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.

e. All substantial damage assessment reports for floodplain structures.

f. List of nonconforming structures and uses. .

(5) Submit copies of the following items to the Department Regional office:

a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

b. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.

c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(7) Submit copies of amendments to the FEMA Regional office.

(b) LAND USE PERMIT

A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(1) GENERAL INFORMATION

a. Name and address of the applicant, property owner and contractor;

b. Legal description, proposed use, and whether it is new construction or a modification;

(2) SITE DEVELOPMENT PLAN

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

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

b. Location of the ordinary highwater mark of any abutting navigable waterways;

c. Location of any structures with distances measured from the lot lines and street center lines;

d. Location of any existing or proposed on-site sewage systems or private water supply systems;

e. Location and elevation of existing or future access roads;

f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Article C or Article D are met; and

i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 13-2-6. This may include any of the information noted in s. 13-2-12(a).

(3) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT

All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

a. Zone A floodplains:

1. Hydrology

The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge.*

2. Hydraulic modeling

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

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i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.

ii. channel sections must be surveyed.

iii. minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.

iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.

v. the most current version of HEC_RAS shall be used.

vi. a survey of bridge and culvert openings and the top of road is required at each structure.

vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.

viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

3. Mapping

A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

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

ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless

adequate justification based on standard accepted engineering practices is provided.

b. Zone AE Floodplains

1. Hydrology
If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge.*

2. Hydraulic model
The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

i. Duplicate Effective Model
The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. Corrected Effective Model.
The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.

iii. Existing (Pre-Project Conditions) Model.
The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

iv. Revised (Post-Project Conditions) Model.
The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

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

i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.

v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.

vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

vii. Both the current and proposed floodways shall be shown on the map.

viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(4) EXPIRATION

All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

(c) CERTIFICATE OF COMPLIANCE

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

(1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;

(2) Application for such certificate shall be concurrent with the application for a permit;

(3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

(4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 13-2-29 are met.

(d) OTHER PERMITS

Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

SEC. 13-2-26 ZONING AGENCY

(a) The Plan Commission shall:

(1) oversee the functions of the office of the zoning administrator; and

(2) review and advise the governing body on all proposed amendments to this ordinance, maps and text.

(b) The Plan Commission shall not:

(1) grant variances to the terms of the ordinance in place of action by the Board of

Adjustment/Appeals; or

(2) amend the text or zoning maps in place of official action by the governing body.

SEC. 13-2-27 BOARD OF APPEALS

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

(a) POWERS AND DUTIES

The Board of Adjustment/Appeals shall:

(1) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;

(2) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and

(3) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(b) APPEALS TO THE BOARD

(1) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(2) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

a. Notice - The board shall:

1. Fix a reasonable time for the hearing;

2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and

3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

b. Hearing - Any party may appear in person or by agent. The board shall:

1. Resolve boundary disputes according to s. 13-2-27(c);

2. Decide variance applications according to s. 13-2-27(d); and

3. Decide appeals of permit denials according to s. 13-2-28.

(3) DECISION: The final decision regarding the appeal or variance application shall:

a. Be made within a reasonable time;

b. Be sent to the Department Regional office within 10 days of the decision;

c. Be a written determination signed by the chairman or secretary of the Board;

d. State the specific facts which are the basis for the Board's decision;

e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and

f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) BOUNDARY DISPUTES

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

(1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;

(2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and

(3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Article H *Amendments*.

(d) VARIANCE

(1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

a. Literal enforcement of the ordinance will cause unnecessary hardship;

b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

c. The variance is not contrary to the public interest; and

d. The variance is consistent with the purpose of this ordinance in s. 13-2-3.

(2) In addition to the criteria in subd. (1), to qualify for a variance under FEMA regulations, the following criteria must be met:

a. The variance shall not cause any increase in the regional flood elevation;

b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and

c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(3) A variance shall not:

a. Grant, extend or increase any use prohibited in the zoning district;

b. Be granted for a hardship based solely on an economic gain or loss;

c. Be granted for a hardship which is self-created.

d. Damage the rights or property values of other persons in the area;

e. Allow actions without the amendments to this ordinance or map(s) required in Article H *Amendments*; and

f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to $25.00 per $100.00 of coverage. A copy shall be maintained with the variance record.

