

**CHAPTER 17**

**EPHRAIM ZONING CODE**

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## INTRODUCTION

### **17.01 STATUTORY AUTHORIZATION AND ENACTMENT.**

In accordance with authority granted by Wisconsin Statutes, the village board does ordain these zoning regulations.

### **17.02 PURPOSE.**

The purpose of this chapter is to promote and preserve the health, safety, morals, prosperity and general Welfare of the Village and to preserve the distinctive atmosphere and character of the village. By adopting this chapter, the village Board intends to accomplish these purposes by regulating and restricting the uses of structures, lands, and waters; regulating and restricting lot coverage, population distribution and density and the size and location of structures so as to lessen congestion in and promote safety and efficiency of the streets and highways; secure safety from fire, flooding panic and other dangers; provide adequate light, air sanitation and drainage; prevent over crowding; 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 communities comprehensive plan and plan components. It is further intended to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

Specific to Ephraim's atmosphere and character, it is the intention that the Village, as viewed both from the shore and the water, be protected from structures and other features that would detract from its natural scenic value and appearance. This includes but is not limited to solid dock structures within the Eagle Harbor area that would diminish the impression of openness of the area as recommended by the Coastal Management Plan. Structures should be as much as practical consistent with the homogeneous style of the Village and structures which by style and design are visually distinct and apart from the architectural and historical character of the Village should not be permitted. Specific regulations in the Zoning Ordinance exist in Historic Preservation, Protected Waterfront and the R-1 Districts. It is further intended to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

### **17.03 ABROGATION AND GREATER RESTRICTION.**

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

### **17.04 INTERPRETATION.**

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

#### **17.05 SEVERABILITY.**

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

#### **17.06 REPEAL.**

All other ordinances or parts of ordinances of the Village inconsistent with his chapter to the extent of the inconsistency only are hereby repealed.

#### **17.07 TITLE.**

This chapter shall be known as, referred to or cited as the “Zoning Ordinance, Village of Ephraim, Wisconsin.”

#### **17.08 EFFECTIVE DATE.**

The effective date of any portion of this chapter shall be the date on which the particular provision was originally adopted by the Village Board or the effect date following publication of such adoption. Each provision shall be traced historically to determine the date on which the present language or language that is not materially different originally took effect for purposes of determining nonconformity or similar statutes of properties.

#### **17.09 DEFINITIONS.**

Except where specifically defined herein, in all words used in this chapter shall carry the meanings as defined in Webster’s Unabridged 3<sup>rd</sup> New International Dictionary or a dictionary based upon it. Words used in the plural include the singular. The word “shall” is mandatory.

**ADAPTIVE RE-USE** – A use representing compatible and appropriate change, as determined by both the Historic Preservation Committee and the Plan Committee.

**ADDITION.** New construction performed on a building which increases the outside dimensions of the structure. An addition increases floor area of a structure.

**ALTERATION.** A substantial change or modification to a structure or to systems involved within a structure other than an addition or repair.

**BASEMENT.** A floor or space, partly or wholly underground, and having no more than one-half of its height, nor more than seven (7) feet exposed above the finished grade, or base elevation at the exterior walls of the building, whichever is less. Exception: That portion of any exterior wall providing pedestrian or vehicular access to the basement may project entirely out of the ground and still be considered a basement.

**BED & BREAKFAST.** Any place of lodging that (1) provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients; (2) provides no meals other than breakfast and provides the breakfast only to renters of the place; (3) is the owner’s personal residence; (4) is occupied by the owner at the time of rental; (5) was originally built and occupied as a single-

family residence or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence, and (6) has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that this limit does not apply to any of the following: a structural addition, including a renovation, made to a structure after May 11, 1990, within the dimensions of the original structure (or) a structural addition, made to a structure that was originally constructed at least 50 years before an initial or renewal application for a permit is made and for which no use other than a bed & breakfast establishment is proposed. The structural addition under this subdivision shall comply with the rules under Wisc. Stat 101.63(1) and (1m) (State electrical, heating and ventilating statutes).

**BENCHMARK** – Topographical points used to determine both pre-construction (existing) and post-construction (finished) grades on a property, which points shall be determined by owner and Zoning Administrator and/or Plan Committee prior to application for permit.

**BOATHOUSE.** A building which fronts on and opens to the water and has its only use the protection or storage of boats used for noncommercial purposes in conjunction with a residence.

**BUILDING.** Any roofed, enclosed structure used, designed or intended for the protection or shelter of persons, animals or property.

**BUILDING, ACCESSORY.** A detached building subordinate in area, extent or purpose to the principal building or use of which is incidental and related to that of the principal building or use of the premises and located on the same lot as the principal building or use.

**BUILDING, PRINCIPAL.** A building in which is conducted the principal use or uses on the lot.

**BULKHEAD LINE.** A geographic line along a reach of a navigable body of water that has been adopted by Village ordinance and approved by the Department of Natural Resources pursuant to s.s.30.11, Wis. Stats., and which allows filling on the landward side.

**CAMPGROUND.** An area or facility designated, maintained, intended or used for the purpose of supplying accommodations for overnight lodging in recreational vehicles, travel trailers, camping trailers, tents, bedrolls, sleeping bags or similar equipment and being open to the public and designated as a campground, camping resort or similar designation and set aside for free or paying purpose. Inclusion of some lodging buildings or other service facilitates within premises that is otherwise a campground does not remove the use from this definition.

**CEMETERY.** Land used for burial of the dead and dedicated for such purpose, including columbarium's, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**CERTIFIED SURVEY MAP.** A map of a land division prepared in accordance with SEC. 236.34 of the Wisconsin Statutes and in full compliance with the applicable provisions of this Ordinance. A certified survey has the same legal force and effect as a land division plat.

**CHANGE OF USE** An action that results in a significant change in the way a property, structure or space is used. Examples would include but not be limited to: remodeling that changes unfinished storage space into finished living space; a change in commercial use from food service to retail sales; a change from residential use to commercial use.

**CHANNEL.** An Open natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

**COMM./Comm.** - Department of Commerce

**COMMENCE, COMMENCES, COMMENCED.** The doing of some act upon the ground on which a building or structure is to be erected and in pursuance of a design to erect, the result of which act would be known to a person viewing the premises from observation alone that the erection of a building or structure on that land had begun.

**COMMERCIAL TRANSIENT LODGING.** As defined in ordinance 17.16(2) and further in 17.25.

**CONDITIONAL USE.** A conditional use is a special exception that can be applied, because of its unique characteristics and impact on the community which otherwise is not allowed as matter of right. Such use may only be allowed by the Village Plan Committee or Board of Appeals following procedures of this chapter. A conditional use may require two meetings for final determination by the Plan Committee.

**CRAWLWAYS or CRAWL SPACE.** An enclosed area below the first usable floor of a building, generally less than five (5) feet in height used for providing limited access to plumbing and electrical utilities.

**DENSITY:** As used in this ordinance, density refers to the number of commercial transient lodging units or multi-family housing units allowed on a particular parcel of land.

**DEPARTMENT.** As it pertains to the Shoreland-Wetland zoning ordinance, the Wisconsin Department of Natural Resources.

**DEVELOPMENT.** Any manmade 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 substandard 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.

**DIMENSIONAL STANDARDS.** The minimum lot size; total lot coverage; minimum lot width; front, rear and side setbacks; minimum building separation; total residential unit maximum; residential footprint maximum; height regulations; and regulations of buildable lots that are less than minimum lot size, proscribed and regulated by this ordinance.

**DORMER.** A vertical projection in a sloping roof with or without a window (i.e., the roofed structure containing the window). A dormer is considered an alteration to a building, and it must stay within the roof line and not increase the floor area dimensions.



**DOWNLIGHTING.** Any fixture aimed in such a way as to project the light downward below the horizontal plane passing through the lamp.

**DRAINAGE SYSTEM.** One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

**DWELLING.** This term is used in this chapter to signify residential occupancy of parcel and structures of a long term or housekeeping nature as contrasted with transient occupancy. Residential occupancy can include certain accessory usages. Some of these, such as home occupations, are specifically treated in this chapter. Other, including casual renting of dwelling units on a noncommercial basis, are treated less specifically, but are allowable if subordinate to and fully consistent with customary usage of residential areas.

**DWELLING, MULTI-FAMILY.** A building including 3 or more dwelling units.

**DWELLING, SINGLE FAMILY.** A building containing 1 dwelling unit.

**DWELLING, 2 FAMILY.** A building containing 2 dwelling units.

**DWELLING UNIT.** A room or rooms connected together constituting a separate, independent Housekeeping establishment, physically separated from any other rooms or dwelling units that may be in the same structure and containing its own independent kitchen, bath and sleeping facilities sized and equipped to facilitate permanent housekeeping occupancy.

**ENCROACH.** To advance beyond limits set in this chapter, such as a setback line.

**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.

**FAMILY.** One or more persons occupying the premises and living together for residential, non-transient purposes as a single housekeeping unit.

**FARM LIVESTOCK.** Cows, horses, goats, sheep, pigs, donkeys. The keeping of rabbits or poultry, such as chickens, geese or ducks shall be classified with farm livestock only if more than 24 such mature animals or poultry are kept for each 2 acres of land area.

**FENCE.** An artificially constructed barrier of wood, metal, stone, or other manufactured material intended to enclose an area for purpose of privacy, security, or confinement; as a visual or audible screen device; or for esthetic ornamentation.

**FENCE, SEE THROUGH.** A fence which obscures 50% or less of the view through the fence.

**FENCE, SOLID.** A fence which obscures more than 50% of the view through the fence.

**FILLING.** Placing the material to alter land contours, displace water with soil, paving or similar material or the placing shoreline protection measures.

**FLOOD or FLOODING.** Means a general and temporary condition of part inundation or complete inundation of normally dry land areas caused by:

- (a) The overflow or rise of inland waters;

- (b) The rapid accumulation or runoff of surface waters from any source;
- (c) The sudden increase caused by unusually high water levels 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.

**FLOOD FREQUENCY.** The probability of a flood occurrence which is generally 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.

**FLOODFRINGE.** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and generally associated with standing water rather than flowing water.

**FLOOD HAZARD BOUNDARY MAP.** A map prepared by FEMA designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.

**FLOODPLAIN.** That land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

**FLOODPROOFING.** Means 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.

**FLOOD PROTECTION ELEVATION.** An elevation two feet above the water surface profile elevation designated for the regional flood.

**FLOODWAY.** The channel of a river or stream and those portions of the floodplain adjoining the channel, required to carry the regional flood discharge.

**FLOOR AREA.** The sum of the areas (exterior dimensions) of buildings several floors having a height of at least 6' measured from the floor to the ceiling and the area of balconies, decks and porches. Commercial establishments, not including gas stations, that regularly use outdoor areas for sales, servicing, food preparation and consumption shall have such areas counted as floor area.

A floor shall be counted toward floor area if the vertical distance from average grade to the floor below is less than the vertical distance to the ceiling above.

**FLOOR AREA: RENTAL UNITS WITH COMMERCIAL TRANSIENT LODGING FACILITIES.** In allocating that portion of total floor area within a building or part thereof devoted to commercial transient lodging that is within rental units, spaces shall be measured internally. Enclosed balconies, enclosed decks, and enclosed porches assigned to particular units shall be included in each unit and continuous enclosed decks and enclosed porches assigned to particular units shall be included in each unit and continual enclosed decks fronting across several units shall be proportionally assigned to respective units.



**RESTAURANTS WITH SEATING AND RETAIL SALES AREAS.** Internal measurements shall be made of space devoted to customer usage, including counter and cash register space. (5/1/89)

**FOOTPRINT.** The dimensions of a single horizontal plane bounded by the exterior walls of the building expressed in square feet. *Passed 7/11/05 See Section 17.24 for attached garage exemptions to this definition. Passed 10/09/06*

**GARAGE, PRIVATE.** A structure primarily intended for and used for the enclosed storage or shelter of motor vehicles or boats of the family resident upon the premises. Carports are considered to be garages.

**GARAGE SALE.** The sale of tangible personal property, such as, but not limited to, clothing, household effects, tools, garden implements, toys, or other secondhand items. Also includes terms such as “yard sale”, “estate sale”, and “rummage sale”. *Passed 9/13/2010*

## **GRADE**

(a) Existing Footprint Grade: The average height based on elevation measurements of at least four benchmark points (see BENCHMARK definition), measured at exterior foundation of the building.

(b) Finished Footprint Grade: The final height of the ground surface **on which the building sits** after completion of all site preparation work, or after development, measured at exterior foundation of the building and as compared to the previously determined benchmark points. *Passed 7/11/05*

**GROUP HOMES.** (A/K/A community living arrangements). Defined by cross references to s.s.62.23. (7) (I) and 46.03 (22), Wis. Stats.

**HEIGHT.** The vertical distance from the average elevation of the ground adjoining a building or structure to the highest point of the roof of a building, measured from a benchmark which shall be determined by owner and Zoning Administrator prior to application for permit.

**HIGH WATER LINE OR MARK (ORDINARY).** The line or mark on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinct mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristics.

**HOME OCCUPATION/BUSINESS.** An occupation conducted within a person’s residence, *or in an existing accessory building on the same property as the person’s residence.* ~~with “residence” defined as the person’s dwelling place but does not include the garages or other outbuildings.~~ *Passed 6/11/2012*

**IMPERVIOUS SURFACES.** Those surfaces which do not absorb rain. All buildings, parking areas, driveways, roads, sidewalks, and other areas in concrete, asphalt, gravel, and solid or crushed stone, as well as paver blocks when used for parking or driveways are considered impervious surfaces within this definition, and therefore considered lot coverage.

**INTENSITY/INTENSIFICATION:** The comparative degree of perceived increase or exaggeration from one use or condition to a proposed use or condition as it applies to parking

needs, traffic patterns, visual magnitude or altered atmosphere or character on a particular parcel of land. (3/12/90)

**INTERVAL OCCUPANCY LODGING (TIMESHARING).** A facility comprised of 2 or more units in which the exclusive right of use, possession or occupancy of dwelling units circulates among the various owners or lessees thereof in accordance with a fixed time schedule on a periodically recurring basis.

**LIVING AREA:** A finished space within a dwelling unit with walls, floors and ceilings of materials generally accepted for interior construction, with a ceiling height of at least seven feet. This definition includes hallways, closets, dormers, laundry room facilities, stairs, breezeways, and storage rooms if they are a functional part of the living area and not part of an unfinished area such as an unfinished attic or below-grade **unfinished** basement. In rooms with sloped ceilings (.e.g. finished attics) living area is considered that portion of the room with a ceiling height of at least five feet if at least one-half of the finished area of the room has a ceiling height of at least seven feet. *Passed 7/11/05*

**LOCKOUT SUITES: Commercial** transient lodging or multi-family units with more than one entrance from the hallway, common areas or exterior, and able to be divided into more than one unit for use by owners and/or renters by locking interior doors. (5/13/96)

**LOT.** A parcel of land of specified description. This chapter differentiates between lots of record (real estate parcels of record at the register of deeds) and zoning deeds (see definition herein).

**LOT COVERAGE, MAXIMUM.** The area of lot that consists of impervious surface in ratio to total lot area.

**LOT LINE.** The line bounding a lot and subject to determinations made under 17.37 of this chapter.

**LOT LINE, FRONT.** The lot line that most nearly qualifies as the lot line opposite from the rear lot line.

**LOT LINE, REAR.** A lot line that most nearly qualifies as the lot line most distant from the public or private road from which the lot takes access.

**LOT LINE, SIDE.** Any lot line other than a front or rear lot line.

**LOT SIZE, LOT AREA.** The area of a horizontal plane bounded by lot lines and subject to determinations made under ordinance 17.37 of this chapter.

**LOT WIDTH.** Lot widths determined on an average width basis: the number computed by using distances between side lot lines which are perpendicular to the line bisecting the angle from the side lot lines using the widest portion of the lot containing the minimum lot area.

**LOT, ZONING.** See definition of zoning lot.

**MANUFACTURED BUILDING.** A manufactured building has the following features or characteristics: it is produced in a factory; designed and constructed for transportation to a site for installation and use when connected to required utilities; either an independent, individual building or a module combination with other elements to form a building on the site. The term

“manufactured building” is not intended to apply to the use of prefabricated subelements incorporated in the course of construction of buildings on the site, but only to major elements requiring minor or incidental on-site combination or installation.

**MANUFACTURED HOUSING.** A manufactured building or portion of a building originally designed for long term residential use.

**MEMORIAL.** A plaque intended to celebrate, commemorate, or honor the memory of a person or an event.

**MEMORIAL STRUCTURE.** Supporting structure of a freestanding memorial.

**MOBILE HOME.** Manufactured housing built on a chassis.

**MULTI-FAMILY** A land use that allows more than one dwelling unit on a single minimum-sized parcel (see DWELLING UNIT) *Passed 7/11/05*

**NAVIGABLE WATERS.** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under section 144.26(2)(d) Wisc. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under sections 61.351 or 62.221, Wisc. Stats., and chapter NR 117, Wisc. Adm. Code, do not apply to lands adjacent to farm drainage ditches if (1) such lands are not adjacent to a natural navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and (c) such lands are maintained in nonstructural agricultural use.

Wisconsin Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench vs. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor and Co., Inc. vs. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable in fact, under the laws of this state though it may be dry during other seasons.

**PARCEL.** See **LOT.**

**PAVER BLOCKS.** Grid blocks designed for use as driving or parking surface, installed with cavities for planting of grass to minimize impervious surface and substantially reduce runoff. (8/2/93)

**PLAN COMMISSION.** The clearly constituted village body charged with functions identified herein. The commission may be known as the Plan Committee or similar designation.

**PLANNED RESIDENTIAL DEVELOPMENT (PRD)** A conditional land use allowing for clustered single-family homes (or duplexes), through condominium ownership, on larger tracts of land so that a maximum amount of green space is preserved. *Passed 7/11/05*

**PW DESIGN REVIEW-** *Design review required of proposed modifications and reproductions to residences in the PW district. Separate design criteria exist for the modification of an*

*existing structure and for the reproduction of such structure. These criteria can be found in the PW ordinance, 17.20. (3/10/08)*

**ROADSIDE STAND.** A farm building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of farm products raised on such farm.

**SETBACK.** A minimum horizontal distance from a lot line or from the normal high water line. See definitions of YARD, FRONT, REAR, and SIDE, which supplement this definition.

**SHORELANDS.** Lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

**SHORELAND-WETLAND DISTRICT.** The Zoning District, created in the shoreland-wetland section of this ordinance, comprised of lands that are designated as wetlands on the Department wetland inventory maps which have been adopted and made a part of this ordinance.

**SIGN.** Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which any thing is made known and which are used to promote an individual, firm, association, corporation, profession, business, commodity or product, which is visible from any public road or from the water. A vending machine in an open visible location, such as ice and soda machines, shall be treated as signs if they display messages satisfying this definition. The telephone signs on the booth itself, vending machine signs not discernible from any street and signs on gas pumps shall be exempt for the purpose of this chapter.