SEC. 13-2-28 TO REVIEW APPEALS OF PERMIT DENIALS

(a) The Zoning Agency (s. 13-2-26) or Board shall review all data related to the appeal. This may include:

(1) Permit application data listed in s. 13-2-25(b);

(2) Floodway/floodfringe determination data in s. 13-2-20;

(3) Data listed in s. 13-2-12(a)(2) where the applicant has not submitted this information to the zoning administrator; and

(4) Other data submitted with the application, or submitted to the Board with the appeal.

(b) For appeals of all denied permits the Board shall:

(1) Follow the procedures of s. 13-2-27;

(2) Consider zoning agency recommendations; and

(3) Either uphold the denial or grant the appeal.

(c) For appeals concerning increases in regional flood elevation the Board shall:

(1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Article H *Amendments*; and

(2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

SEC. 13-2-29 FLOODPROOFING STANDARDS FOR NONCOMFORMING STRUCTURES OR USES

(a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

(b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

(1) certified by a registered professional engineer or architect; or

(2) meets or exceeds the following standards:

a. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

b. the bottom of all openings shall be no higher than one foot above grade; and

c. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) Floodproofing measures shall be designed, as appropriate, to:

(1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(2) Protect structures to the flood protection elevation;

(3) Anchor structures to foundations to resist flotation and lateral movement;

(4) Minimize or eliminate infiltration of flood waters; and

(5) Minimize or eliminate discharges into flood waters.

SEC. 13-2-30 PUBLIC INFORMATION

(a) Place marks on structures to show the depth of inundation during the regional flood.

(b) All maps, engineering data and regulations shall be available and widely distributed.

(c) Real estate transfers should show what floodplain district any real property is in.

ARTICLE H

Amendments

SEC. 13-2-31 AMENDMENTS

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 13-2-32.

(a) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s.13-2-32. Any such alterations must be reviewed and approved by FEMA and the DNR.

(b) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 13-2-32.

SEC. 13-2-32 GENERAL

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 13-2-33 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

(a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

(b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

(c) Any changes to any other officially adopted floodplain maps listed in 13-2-5(b)(2);

(d) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;

(e) Correction of discrepancies between the water surface profiles and floodplain maps;

(f) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

(g) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM

requires prior approval by FEMA.

SEC. 13-2-33 PROCEDURES

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats. The petitions shall include all data required by ss. 13-2-20 and 13-2-25(b). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

(a) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23.

(b) No amendments shall become effective until reviewed and approved by the Department.

(c) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

ARTICLE I

Enforcement and Penalties

SEC. 13-2-34 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than $20.00 (twenty dollars) and not more than $50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

ARTICLE J

Definitions

SEC. 13-2-35 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and is not discretionary.

(a) A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(b) AH ZONE – See "AREA OF SHALLOW FLOODING".

(c) AO ZONE – See "AREA OF SHALLOW FLOODING".

(d) ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

(e) ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

(f) AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

(g) BASE FLOOD – Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

(h) BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

(i) BUILDING – See STRUCTURE.

(j) BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

(k) CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

(l) CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

(m) CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

(n) CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

(o) CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

(p) DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

(q) DEPARTMENT – The Wisconsin Department of Natural Resources.

(r) DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

(s) DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

(t) ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.

(u) FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.

(v) FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones

applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

(w) FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

(1) The overflow or rise of inland waters;

(2) The rapid accumulation or runoff of surface waters from any source;

(3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or

(4) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

(x) FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

(y) FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

(z) FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

(aa) FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

(bb) FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

(cc) FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

(dd) FLOODPLAIN MANAGEMENT – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

(ee) FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

(ff) FLOODPROOFING – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

(gg) FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

(hh) FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

(ii) FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

(jj) FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

(kk) HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.