***Reflected Light. Means of lighting a sign in which light is cast towards the face of a sign while remaining shielded from the front and sides.***

~~SIGN, — BACKLIT. Sign illuminated by a light source behind the face of the sign~~

~~SIGN, LIT FROM WITHIN. Sign illuminated by a light source inside the sign structure that casts a light on the face of the sign.~~

~~SIGN, EXTERNALLY LIT. Sign illuminated by a directed light source not located on the sign structure that floods the entire sign structure with light~~ ***Changed June 11, 2013***

**SIGN, GROSS AREA.** The total area of the sign used for communication purposes, including the spaces between open type letters and figures, including the background structure or other decoration, shall be included in determining the area of the sign. If a sign has 2 or more faces or panels, the area of all faces or panels shall be included in determining the area of the sign, except that where 2 such faces are placed back to back or at 90° or less, only one panel or one side of the sign is used to calculate the area.

**SIGN, OFF-PREMISES.** A sign not placed on the lot on which the individual, firm, association, corporation, profession, commodity or product promoted is located.

**SIGN, ON-PREMISES.** Sign placed on the same lot on which the individual, firm, association, corporation, profession, business, commodity or product promoted is located.

**SPECIAL EXCEPTION.** A “special exception” is for a physical condition on a property, such as height, form of paving, etc., as opposed to the use of a property. It is granted in the ordinance but only under certain stated conditions or when intent of the special exception section 17.25(6) is met. A special exception may require more than one meeting for final determination by the Plan Committee.

**STRUCTURE ALTERATION.** Any change in the supporting members of a building, such as foundations, bearing walls, columns, beams or girders, or any substantial change in the roof and exterior wall.

**STRUCTURE, PRINCIPAL.** The structure containing the use of the property. Whenever doubt arises as to what is the principal structure, the Plan Committee shall investigate and determine the same.

**STRUCTURE.** Anything, including a building, constructed or erected, or any **man-made** production or piece of **work** built up or composed of parts and joined together in some definitive manner, the use of which requires a fixed location on the ground or attachment to something having permanent location on **or in** the ground. For the purposes of this chapter, movable facilities, such as partitions, fences, barriers, vending carts and the like, are structures when and if fixed in a location for such a duration that regular patterns of occupancy and circulation are established around the facility. Land surface recontouring for sanitation or other purposes does not constitute a structure. *Passed 7/11/05*

**STRUCTURE, ACCESSORY.** A detached structure, subordinate in area, extent, or purpose to the principal structure or use, the use of which is incidental **and** related to that of the principal structure or use of the premises, which is located on the same lot as that of the principal structure or use. *Passed 7/11/05*

**SUBSTANTIAL CHANGE OR MODIFICATION.** Any structural repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include: *Passed 7/11/05*

- a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which existed before the improvement began, was identified by a municipal official and are necessary to assure safe living conditions, or
- b) Any alteration of a designated historic structure or site documented as deserving preservation by the Wisconsin State Historical Society, or listed on the National Register of Historic Places provided the alteration will not preclude the structure’s continued designation as an historical structure (Rev. Federal Rule Oct. 1990).

Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows or other nonstructural components. “Substantial improvement” begins when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

**TIMESHARING.** See INTERIM INTERVAL OCCUPANCY FACILITY.

**USE.** Any purpose for which a building, structure or tract of land may be designed, arranged intended maintained or occupied or any activity, occupation, business or operation carried on or intended to be carried on in a building, structure or on the tract of land.

**USE, ACCESSORY.** A subordinate use, clearly incidental and related to the principal use of the premises and located on the same lot as that of the principal building, structure or use.

**USE, PRINCIPAL.** The primary dominant, and characterizing use of a premises or parcel of land.

**UTILITY, PUBLIC.** A state regulated business or service that is of public consequence and need, such as electricity, gas, water, or telephone or telegraphic service.

**UNNECESSARY HARDSHIP.** 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 purposes of this ordinance.

**VARIANCE.** An authorization granted by the Board of Appeals to construct or alter a building or structure in a manner than deviates from the dimensional standards of this ordinance.

**WETLAND.** That area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and which has soils indicative of wet conditions as delineated by the Wisconsin DNR, or Door County Soil and Water, or other wetland expert as approved by the Village Board. *Passed 04/10/06*

**WETLAND ALTERATION.** Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures, or dike and dam construction in a wetland area..

**YARD.** An open space on the same lot with a building or structure unoccupied and unobstructed from the ground upward.

**YARD, FRONT.** A yard extending across the full width of a lot between the front lot line and the closest portion of a building or structure to the front line, the depth of which shall be the least distances between such references.

**YARD, REAR.** A yard extending across the full width of a lot between the rear lot line and the closest portion of a building or structure to the rear of the lot line, the depth of which shall be the least distance between such references.

**YARD, SIDE.** A yard extending on both sides of a lot between the side lot line and the closest portion of a building or structure to the side lot lines, the depth of which shall be the distance between such references.

**ZONING LOT.** A tract of land designated for purposes of this chapter as the development site. A zoning lot may or may not coincide with a lot of record.

## 17.10-12

### GENERAL PROVISIONS

#### 17.10 COMPLIANCE.

The use of any building, structure or land; the removal of shoreland cover; and the location, erection, relocation, reconstruction, extension, enlargement, conversion or structure or part thereof shall be in full compliance with the provisions of this chapter. *Passed 7/11/05*

#### 17.11 ZONING PERMITS.

(1) **ZONING PERMIT REQUIREMENTS.** Any change in the use of any building, structure or land and any location, erection, relocation, reconstruction, extension, enlargement, conversion, interior renovation of a commercial structure (12/10/01) or structural alteration of any building, structure or part thereof shall require prior authorization of a zoning permit or zoning permits, unless specifically exempted there from by this chapter.

(2) **TYPES OF ZONING PERMITS.** There are hereby established 2 types of zoning permits: regular zoning permits, conditional use permits, and special exception permits. Standards and procedures for each type of permit are specified in ordinance 17.38 of this chapter.

#### 17.12 VIOLATIONS.

(1) No person shall use any building, structure or **use** land; in violation of provisions of this ordinance. In case of any violation, the Plan Committee or the Zoning Administrator may bring a complaint against the alleged violator and report the violation to the Village Attorney, whose duty it shall be to expeditiously prosecute such alleged violator. Any person, firm, association or corporation or representative agent failing to comply with the provisions of this chapter may be subject to prosecution and to imposition of injunction and/or penalties under the terms of this chapter and of ordinance 25.04 of this Code of Ordinances. *Passed 7/11/05*

(2) If the violation is failure to obtain a required permit, a permit fee shall be required. The fee shall be 5 times the normal fee. This fee shall not release the application from full compliance with this chapter nor from prosecution from violation of this chapter.

(3) A separate offense shall be deemed to be committed on each day on which a violation of this chapter occurs and also for each day that the violation continues after the date set by order issued in the name of the Village or by a court for its removal or correction.

### 17.13 ZONING DISTRICTS--GENERAL.

(1) **ESTABLISHMENT.** For the purpose of this chapter, the lands in incorporated areas of the Village are hereby divided into the following use districts:

- Single Family Residential (R-1)
- Rural Residential (R-R)
- Commercial (C)
- Protected Waterfront (PW)
- Wetland-Overlay (W)
- Shoreland-Wetland Overlay (S-W)

(2) **BOUNDARIES.** The boundaries of the zoning districts are hereby established as shown in the Village zoning map, which with all explanatory material therein is hereby made a part of this chapter. Such boundaries shall normally follow Village Corporate limits; U.S. Public Land Survey lines; lot or property lines; centerlines of streets, roads, highways and easements; or such lines extended or by boundaries of zoning lots. The location zoning district boundaries which do not coincide with the lines described above shall be determined by the scale of the map. In cases where the zoning district boundaries are intended to coincide with the soil mapping units or wetland mapping units, the "Soil Survey of Door County, Wisconsin," (USDA, 1978), and the Wisconsin Wetland inventory maps shall be utilized in determining the exact location of the district boundaries.

(3) **VACATED RIGHTS-OF-WAY.** The vacating of public rights-of-way shall cause the land vacated to be automatically placed in the same zoning district as the abutting side to which the vacated land reverts.

(4) **ANNEXATIONS.** Annexations to or consolidations with the Village subsequent to the effective date of this chapter shall be placed in the **RR** District, unless the annexation ordinance temporarily places the land in another district. Within 90 days from the effective date of the annexation or consolidation, the Village Plan Committee shall evaluate and recommend a permanent district classification to the Village Board. *Passed 7/11/05*







### 17.14 ZONING MAP.

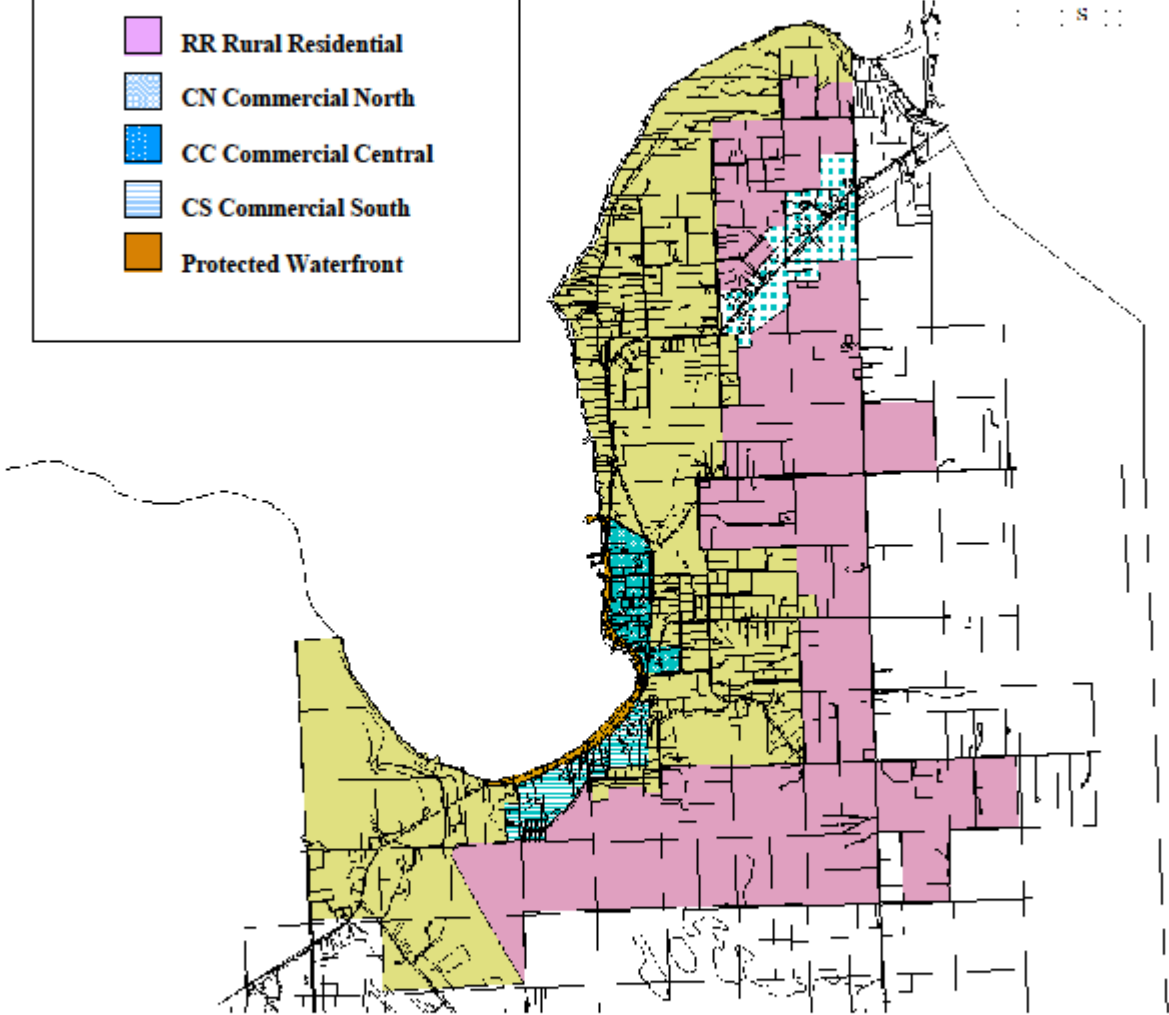
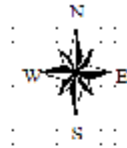
A certified copy of the zoning map shall be adopted and approved with the text as part of this chapter and shall bear upon its face the attestation of the Village President and Village Clerk and shall be available to the public in the office of the Village Clerk.



**This Map for Reference Only- Please consult with Zoning Administrator Prior To Planning & Construction**

**Ephraim Zoning as of January 2006**

-  R1 Single-Family Residential
-  RR Rural Residential
-  CN Commercial North
-  CC Commercial Central
-  CS Commercial South
-  Protected Waterfront



## **17.15 SITE AND DEVELOPMENT STANDARDS.**

### **(1) SUITABILITY STANDARDS.**

(a) Each applicant for any form of zoning approval shall identify any areas within the site that are known subject to the following suitability limitations:

1. Soils classified as poorly drained or very poorly drained by the United States Department of Agriculture, Soil Conservation Service, in the "Soil Survey of Door County, Wisconsin," issued December, 1978.
2. Open space areas shown on an adopted Village Park and open space plan.
3. Wetlands meeting the definition of s.s. 23.32, Wis. Stats.
4. Drainways shown on an adopted Village Plan for surface water drainage.

(b) Any areas so identified may not be the site of structural development, earth disturbance or paving, except for minimal drives or bridges judged by the Plan Committee to be absolutely necessary for use of other portions of the Wetland and Shoreland- Wetland Districts shall be governed by the standards of the applicable district as well as this section, whichever is more restrictive.

### **(2) LOTS. 6/8/98**

(a) **Residential Lots.** Each principal structure shall have a separate lot of record meeting all applicable dimensional requirements. Each principal structure on a lot requires a separate zoning lot meeting all applicable dimensional requirements. No lots may be reduced in size or altered in dimension if doing so will result in the lot or structures within the lot not meeting applicable dimensional requirements. *Passed 7/11/05*

(b) **Commercial Lots.** The Plan Committee may require that separate zoning lots be described for each principal structure or it may, instead, establish building separations. Plan Committee approval of more than one principal structure for a commercial lot of record does not modify ordinance density standards. No lots may be reduced in size or altered in dimension if doing so will result in the lot or structures within the lot not meeting applicable dimensional requirements.

(c) See also ordinance 17.17 (3) regarding nonconforming lots and ordinance 17.37 regarding zoning lots.

(3) **ACCESSORY STRUCTURES.** The following residential accessory structures are allowable upon issuance of a regular zoning permit, including but not limited to: landscape features, garages, carports and other parking structures, patios, decks, storage buildings, sheds and similar enclosures, pet houses and runs, tree houses over 64 square, storage of building materials, swimming pools, tennis courts, freestanding solar equipment, air conditioning equipment, heat pumps, antennas.

**(A) Dimensional Standards for Accessory Structures**  
**Table of Standards**

	PW	R1	RR	C-S	C-C	C-N
<b>Total Square Footage Maximum</b>	No new Accessory Structures	1,000 square feet or 70% of the floor area of Principal Structure which ever is less ( * )	1,000 square feet or 70% of the floor area of Principal Structure which ever is less ( * )	1,000 square feet or 70% of the floor area of Principal Structure which ever is less	1,000 square feet or 70% of the floor area of Principal Structure which ever is less	1,000 square feet or 70% of the floor area of Principal Structure which ever is less
<b>Height Maximum</b>	No new Accessory Structures	15' (**)	28'	15' (**)	15' (**)	15' (**)
<b>Front Setback</b>	No new Accessory Structures	40' from road right of way (***)	75' from road right of way (***)	40' from road right of way (***)	40' from road right of way (***)	75' from road right of way (***)
<b>Rear Setback</b>	No new Accessory Structures	10'	10'	10'	10'	10'
<b>Side Setback</b>	No new Accessory Structures	10'	10'	10'	10'	10'
<b>Building Separation</b>	No new Accessory Structures	N/A	N/A	25'	25'	25'

**Footnotes:**

- \* In R-1 and RR, larger accessory structures are allowed on a conditional use basis
- \*\* Accessory structures in all districts except RR shall not exceed 15' in height, except in cases wherein the owner wishes to match the design of the principal structure, wherein a special exception is required.
- \*\*\* Accessory Structures must also have a greater front setback than existing or proposed principal buildings. An accessory structure may be placed in front of a principal building by conditional use permit, provided the setback from road right of way is still met.

**(B) Additional standards for accessory structures:**

- (1) Accessory structures shall not contain living quarters.
- (2) No more than one accessory building shall be permitted on a lot in a residential district. Additional accessory buildings shall only be allowed by conditional use.
- (3) Swimming pools for the purpose of this chapter shall include any pool, pond, lake or open tank not located within a completely enclosed building

and containing water to a depth at any point greater than 2'. A swimming pool shall be walled or fenced to prevent uncontrolled access by children from the street or adjacent properties.

- (4) Plumbing may be installed in residentially used accessory structures with a conditional use permit, provided that:
- All other sections of chapter 17 pertaining to accessory structures are met in full
  - Sanitary approval is given either by the Door County Sanitarian's office or the Village of Ephraim Wastewater Treatment Department
  - A restrictive agreement be recorded with the County verifying the condition of EMC 17.15(3)b(1) that accessory structures shall not contain living quarters. Added December 11, 2012
- (5) New Accessory Buildings can only be constructed on a lot with an existing principal building (residence or business) with two exceptions; Lots in the Rural Residential District where one accessory building, and/or vacant lots where an immediately adjacent lot under common ownership has a principal building on it.

#### 17.15(4) HOME BUSINESS

**HOME BUSINESS.** Home businesses are conditional uses in the R-1 & R-R Zoning districts. A permit granted for home business does not imply commercial designation. The following standards shall apply:

- (a) The activity must be clearly secondary and incidental.
- (b) The activity must not significantly alter the residential character of the dwelling unit, dwelling structure, or the parcel.
- (c) The activity must not unreasonably interfere with residential occupancy of other parcels in the neighborhood.
- (d) The activity must not create environmental, safety or health hazards, such as noise, light, odors, vibrations, electrical emissions or other fire or safety hazards that are noticeably out of character with those produced in normal residential occupancies in the neighborhood.
- (e) Traffic generated by the ~~vocational~~ activity may not exceed that which is customary to residential occupancy in the neighborhood.
- (f) Signage for the ~~vocational~~ activity shall be governed by the sign sections of this chapter.
- (g) The parcel and structure must contain adequate area to accommodate that ~~vocational~~ activity without interfering with residential occupancy of other parcels in the neighborhood.
- (h) *Existing accessory structures being used to conduct home occupations shall be limited to 600 square feet in space. If the existing accessory building is larger*

*than 600 square feet, a portion of the building can be partitioned off creating a dedicated business space no larger than 600 square feet. Existing accessory structures used to conduct home occupations shall be subject to all applicable residential and commercial building codes.*

~~(h)~~(i) A permit granted for home business designation ends with the current owner and is non-transferable to subsequent owners. *2/13/96*

~~(i)~~(j) Home businesses considered under this ordinance shall be limited to:

- (1) Sale of items manufactured on the premises by owners or others living on the premises—representative items would be artwork, pottery, handmade clothing, furniture, woven articles, etc.
- (2) Day care is permitted as a vocational activity; conditional use approval required if 4 or more persons are cared for.
- (3) Professional or personal services such as consulting, accounting, secretarial service, catering, small-group training or teaching with specific assurances regarding adherence to (e) and (g) above as regards traffic and sufficient area for the activity.
- (4) Businesses conducted through technological means, including computer support services.
- (5) At the discretion of the Plan Committee, other uses may be considered.