(ll) HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

(mm) HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

(nn) HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(oo) HISTORIC STRUCTURE – Any structure that is either:

(1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

(pp) INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

(qq) LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

(rr) LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

(ss) LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

(tt) MAINTENANCE – The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

(uu) MANUFACTURED HOME – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

(vv) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or

contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

(ww) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

(xx) MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring if concrete pads.

(yy) MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

(zz) MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

(aaa) MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

(bbb) MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

(ccc) MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

(ddd) MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

(eee) MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

(fff) NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.

(ggg) NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.

(hhh) NEW CONSTRUCTION – For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

(iii) NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

(jjj) NONCONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

(kkk) OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

(lll) OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s. 13-2-5(b), which has been approved by the Department and FEMA.

(mmm) OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.

(nnn) ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(ooo) PERSON – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

(ppp) PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and

Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

(qqq) PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

(rrr) REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

(sss) REGIONAL FLOOD – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

(ttt) START OF CONSTRUCTION – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(uuu) STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

(vvv) SUBDIVISION – Has the meaning given in s. 236.02(12), Wis. Stats.

(www) SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

(xxx) SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement

regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(yyy) UNNECESSARY HARDSHIP – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

(zzz) VARIANCE – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

(aaaa) VIOLATION – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

(bbbb) WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.

(cccc) WATER SURFACE PROFILE – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

(dddd) WELL – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use."

CHAPTER 3

Shoreland-Wetland Zoning

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ARTICLE A

Statutory Authorization, Findings of Fact, and Title

SEC. 13-3-1 STATUTORY AUTHORIZATION.

This Chapter is adopted pursuant to the authorization in Sections 61.35, 61.351, 62.23, and 281.31, *Wis. Stats.*

SEC. 13-3-2 FINDINGS OF FACT.

Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters within the Village of Gays Mills would adversely affect the public health, safety, convenience and general welfare and impair the tax base.

State Law Reference: Secs. 61.351 and 281.31, *Wis. Stats.*

SEC. 13-3-3 TITLE OF ORDINANCES IN CHAPTER.

The ordinances in this Chapter shall be known as the Shoreland-Wetland Zoning Code of the Village of Gays Mills, Wisconsin, but may be referred to in this Chapter as "this Chapter."

ARTICLE B

General Provisions

SEC. 13-3-4 DEFINITIONS.

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

(b) **Specific Definitions.** The following terms when used in this Chapter shall have the following meanings:

(1) Accessory Structure or Use. A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

(2) Boathouse. As defined in Section 30.01(1d), *Wis. Stats.,* a structure used for the storage of watercraft and associated materials which has one (1) or more walls or sides.

(3) Class 2 Public Notice. Publication of a public hearing notice under Chapter 985, *Wis. Stats.,* in the Village newspaper. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing.

(4) Conditional Use. A use which is permitted by this Chapter provided that the conditions specified in this Chapter are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the Village Board.

(5) Department. The Wisconsin Department of Natural Resources.

(6) Development. Construction, reconstruction, structural alteration or moving of buildings or structures and other types of development, including, but not limited to, the construction and reconstruction of roads, buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

(7) Drainage System. One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

(8) Environmental Control Facility. Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

(9) Fixed Houseboat. As defined in Section 30.01(1r), *Wis. Stats.,* a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

(10) Navigable Waters. As defined in Section 281.31(2)(d), *Wis. Stats.,* Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of the State of Wisconsin, including the Wisconsin portion of boundary waters, which are navigable under the laws of the State of Wisconsin.

(11) Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristics.

(12) Planning Agency. The Plan Commission created under Section 62.34(1), *Wis. Stats.,* if any, or the Plan Committee of the Village of Gays Mills.

(13) Shorelands. As defined in Section 59.692(1)(b), *Wis. Stats.,* the area within the following distances from the ordinary high-water mark of navigable waters as defined in Section 281.31(2)(d), *Wis. Stats.*: one thousand (1,000) feet from a lake, pond or flowage, and if the navigable water is a glacial pothole lake then this distance shall be measured from the high-water mark of the lake, and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(14) Shoreland-Wetland District. The zoning district, created in this Chapter, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-3-11 of this Chapter.

(15) Unnecessary Hardship. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.

(16) Variance. An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.

(17) Wetlands. As defined in Section 23.32(1), *Wis. Stats.,* those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

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

(19) Zoning Administrator. The zoning administrator appointed pursuant to Section 13-3-16 of this Chapter.

State Law Reference: Wis. Adm. Code NR 117.03 and NR 117.05.

SEC. 13-3-5 COMPLIANCE.

The use of wetlands and the alteration of wetlands within the shoreland area of the Village of Gays Mills shall be in full compliance with the terms of this Chapter and other applicable local, State or federal regulations; provided however, that Section 13-3-15 of this Chapter shall govern the validity of nonconforming uses under this Chapter. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

SEC. 13-3-6 MUNICIPALITIES AND STATE AGENCIES REGULATED.

Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Section 13.48(13), *Wis. Stats.,* applies. The design, location, construction, reconstruction, maintenance and repair of highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.12(4)(a), *Wis. Stats.,* applies.

SEC. 13-3-7 ABROGATION, GREATER RESTRICTIONS, AND EXCEPTION.

(a) **Prior Ordinances.** This Chapter supersedes all the provisions of any Village zoning ordinance enacted under Sections 61.35 and 62.23, *Wis. Stats.,* which relates to shoreland-wetlands, except that where another Village zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) **Deed Restrictions, Covenants, and Easements.** This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

(c) **Farm Drainage Ditch Exception.** Pursuant to Section 281.31(2m), *Wis. Stats.,* notwithstanding any other provision of law or administrative rule promulgated thereunder, this Chapter does not apply to lands adjacent to farm drainage ditches if:

(1) Such lands are not adjacent to a natural navigable stream or river;

(2) Those parts of such drainage ditches adjacent to such lands were non-navigable streams before ditching; and

(3) Such lands are maintained in nonstructural agricultural use.

State Law Reference: Sections 61.351(4)(b) and 281.31(2m), *Wis. Stats.*

SEC. 13-3-8 INTERPRETATION.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village of Gays Mills and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 117 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment of this Chapter.

SEC. 13-3-9 SEVERABILITY.

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

SEC. 13-3-10 ANNEXED AREAS.

The shoreland zoning provisions of Crawford County in effect on the date of annexation shall remain in effect and shall be administered by the Village of Gays Mills for all areas annexed by the Village after May 7, 1982. These annexed lands are described on the Village's official zoning map. The Crawford County shoreland zoning provisions are incorporated by reference for the purpose of administering this Chapter and are on file in the office of the Village Zoning Administrator.

ARTICLE C

Shoreland-Wetland Zoning District

SEC. 13-3-11 OFFICIAL SHORELAND-WETLAND ZONING MAPS.

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the Village Clerk-Treasurer:

(a) Wisconsin Wetland Inventory map stamped "Final" on March 8, 1989.
(b) United States Geological Survey map, most recent revision.
(c) Floodplain Zoning Maps titled Flood Insurance Rate Map dated March 5, 1990.
(d) Zoning maps entitled Gays Mills District Zoning.

SEC. 13-3-12 DISTRICT BOUNDARIES.

(a) **Boundaries.** The shoreland-wetland zoning district includes all unfilled wetlands in the Village of Gays Mills, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-3-11 and which are:
   (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village of Gays Mills shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-11 of this Chapter.
   (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-11. Floodplain Zoning Maps shall be used to determine the extent of floodplain areas in the Village.

(b) **Determinations of Navigability.** Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.

(c) **Discrepancies.** When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department 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 grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands, the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

(d) **Amendments.** All district boundary amendments shall be recorded on an official copy of the mapped zoning district boundaries.

State Law Reference: Secs. 23.32(1), 59.692(1)(b), and 61.351, *Wis. Stats.;* Wis. Adm. Code NR

117.05.

SEC. 13-3-13 PERMITTED USES.