~~(j)~~(k) Existing businesses within the Village that fit these criteria as well as businesses established after this passage date of 1/5/98 shall complete, file and receive a non-fee permit approved by the Plan Committee.

~~(k)~~(l) Garage sales as a type of vocational activity are permitted in all districts, provided that not more than 3 are held on single premises per year and that each sale does not exceed 2 days in duration. Plan Committee event review will be required for additional sales or for additional days. Applicant may place one sign, not to exceed 4 square feet, upon the lot where the sale is taking place. Signs at off premises locations are not permitted. *Passed 6/11/2012*

**(5) GROUP HOMES; COMMUNITY LIVING ARRANGEMENTS.** Group home occupation of dwelling units. If the capacity of the group home is 8 or fewer, the use is a permitted use in all residential districts. Group homes with capacity of 9-15 are conditional uses in the PW and RR Districts. Group homes with capacity of 16 or more are conditional uses in all residential districts. Village Zoning of Community living arrangements (group homes) is governed by s.s. 62.23 (7) (i), Wis. Stats. V *Passed 7/11/05*

**(6) DRIVEWAYS.**

(a) These driveway regulations are set forth to promote the safe and efficient ingress and egress to Village; protect the public investments in highways by preventing premature functional obsolescence; to reduce road accidents caused by frequent and poorly designed points of access; and enhance the appearance of the Village.

(b) In all districts and in connection with every use, there shall be provided at the time of initial establishment of the use or expansion thereof adequate access in accord with the following:

1. Driveways connecting to STH 42. *Note: In the case of expansion or redeveloped property, the entire property shall be reviewed in light of this ordinance. (Added: 2/10/03)*

(a) No driveway providing for the movement of traffic between state trunk highways and abutting property may be placed, constructed or altered without the issuance of a driveway permit from the Wisconsin Department of Transportation as authorized by s.s. 86.07(2), Wis. Stats., The design of driveways or street intersections for appropriate sight distance, return radius, angle profile and width shall be based on minimum standards contained in s.s.HY 31.03 to 31.07, Wis. Adm. Code.

(b) The spacing and density of driveway shall conform to the following standards:

Width of Residential Driveways - All residential access drives shall have a minimum width of twelve feet for one-and two-family dwellings, eighteen feet for multi-family uses. Widths greater than eighteen feet may be required for larger multi-family projects, based upon the scope of the project and as determined by the Planning Committee in conjunction with the Fire Chief. *(Added: 2/10/03)*

- a. Width of Commercial driveways - The width of all commercial access driveways shall be determined by the Fire Chief and Planning Committee, with the minimum width being 16 feet. For larger transient lodging and commercial projects, additional width shall be required. . *(Added: 2/10/03)*
- b. One access or driveway may be permitted for each parcel of land, except where an alternate means of access is available and would better serve the public interest.
- c. The horizontal distance between access points on the State highway shall be no less than 500', unless there is no other way to provide access to an existing parcel.
- d. A maximum of 8 access points per side per mile of highway shall be permitted, unless there is no other way to provide access to an existing parcel.
- e. One temporary driveway may be permitted for each parcel of land which existed at the time of adoption of this chapter. The temporary driveway may be continued until the driveway is relocated and/or altered by connection to a permanent street intersection.
- f. Existing driveways may be continued after the implementation of this chapter. However, if the use of an established driveway is discontinued for a period of one year, the Plan Committee may require alterations or improvements to achieve compliance with the standards set forth in this chapter shall be subject to the requirements set forth herein.
- g. When deemed feasible, the Plan Committee may require that access be provided by way of a frontage road or other internal street system as depicted on the official map of the Village. Frontage road arrangements are Village planning policy for the north commercial area and this section shall be constructed and applied to support that policy.

- h. All driveways shall be surfaced and graded so as to be dust free and properly drained. Concrete or blacktop surfacing is required of all driveways in the commercial and multifamily zoning districts. All existing driveways serving commercial and multifamily uses shall be in compliance with these surfacing requirements by June 30,1989.
- i. In the course of design review, the Plan Committee shall review and shall establish requirements to assure that driveway arrangements will fully accommodate traffic so that lines of cars are not stacked up on the roadway waiting to turn into the driveway and so that the vehicles do not have to back onto public roads.
- j. Similar review shall be given to driveway access to holding tanks that need to be pumped by truck. Every site that has or may have such a tank shall be laid out so that trucks of the largest dimensions operated by haulers can be completely out of the paved roadway when pumping.

**2. Driveways Connecting to County and Village Streets.** \* *Note: in the case of expansion re: redeveloped property, the entire property shall be reviewed in light of this ordinance. (Added: 2/10/03)*

- (a) There shall be no more than 2 access driveways to public or private roads from each commercial and residential lot.
- (b) Width of Residential Driveways - All residential access drives shall have a minimum width of twelve feet for one-and two-family dwellings, eighteen feet for multi-family uses. Widths greater than eighteen feet may be required for larger multi-family projects, based upon the scope of the project and as determined by the Planning Committee in conjunction with the Fire Chief. *With prior unanimous approval by the Fire Chief and the Planning Committee, a smaller minimum width for multifamily uses may be allowed, based upon the scope of present and future development. (Added: 11/19/03)*

Width of Commercial driveways - The width of all commercial access driveways shall be determined by the Fire Chief and Planning Committee, with the minimum width being 16 feet. For larger transient lodging and commercial projects, additional width shall be required. *(Added: 2/10/03)*

- (c) All driveways shall be located at least 5' from a lot line, unless a driveway is commonly shared by the adjacent property owner.
- (d) All driveways shall be surfaced and graded so as to be dust free and positively drained. Concrete or blacktop surfacing is required of all driveways in the commercial and multifamily zoning districts. All existing driveways serving commercial and multifamily uses shall be in compliance with these surfacing requirements by June 30, 1989.
- (e) In the course of design review, the Plan Committee shall review and establish requirements to assure that driveway arrangements will fully accommodate traffic so that lines of cars are not stacked up on the roadway waiting to turn into the driveway and so that vehicles do not have to back on to public roads.

(f) Similar review shall be given to on-site driveway access to holding tanks that need to be pumped by truck. Every site that has or may have such a tank shall be laid out so that trucks of the largest dimensions operated by haulers can be completely out of the paved roadway when pumping.

**(7) TRAFFIC VISIBILITY; VISION CLEARANCE.**

(a) A vision triangle formed by the intersection of centerlines of public and/or private roads and a line connecting points on the centerlines of State roads 200' from the intersection, points on the centerlines of County roads 125' from the intersection and points on the centerlines of Village and private roads 100' from the intersection shall be established at every quadrant of intersecting roads. No obstructions, such as structures, parking or vegetation, shall be permitted in the triangle between the heights of 2 ½' and 10' above the point of intersection of the subject centerlines. Official traffic signs and communication and electrical poles may be placed in the vision triangles.

(b) A similar vision triangle shall be required at all private drive entrances to STH 42. The vision triangle shall be 40' from the functioning edge of the drive measured from the point where such drive edge connects with STH 42.

**(8) SETBACKS FROM ROADS.**

(a) **Public Roads.** The minimum distance that a structure shall be setback from the centerline of a public road shall be as follows:

Class of Road	PW	R-1	R-4	RR	Commercial		
					C-S	C-CENT	C-N
State		63'	73'	108'	73'	108	108'
County		63'	73''	108'	73'	108'	108'
Village		55'	100'	100'	65'	108	100'

\*\*except from German Road to Pine Grove where r/o/way is 39-1/2'

(b) **Private Roads.** The minimum distance that a structure shall be set back from the edge of a private road shall be 30'. If the width of the private road or road easement is described by plat, survey, deed or similar document, the setback shall be measured from the edge of the described road or easement. If the width of the private road or easement is not described, then setback shall be measured from the edge of the traveled roadway. No setback shall be required from private driveways which provide access to 2 lots when the driveway is located along the common lot line.

(c) **Road Setback Averaging.**

1. Where an existing principal building located within a distance equal to the minimum lot width for a new lot in the zoning district when measured from the subject property's exterior lot line encroaches the road setback requirement, such building may be used for setback averaging in the following manner:



(a) Where 2 adjacent lots as described above are each occupied by encroaching principal buildings, the minimum road setback for a new building or structure shall be the average of the setbacks of the 2 adjacent principal buildings. [interpreted to mean on separate lots]

(b) Where an adjacent area as prescribed above is occupied by one encroaching principal building, the minimum road setback for a new building or structure shall be the average of the setback required for that particular road.

2. Allowance of setback averaging is within the sound discretion of the Plan Committee. This section merely establishes the maximum allowable reduction. None need be approved if problems of safety, appearance, congestion, or other concerns are reasonably likely to result.

**(9) OFF-STREET PARKING AND SERVICE AREAS.** In all districts and in connection every use, there shall be provided at the time of any building, structure or use is created, erected, enlarged, extended, or increased adequate on site, off-street parking areas in accordance with the following:

- (a) The size of each parking stall shall not be less than 9' wide and not less than 162 sq. ft., exclusive of the space required for ingress and egress.
- (b) Except as provided in par.(c), each parking space shall be on the same lot as the use it serves and not less than 5' from a lot line. All parking areas shall be connected with approved driveways. Driveways shall be located at least 5' from a lot line unless driveways are commonly shared by adjacent property owners.
- (c) The Plan Committee may apply special exception review in regard to parking spaces on other private property off-premises. The Committee shall specifically review whether the applicant has ownership or long term use control of such property and the distance between the off-premises spaces and the use in question. Such off-premises spaces shall not serve required or optional parking for other premises, unless the Plan Committee determines that shared use will be feasible because of different hours of operation. **(6/8/98)**
- (d) In the course of special exception review, the Plan Committee may allow a portion of required parking spaces to remain unpaved if the Committee determines that the granted use does not require their immediate utilization. Such unpaved spaces shall be reserved on the site plan and the Plan Committee shall have a reserved power to order their paving and use at a later time when the development changes or intensifies. **(6/8/98)**
- (e) Off-street parking areas in the C shall be paved with dust free surface materials as approved by the Plan Committee (concrete, blacktop, paver blocks, etc.) one year from the start of any construction. In certain instances because of the small size of the business, its location, or special circumstances, the Plan Committee may waive the parking requirement regarding paving through Special Exception

application. (9/10/01) Where the property is a conforming lot, vacant or where new construction may be planned, parking shall be considered a part of lot coverage.

**8/2/93+6/8/98(e)(1)** The use of paver blocks is encouraged to aid in the appearance of green space and for drainage, but is counted as the same lot coverage as gravel or pavement. On existing non-conforming lot where the principal building will be preserved and continued as a principal building, parking blocks may be used as a special exception in order to provide off-street parking where lot coverage restrictions would not allow off-street parking otherwise. Further building construction (not including repair or maintenance) or expansion on that lot would not be permitted unless parking is then counted as lot coverage.

- (f) No planned parking area shall be within 10' of either a dedicated street right-of-way or an existing blacktopped or surfaced road pavement serving as a public way.
- (g) Required off-street parking spaces shall be as follows:
  1. Single Family Residences and duplexes. 2 per residential unit.
  2. Multi-Family Residences. 2 per residential unit, plus one designated visitor parking space for each 4 residential units. For multiple-occupancy residential housing in the commercial districts, a minimum of 2.5 parking spaces per unit are required (garage space may be counted as parking space). **Passed 7/12/04**
  3. Commercial Establishments; Stores, Shops, Theaters, Laundries. One space for each 150 sq. ft. of floor area, plus one for each 2 employees on the maximum shift at the peak employment month.
  4. Offices, Financial Institutions, Medical Facilities. One space for each 300 sq. ft. of floor area, plus one for each 2 employees on the maximum shift at the peak employment month.
  5. Marinas and Boat Rental. ~~One~~ **Minimum of 1/2 parking**-space for each slip. **Passed 1/8/2013**
  6. Restaurants. a. *Fast Food (no seating)*. One space for every 15 sq. ft. of floor area. b. *Other*. One space for every 100 sq. ft. of floor area, plus one space for each 2 employees on the maximum shift at the peak employment month.
  7. Commercial Transient Lodging. 1.2 spaces per unit having 449 sq. ft. or less, 1.5 spaces for each unit having 450 sq. ft. or more and 2 spaces for managers residence.
  8. Uses not listed. The Plan Committee shall determine the requirements based upon expected usage.
  9. Combinations. Combinations of any of the above uses on a lot shall require the minimum total number of parking stalls for each individual use.
  10. Fractional Numbers. Fractional numbers of required spaces shall be rounded upwards.

(h). All off-street parking areas containing 4 or more parking spaces shall conform to landscaping standards of this section. A landscape plan at a minimum scale of 1" equals 100' shall be submitted to the Village Plan committee. The plan shall show the quality, spacing, size and common name of all landscape materials. The Plan Commission shall approve, conditionally approve or disapprove of the plan. The landscaping plan shall conform to the following minimum landscape standards:

1. Buffer strip adjacent to public Rights-of-Way. When an off-street parking area is visible from the public right-of-way and is located within 30' of the right-of way, a buffer strip of at least 10' in width shall be provided between the parking area and the adjacent public right-of-way. Shrubs, a wall, fence, earth berm or other approved material shall be installed to screen the parking area from view along the entire length of this buffer strip. The screen materials shall not be less than 2' nor more than 4' in height. In addition, the buffer strip shall include at least one tree for each 50 linear feet or fraction thereof. The width of approved driveways that cross the buffer strip shall be subtracted from the linear dimension used to determine the number of trees required. The remainder of the buffer strip shall be landscaped with grass, ground cover or other landscape material, excluding automobile accessible paving.
2. Perimeter Buffer Strips. When an off-street parking area is not entirely screened visually by an intervening building or structure from abutting property, that portion of such area not so screened shall be provided with a buffer strip not less than 5' in width. The buffer strip shall include plant material, a wall , fence, earth berm or other approved material to form a continuous screen between the off-street parking area and the abutting property. The screen material shall not be less than 5' in height. In addition, the perimeter buffer strip shall include at least one shade tree for each 75 linear feet or fraction thereof. The remainder of the buffer strip shall be landscaped with grass, ground cover or other landscape material, excluding automobile accessible paving.
3. Interior Landscaping. Any off-street parking area having 50 or more spaces shall, additionally, provide interior island landscaping, each having a minimum area of 70 sq. ft. for each 10 parking spaces, with each island having at least one shade tree. The remainder of the interior island shall be landscaped with grass, ground cover or other landscape material, excluding automobile accessible paving.
4. Modification of Landscape Standards. The Plan Committee shall consider the unique aspects of each site in the review of landscape plans for off-street parking areas and may modify the specific requirements so that the purpose of this paragraph is accomplished. The Plan Committee may modify the requirements in the following situations:
  - (a) When the abutting property is used for nonresidential uses, the perimeter screening requirements of this paragraph shall be waived, but the perimeter buffer strip is still required and shall contain the shade trees and ground cover materials required by this paragraph.
  - (b) When a proposed parking area abuts an existing hedge, wall or other screening feature located on an abutting property, such existing feature may be used

to satisfy the perimeter screening requirements of this paragraph, provided such feature meets all applicable standards of this chapter. A perimeter buffer strip is still required and shall contain the shade trees and ground cover materials required by this paragraph. If the existing abutting screen feature should be removed in the future, the on-site screening material shall be required and installed at that time.

(c) When topographic conditions or preexisting on-site landscaping materials are functionally adequate to satisfy the landscaping requirements.

(d) When off-street parking areas are shared by more than one business or property owner.

5. Traffic Visibility Standards. All landscape features shall comply with the traffic visibility and vision clearance standards of sub.(7).

6. Installation of Landscaping Material.

(a) All landscaping shall be installed in a sound and workman like manner, according to accept good quality plant materials. Shade trees shall be of a species that is tolerant of an urban environment, is insect and disease resistant, have an average mature crown spread greater than 15' and have trunks which can be maintained clear of branches at least 5' above the ground. Shade trees shall have trunks at least 2 ½" in diameter when planted.

(b) Plant material designed to meet screening requirements shall be planted and maintained so as to form a continuous, unbroken, solid, visual barrier to the required height within a maximum of 2 years after the time of planting. All landscaped areas shall be protected from vehicular encroachment by the use of wheel stops, curbs or other approved similar devices.

7. Maintenance of Landscaped Areas. The owner, tenant, and their agent if any, shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free of refuse and debris.

(i) Off-Street Loading and Unloading. Any building hereafter erected or placed on a lot shall be provided with sufficient off-street loading and unloading space so that no public streets or alleys need be blocked by such activities and so that required parking spaces are not regularly occupied by such loading or unloading.

(j) Parking lot as Principal Use. No lot or parcel may be used solely for parking, except with conditional use approval. Such usage may not be approved in the PW District.

## **(10) SETBACKS.**

(a) Structures that are 6" or more in height above the preconstruction grade shall be subject to the setback and other dimensional requirements of this chapter. Setback

requirements shall apply to all projections of structures, such as sills, cornices, steps, porches, decks, eaves, ornamental features, fences and fire escapes. Excluded from this provision are utility poles and signs. Also excluded are ramps designed to provide handicap access to structures existing at the time of adoption or amendment of this chapter, provided that such plans for such facilities are approved by the Plan Committee.

- (b) For the purposes of this chapter, tennis courts, swimming pools (above and in ground pools) and similar uses shall be considered structures, shall require a permit and shall be subject to the setback requirements for accessory structures.
- (c) On corner lots, front yard setbacks shall be established for the frontage of each side of a lot abutting a public street. A lot with 2 streets abutting it shall have one rear yard setback. The side yard shall be the minimum required for the district.
- (d) The averaging rule of par. (8) (c) applies to front setbacks.
- (e) Detached fences shall conform to the setback and other standards contained in ordinance 17.15 (3)(c) 8. and 9. and the traffic visibility and vision clearance standards contained in sub.(7).