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

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

(b) **Wetland Alteration Restricted.** Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
   (1) Uses in the practice of silviculture, where required for temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected, or the construction and maintenance of roads necessary to conduct silvicutural activities as permitted under Wis. Adm. Code NR 117.05(2)(k);
   (2) Flooding, dike, and dam construction, and ditching for the purpose of growing and harvesting cranberries;
   (3) The maintenance and repair of existing drainage ditches, where permissible under Section 30.20, *Wis. Stats.,* or of other existing drainage systems (such as tiling) to restore the functional drainage of existing agricultural lands or pre-existing levels of drainage on other lands, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible under Chapter 30, *Wis. Stats.,* and that dredged spoil is placed on existing spoil banks where possible;
   (4) The construction and maintenance of fences for the pasturing of livestock to the extent of limited excavating and filling necessary for such construction or maintenance;
   (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, to the extent of limited excavating and filling necessary for the installation of pilings;
   (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district, provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed under Section 13-3-24(c) of this Chapter and Wis. Adm. Code NR 117.05(4)(d); and
   (7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(c) **Permit Required.** Uses which are allowed upon the issuance of a simple zoning permit and which may include wetland alterations only to the extent specifically provided below:
   (1) The construction and maintenance of roads which are necessary for the continuity of the Village street system, the provision of essential utility and emergency services or to provide access to uses permitted in this Section, provided that:
      a. The road cannot, as a practical matter, be located outside the wetland;
      b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-24(c) of this Chapter and Wis. Adm. Code

NR 117.05(4)(d);

c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
d. Road construction activities are carried out in the immediate area of the roadbed only; and
e. Any wetland alteration must be necessary for the construction or maintenance of the road.

(2) The construction and maintenance of nonresidential buildings provided that:
a. The building is used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation;
b. The building cannot, as a practical matter, be located outside the wetland;
c. The building does not exceed five hundred (500) square feet in floor area; and
d. Only limited filling and excavating necessary to provide structural support for the building is allowed.

(3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game farms, wildlife preserves, and public boat launching ramps, provided that:
a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) of this Section; and
d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game farms, and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

(4) The construction and maintenance of electric and telephone transmission lines, gas, sewer, and water distribution lines, and related facilities and the construction and maintenance of railroad lines provided that:
a. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
b. Only filling, excavating, ditching, or draining necessary for such construction or maintenance is allowed; and
c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-24(c) of this Chapter and Wis. Adm. Code NR 117.05(4)(d).

State Law Reference: Wis. Adm. Code NR 117.05.

SEC. 13-3-14 PROHIBITED USES.

(a) **Rezoning Required.** Any use not listed in Section 13-3-13 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-3-38 of this Chapter.

(b) **Other Prohibited Uses.** The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat beyond the ordinary high-water mark of any navigable waters are prohibited, subject to the exceptions contained in Section 30.121, *Wis. Stats.*

State Law Reference: Wis. Adm. Code NR 117.05.

SEC. 13-3-15 NONCONFORMING STRUCTURES AND USES.

The lawful use of a building, structure or property which existed at the time of enactment of the shoreland-wetland zoning ordinances amended by this Chapter and has not been discontinued for the period of time specified in Subsection (b), at the time of enactment of this Chapter, or at the time an applicable amendment to this Chapter takes effect and which is not in conformity with the provisions of the Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

(a) **Reconstruction and Repair.** This Chapter, pursuant to Section 61.351(5), *Wis. Stats.,* shall not limit the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland zoning ordinances amended by this Chapter or this Chapter. All other modifications to nonconforming structures are subject to Section 62.23(7)(h), *Wis. Stats.,* which limits total lifetime structural repairs and alterations to fifty percent (50%) of the assessed value of the building.

(b) **Nonconforming Use Discontinued.** If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Chapter.

(c) **Nonconforming Use Without a Structure.** Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter adopted under Section 61.351, *Wis. Stats.,* may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended.

(d) **Boathouses.** The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Section 30.121, *Wis. Stats.*

State Law Reference: Secs. 61.351(5) and 62.23(7)(h), *Wis. Stats.;* Wis. Adm. Code NR 117.05.

ARTICLE D

Administrative Provisions

SEC. 13-3-16 ZONING ADMINISTRATOR.