**(11) SETBACKS FROM NAVIGABLE WATERS.**

- (a) Unless otherwise specified, all structures, except piers, wharves, boat hoists and boathouses, shall be set back at least 75' from all points along the normal high water mark of navigable waters. Boathouses shall not project waterward of the high watermark.
- (b) The PW district navigable water setbacks for principal structures from the shoreline of Green Bay shall be 40' or the setback determined by averaging, whichever is greater.
- (c) Setback averaging applying the principles and the policies set forth in the par. (8)(c) may be applied to shoreline setbacks, subject to a minimum limit of 40'. Rental cabins shall not qualify as principal structures on parcels sitting or lying within 75' of the shoreline of Green Bay.

**(12) HEIGHT LIMITATIONS.**

**(6/8/98)** (a) General Standards. Principal structures in all districts, except PW district, shall not exceed 28' in height. Exceptions may be approved up to but not exceeding a height of 35' by special exception use review upon consideration of views, safety, shadow casting and solar access or the manner in which the height may dominate the appearance of the neighborhood or community. Conditions shall be imposed as appropriate, to avoid use of the approved height to establish an additional story of living space, to require additional side or rear yard setback or other necessary protections.

(b) **Exceptions.** The height limitations specified above may be exceeded in accordance with the following:

1. Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues, and chimneys are allowed to a maximum of 35' from grade. Such architectural projections may exceed the 35' maximum by Planning Committee approval via special exception review.
2. Structures owned and operated by public utilities, such as electrical poles and substations, and communication poles, transmitters and antennas are exempt from the height limitations of this chapter.
3. Wind generators shall not exceed in height their distance from the nearest lot line.
4. Agricultural structures.

(c) Structural Spaces. Structural spaces in excess of 35' in height, whether approved under pars. (a) or (b) above, may not be used for human occupancy. This shall require that the structure has no interior horizontal planes capable of serving as floors or decks at elevations above 20'. The Plan Committee may apply the same prohibition to spaces in excess of 28' in height.

**(13) DESIGN REVIEW:**

(a) Intent. The intent of this subsection is to protect the unique architectural and historical character of the Village and to ensure that the appearance of future development is compatible with prevailing motifs and attractive when viewed along and as part of the context of structures and spaces. Design review requirements are intended to protect Village visual character and to promote capability and attractiveness.

The requirements will strengthen the appeal of the Village to residents and visitors, enhance property values and maintain ties with the rich history of the community, all of which are in the public interest.

(b) Design Review Applicable to the Entire Village. Prior to issuance of a permit to allow a permitted use or a conditional use for new construction or alterations requiring permits, the Plan Committee or an entity delegated review power by the Plan Committee shall review and evaluate the design of the proposed project against basic Village wide design review standards. Procedures for this review are found in ordinance 17.39 and 17.45.

1. Reasonable variation may occur between the appearance of buildings or structures on nearby lots.
2. For purposes of this chapter, the following are identified as standards defining the prevailing visual character of the village:

(a) *Building designs*. Architectural appearance should reflect the traditional architecture of the village, which is known for its simple rectangular building forms, gable & hip

roofs and frame construction. This character excludes or at least tends to minimize modern or avant garde architectural styles and standardized, franchised structural expressions.

- (b) *Site planning.* Special consideration should be given to preserving existing vegetation and topography. Pedestrian spaces and circulation systems should be pleasant and convenient.
- (c) *Building color.* White has been the distinctive historic color of the village's central business area. Greens, browns, the grays of weathered wood and other earth tones are acceptable for roofs and exterior walls to help blend them into the landscape.
- (d) *Materials.* Wood and natural stone are recommended. Unfinished or galvanized metal siding or roofing is discouraged.
- (e) *Details.* Building details should be simple and without frills.
- (f) *Landscaping.* Plans submitted for design review shall show landscape treatment when the proposed project requires land disturbance. Where new development, re-development or additions of structures are at or approaching the maximum structural dimensional standards or maximum impervious surface, particular attention shall be given in design review to the compensating landscape features. Plans for tree removal should be included in such applications and shall be subject to review by the Zoning Administrator or Plan Committee prior to cutting (8/92). Design review may specify when landscape features are to be installed, size of vegetative elements and management and maintenance requirements. The drainage-ways indicated on a landscape plan maybe required to be documented in drainage easements as a condition of design review approval. Landscaping on all construction projects shall be completed within 30 days after occupancy permit at the discretion of the Plan Committee or Zoning Administrator.
- (g) *Utility service wiring.* Utility service wiring should be brought to a structure underground if at all possible to avoid unnecessary clutter in the Village.
- (h) *Bulk.* Any structure in any district that is proposed by way of initial construction or successive additions to have in excess of 5,000 sq. ft. in floor area of 50,000 cu. ft. in bulk require special attention to avoid over building of a site or over powering of environs where prevailing structural sizes are smaller. No single building face of 50' or more in length shall be uninterrupted. Significant variations in material or variation in lines to create diversity and shadow effects are encouraged.

- (i) *Roof pitches.* Roof pitches of less than 3:12 or more than 12:12 shall be subject to design review.
- (j) *Other design review standards.* Design review standards found elsewhere in this chapter shall also be applied by cross reference.
- (k) Properties located in the Historic District may be subject to further design standards per 17.26.

**(14) FILLING AND GRADING.**

Filling and grading may be authorized in any zoning district, except the wetland district, upon the issuance of a land disturbance permit as provided in ordinance 17.48. Filling within the Village bulkhead line requires a special exception permit. All such proposed fillings, including shoreline protection measures, shall be required to conform with the policies of the Village Coastal Management Plan dated Aug. 9, 1985, as applied by the Plan Committee in special exception for reviews. **(6/8/98)**

**(15) REMOVAL OF SHORELAND COVER.**

(a) Tree cutting in a strip paralleling the shoreline and extending 35' inland from all points along the normal high watermark of the shoreline shall be limited in accordance with the following provisions:

1. No more than 30% of the length of this strip as measured along the ordinary high waterline shall be clear-cut to the depth of the strip.
2. Provided further that cutting of this 30% shall not create a clear-cut opening in this strip greater than 30' wide for every 100' of shoreline measured along the normal high watermark.
3. In the remaining 70% length of this strip (distance measured along the normal high watermark), cutting shall leave sufficient cover to screen cars, dwellings, accessory structures, except boathouses, as seen from the water and to control erosion.

(a) A special cutting plan following greater cutting may be permitted by the Plan Committee by issuance of a special exception permit. In applying for such a permit, the Committee shall require the lot owner to submit a sketch of the lot, including the location of all structures, location of parking, gradient of the land, existing vegetation, proposed cutting and proposed replanting. The Committee may grant such a permit only if it finds that such special cutting plans: **(6/8/98)**

1. Will not cause undue erosion or destruction of scenic beauty.
2. Will provide substantial shielding from the water of dwellings, accessory structures and parking areas. The Committee may condition such a permit



upon guarantee of tree planting of the lot owner. Such agreement shall be enforceable in court.

**(16) UNENCLOSED STORAGE OF MOTOR VEHICLES AND TRAVEL EQUIPMENT.**

The following types of vehicles or travel equipment may be stored on portions of the lot other than driveways or within garages or comparable enclosures only on a transient and accessory basis: licensed and fully operative travel trailers, campers and coaches. No such vehicle or travel equipment may be used for living or housekeeping purposes when parked or stored on the lot or in any location not approved for such use, regardless of where it is placed on that premises. Storage of vehicles that lack licenses that would be required for their use and operation and/or inoperative vehicles shall occur only within garages or comparable enclosures.

**(17) SANITARY REQUIREMENTS.**

No building intended for public use or human habitation shall be erected, structurally altered, enlarged or reconstructed nor the use of any building be changed to public use for human habitation unless provision is made for safe and adequate facilities for potable water and disposal of sewage.

(a) Water Supply. Potable water shall be provided to each building intended for public use or human habitation in at least one of the following manners:

1. Municipal, community or public water system approved under Ch. NR 111, Wis. Adm. Code.
2. Private water supply in accordance with Ch. NR 111, Wis. Adm. Code.

(b) Sewage Disposal. Every building intended for public use or human habitation shall be provided with a properly functioning system for treatment and disposal of sewage in accordance with Chs. H 63 or NR 110, Wis. Adm. Code, and the Door County Sanitary Code.

1. A Village zoning permit shall not be issued for a building to be erected, structurally altered, enlarged or reconstructed which is served by an existing private domestic sewage system, unless the system has been evaluated and determined to be satisfactory by the Door County Sanitarian provided, however, that the application of this paragraph to structural alteration or reconstruction projects not involving expansion of building area or usable square footage shall be suspended if the property is not under active order from the county or state for a 2 year period commencing on April 7, 1986, pending outcome of Village sewage studies, if the property owner covenants with the Village that this paragraph will apply upon a decision by the Village not to connect the property to a central sewerage.
2. A Village zoning permit shall not be issued for a building to be erected, structurally altered, enlarged or reconstructed which requires connection to a private domestic sewage system, unless the owner first obtains a sanitary permit (PLB 68) or

other on- site sewage disposal permit for the building from the Door County Sanitarian in accordance with Ch. H 63, Wis. Adm. Code, and Ch. 21, Private Sewage Systems, of the Door County Code. Prior to issuance of a sanitary permit, Form EH-115, Report on Soil Borings and Percolation Tests, must be filed with the Door County Sanitarian and the Wisconsin Department of Industry, Labor and Human Relations and Form PLB 67, County and State Sanitary Permit Application, must be filed with the Door County Sanitarian.