The Village Board shall appoint a Zoning Administrator for the purpose of administering and enforcing this Chapter. The Zoning Administrator shall have the following duties and powers:

(a) **Advise Applicants.** Advise applicants as to the provisions of this Chapter and assist them in preparing permit applications and appeal forms.

(b) **Permits and Inspections.** Issue permits and inspect properties for compliance with this Chapter.

(c) **Records.** Keep records of all permits issued, inspections made, work approved and other official actions.

(d) **Access.** Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing his duties.

(e) **Regular Inspections.** Make regular inspections of permitted work in progress to insure conformity of the finished building, structure or other development with the terms of this Chapter.

(f) **Notice to Department.** Submit written notice to the appropriate district office of the Department at least ten (10) days prior to hearings on proposed conditional use (special exception) permits which are required by the Village, appeals for map or text interpretation of shoreland-wetland zoning provisions, and map and text amendments to shoreland-wetland regulations.

(g) **Copies to Department.** Submit copies of decisions on variances, conditional use (special exception) permits, appeals for a map or text interpretation and map or text amendments within ten (10) days after they are granted or denied to the appropriate district office of the Department.

(h) **Violations.** Investigate and report violations of this Chapter to the appropriate Village planning agency and the District Attorney, corporation counsel or Village Attorney.

(i) **Record of Proceedings.** Maintain a record of all proceedings before the Village Board of Appeals and Village planning agency, including, at a minimum, minutes of the proceedings, copies of all exhibits and records of all official actions.

State Law Reference: Wis. Adm. Code NR 117.05.

SEC. 13-3-17 ZONING PERMITS.

(a) **When Required.** Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13-3-4(b)(6) of this Chapter, or any change in the use of an existing building or structure is initiated.

(b) **Application.** An application for a permit shall be made to the Zoning Administrator upon forms furnished by the Village, a copy of which shall be filed in the office of the Zoning Administrator, and shall include, for the purpose of proper enforcement of these regulations, the following information:

(1) General Information.

a. Name, address and telephone number of applicant, property owner and contractor, where applicable.

b. Legal description of the property and a general description of the proposed use or development.

c. Whether or not a private water or sewage system is to be installed.

(2) Site Development Plan. The site development plan shall be drawn to scale and submitted as a

part of the permit application form and shall contain the following information:

a. Dimensions and area of the lot;
b. Location of any structures with distance measured from the lot lines and centerline of all abutting streets or highways;
c. Description of any existing or proposed on-site sewage systems or private water supply systems;
d. Location of the ordinary high-water mark of any abutting navigable waterways;
e. Boundaries of all wetlands;
f. Existing and proposed topographic and drainage features and vegetative cover;
g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
h. Location of existing or future access roads; and
i. Specifications and dimensions for areas of proposed wetland alteration.

(c) **Expiration.** All permits issued under the authority of this Chapter shall expire twelve (12) months from the date of issuance.

SEC. 13-3-18 CERTIFICATES OF COMPLIANCE.

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

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

(b) **Temporary Certificate.** The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the Village Board.

(c) **Issued Upon Written Request.** Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

SEC. 13-3-19 CONDITIONAL USE PERMITS.

(a) **Application.** Any use listed as a conditional use in this Chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Board of Appeals following the procedures in Section 13-3-23(b), (c) and (d).

(b) **Conditions.** Upon consideration of the permit application and the standards applicable to the conditional uses designated in Section 13-3-13, the Board of Appeals shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this Chapter, as are necessary to further the purposes of this Chapter. Such conditions may include specifications for, without limitation because of specific enumeration: Type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation;

operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this Chapter.

SEC. 13-3-20 FEES.

The Village Board, by resolution, may establish fees for the following:
(a) Zoning permits.
(b) Public hearings.
(c) Legal notice publications.
(d) Conditional use permits.
(e) Rezoning petitions.
(f) Certificates of compliances.

SEC. 13-3-21 RECORDING.

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

SEC. 13-3-22 REVOCATION.

Where the conditions of a zoning permit or conditional use permit are violated, the permit may be revoked by the Board of Appeals pursuant to applicable law.

SEC. 13-3-23 BOARD OF APPEALS.

(a) **Appointment.** The Village President shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Section 62.23(7)(e), *Wis. Stats.,* consisting of five (5) members subject to confirmation by the Village Board. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Section 62.23(7)(e)3, *Wis. Stats.*
(b) **Powers and Duties.** The Board of Appeals shall:
  (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
  (2) Hear and decide applications for conditional use (special exception) permits under this Chapter.
  (3) May authorize, upon appeal, a variance from the requirements of this Chapter where an applicant convincingly demonstrates:
    a. That literal enforcement of the terms of the ordinance will result in practical difficulty or unnecessary hardship for the applicant.

    b. That the difficulty or hardship is due to special conditions unique to the property and is not self-created or based solely on economic gain or loss.
    c. That such variance is not contrary to the public interest as expressed by the purpose of this Chapter.
    d. That the spirit of this Chapter, public safety and welfare, and substantial justice will be promoted by the variance.

(c) **Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the reasons therefor. The Zoning Administrator or other official from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record on which the appeal action was taken.

(d) **Public Hearings.**

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

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

(e) **Decisions.**

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

(2) A copy of such decision shall be delivered or mailed to the parties in interest and the appropriate district office of the Department within ten (10) days after completion of the hearing on the appeal and the filing of briefs.

State Law Reference: Secs. 62.23(7)(e) and 68.12, *Wis. Stats.;* Wis. Adm. Code. NR 117.05.

SEC. 13-3-24 AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

The Village Board may alter, supplement or change the district boundaries and the regulations contained in this Chapter in accordance with the requirements of Section 62.23(7)(d)2, *Wis. Stats.,* Chapter NR 117, Wis. Adm. Code, and the following:

(a) **Copy to Department.** A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the Village planning agency.

(b) **Hearing and Notice.** All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the Village planning agency, and a public hearing shall be held as required by Section 62.23(7)(d)2, *Wis. Stats.* The appropriate district office of the Department shall be provided with the proposed amendment and with written notice of the public hearing at least ten (10) days prior to such hearing.

(c) **Significant Adverse Impact.** In order to insure that the shoreland protection objectives in Section 281.31, *Wis. Stats.,* will be accomplished by the amendment, the Village Board may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:

(1) Storm and flood water storage capacity;

(2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a

wetland;

(3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

(4) Shoreline protection against soil erosion;

(5) Fish spawning, breeding, nursery or feeding grounds;

(6) Wildlife habitat; or

(7) Areas of special recreational scenic or scientific interest, including scarce wetland types and habitat of endangered species.

(d) **Notice by Department.** Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, the Department shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.

(e) **Further Copy and Notice to Department.** The appropriate district office of the Department shall be provided with:

(1) A copy of the recommendations and report, if any, of the Village planning agency on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Village Board; and

(2) Written notice of the Village Board's action on the proposed text or map amendment within ten (10) days after the action is taken.

(f) **Notification by Department.** If the Department notifies the Village planning agency that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, that proposed amendment, if approved by the Village Board, may not become effective until more than thirty (30) days have elapsed since written notice of the Village Board approval was mailed to the Department, as required by Subsection (e) of this Section. If, within the thirty (30) day period, the Department notifies the Village Board that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the Village under Section 61.351(6), *Wis. Stats.,* the proposed amendment may not become effective until the ordinance adoption procedure under Section 61.351(6), *Wis. Stats.,* is completed or otherwise terminated.

State Law Reference: Wis. Adm. Code NR 117.05.

ARTICLE E

Penalties

SEC. 13-3-25 ENFORCEMENT AND PENALTIES.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Village Board, which may direct the Village Attorney to prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture of not less than Fifteen Dollars ($15.00) nor more than Two Hundred Dollars ($200.00) per offense, together with the taxable costs, assessments, surcharges, and fees of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the Village or any adjacent or neighboring property owner who is or would be specially damaged by the violation, as provided in Section 62.23(7)(f)2, *Wis. Stats.*

State Law Reference: Wis. Adm. Code NR 117.05.