(c) Septage and Storage and Pumping. No septage storage or pumping operation shall be done in a manner that constitutes a nuisance. It is a property owner's responsibility to comply herewith and such owner is not absolved of responsibility by contracting with a hauler or by the legality of the haulers operation under State codes. The following conditions may constitute public nuisances if their effect is to interfere substantially and unreasonably with the comfortable enjoyment of life or use of surrounding properties or of public ways or to threaten public health or safety: spills, overflows, emission of seriously offensive odors and blockage of traffic.

17.15

## (18) SIGNS

- (a) The provisions of this sign ordinance are made to establish reasonable and objective regulations for all signs in the Village of Ephraim which are visible to the public, in order to protect the general public health, safety, welfare, convenience, and esthetics. The ordinance is also intended to give helpful directions, and inform regarding available products, businesses, and services.
- (b) Permits Required. No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, altered and no sign copy may be changed without a zoning permit for such sign, and without being in full conformity with the requirements of this chapter.
- (c) Signs Exempted. The following signs shall be permitted anywhere within the Village and shall not require a permit: Exempted signs are however subject to par (d) below.
1. Official traffic control signs and information or directional notices erected by federal, State or local units of government.
  2. Signs advertising the sale, of the property on which the sign is placed. Such signs shall not exceed 4 sq. ft. in gross area and 5' in height, and must be placed outside the road right-of-way. Open house signs shall be attached to the realtor sign, shall not exceed 1 sq. ft., and shall be attached only during open house hours. Only one such sign shall be allowed along each highway or road on each lot.
  3. On-premises "No Hunting" or "No Trespassing" signs, provided that such sign shall not exceed 1 sq. ft. in gross area. Such sign may be affixed to trees. There shall be a minimum distance of 200' between signs.
  4. One on-premises nameplate for each residence provided that such nameplate shall not exceed 2 sq. ft. in gross area.

5. Political and campaign signs on behalf of candidates for public office, political parties or measures on election ballots, provided that such signs may be erected not earlier than 45 days prior to the election and shall be removed within 7 days following such election. Each sign shall not exceed 4 sq. ft. in gross area and shall be set back outside the road right of way. Only one sign for each candidate or measure shall be permitted on a premises.
6. "Vacancy/No Vacancy" and "Open/Closed" and "Sale" signs (one each per business), provided they do not exceed 1.5 sq. ft. in area and are set outside the road right of way
7. The flying of flag of nations or states, limited to two flagpoles per commercial property.
8. Fyr Bal flags if properly displayed on a flagpole or bracket for the month of May and June.
9. Commercially available seasonal flags (e.g. spring, summer, fall and winter) if properly mounted on flagpole or mounted via a bracket, not to exceed 15 square feet and only one allowed per principal building; Not to appear in conjunction with open flags in 17.15 (18)(c)(10).
10. "Open" flags permitted, (*one per business*) not to exceed 15 square feet. Not to appear in conjunction with seasonal flags in 17.15 (18) (c) (9).

(d) Prohibited signs and characteristics of signs.

1. No sign shall resemble, imitate or approximate the shape, size, form or color of traffic signs, signals or devices.
2. No sign shall be so located as to interfere with the visibility or effectiveness of any official traffic sign or signal or with driver vision at the access point or intersections.
3. No sign shall be lit in such a way as to impair driver visibility on public roads.
4. Existing sources of sign illumination shall be so shielded as to cast reflected light on the face of a sign without the direct light source being seen from adjoining roads
5. Existing sign illumination determined by the Planning Committee to be out of compliance with par. 4 (above) shall be required to install new lighting pursuant to par. 6 (below).
6. All new sources of sign illumination shall be so shielded as not to see the source of illumination and as to cast reflected downlighting on the face of a sign without the direct light source being seen from adjoining roads.

7. No permanent sign shall identify any business establishment located outside the village.
8. The use of any temporary sign, banner, pennant, flag, balloon, streamers or similar articles intended to attract attention to any object, product, place, activity, person, institution, organization or business for advertising of a product, service, show or carnival is prohibited, except by special permit by the Plan Committee for special events and for a specific limited time duration.
9. The parking for extensive periods of time of vehicles decorated to advertise attractions not on the same premises where the decorated vehicle is parked is prohibited form of signage.

(e) Signs in the Residential & PW Districts.

1. Signs identifying a permitted home occupation or home office. Such signs shall not exceed 4 sq. ft. in gross area, shall be set outside the road right-of-way and shall not exceed 5' in height.
2. Signs identifying a business that is legally operating within the residential or PW district. Such signs shall not exceed 8 sq. ft. in gross area, shall be set outside the road right-of-way, and shall not exceed 5' in height.
3. Residential directory signs are permitted at intersections with dead-end streets to identify residences located on the dead-end street. Each sign shall not exceed 1 sq. ft. in gross area, shall be attached to common support posts, and shall be set outside the road right-of-way.
4. A Temporary Banner (see 17.15 (18) f (5) b.)

(f) Signs in the Commercial District.

General Requirements- Permanent Signage

1. Permitted. The following signs are permitted in the Commercial District: wall, permanent window, ground and projecting signs.
2. Area Restrictions. The area of all permanent signage shall not exceed 24 sq. ft. in C-North, and 15 sq. ft. in C-Central and C-South (unless 33' right of way setback is used, in which case 24 sq. ft. would be maximum).
3. Setbacks. All ground signs shall be set back out of the public right of way. Ground signs set back within the right of way of Highway 42 shall obtain the necessary State permits.
4. Additional Requirements.
  - (a) All signs shall be limited to the name or business name, profession or trade of the business or businesses on the same lot, type of business, phone number, internet address, as well as the services offered or products sold

on the premises. No prices shall appear on business signs except fuel prices at service stations.

- (b) A wall sign placed against the exterior wall of a building shall not extend more than 6" outside of a building's wall surface and shall not extend above the roof line of the building.
- (c) A projecting sign fastened to, suspended from or supported by a building shall not extend more than 5' into any yard, shall not extend into or over any public right-of-way, shall be at least 10' from all side lot lines, shall not exceed a height of 12' above a sidewalk or driveway and shall maintain a minimum vertical distance of 8' from the bottom of the sign and the sidewalk, driveway or ground elevation.
- (d) A ground sign shall not exceed a height of 10' above grade in C-North and C-Central of Highway 42, or 8' above grade on C-Central side streets or in C-South, except that if the ground sign is within 25' of an intersection or 15' of a driveway, measured from the point of intersection with a right-of-way, then the sign shall be no more than 3' in height.
- (e) Permanent window signs shall be placed only on the inside of commercial buildings and shall not exceed 20% of the glass area of the window in which the sign is displayed.

#### 5. General Requirements-Temporary Signage

- (a) All Temporary Signs shall be placed as follows:
  - Temporary signs may be displayed no more than three times per calendar year and for a period of time not to exceed two weeks per permit.
  - (1) Temporary Business Signs
    - Temporary business signs shall not identify a portion of the business or products sold but rather a special event or circumstance of the business.
    - Shall not exceed 4 square feet when placed on the inside of a commercial building window or when freestanding and placed outside the road right of way.
    - Shall not to exceed 1.5 sq. ft. when placed on the surface of a permanent sign.
  - (2) Temporary Non-Profit Event Signs
    - Shall not exceed 4 square feet when placed outside the road right of way.
    - Shall be approved by the planning committee.
- (b) Non Fee Temporary Directional Signage

- Signage intended to provide direction to real estate for sale, open houses, and garage sales occurring in the Village of Ephraim.
- May be placed for a specific time period during an event and shall be removed immediately upon completion of event.
- Such signs shall be limited to 4 square feet in size and 3 feet in height as measured from the ground to the top of the sign.
- Such signs may be placed on private property with landowner's approval.
- Such signs may be placed on public property with the approval of the Zoning Administrator.
- Only one such sign is permitted per intersection.

(c) Temporary banners are allowed for non-profit events, special village events, and for commemorating major anniversaries of a business or a historic building, if the following conditions are met:

- The banner shall not exceed 18 square feet.
- Shall be placed for a time not to exceed 14 days, and must be removed within 24 hours of the end of the event.
- All banners, designs, and locations must be approved by the planning committee.
- Special event banners are limited to a maximum of 20 and shall be displayed on designated streetlights.
- Commemorative banners may be placed for longer time periods with approval of the planning committee.
- Streetlight Banners must be installed by Village employees and not by the applicant.
- The Village reserves the right to assess a fee for installing banners by Village employees.

6. More than one Business in a Building or on a lot. When more than one separately licensed business establishment is located in a single building or on one lot, a single sign is permitted for the entire building complex. Such sign shall meet the requirements of subparts. (f) 1.2. & 3 above. In addition to this common sign, each tenant is permitted one sign not to exceed 4 sq. ft. in area located within a 12 feet of the individual business.

(g) Village Directional Signs. A single directional sign may be permitted, on which may be listed the names of permitted businesses conducted on those Village roads. Accessibility for location of the sign, obstruction of view and other possible factors shall determine whether such directional signs are granted. The Plan Committee shall authorize the erection of all Village directional signs and each business nameplate attached thereto. Applications for such signs and nameplates shall be made in writing to the Plan Committee. The Plan Committee shall determine the location, design, size and type of construction of all such signs. A business shall be listed on one directional sign only. All costs and changes associated with new or altered nameplate signs shall be assumed by the businesses listed thereon.

- (h) **Off-Premises Signage** - Off-premises signage is not allowed in Ephraim with the following exceptions:  
Signage requested for and associated with multi-site tours or multi-site events may be exempted from the off-premises signage prohibition with approval from the Planning committee. Such signage must meet the following requirements:
1. **Multi-Site Tours/Events**
    - a) Signs shall not exceed 8 square feet per site. The number of multi-site tours/events allowed per calendar year and number of sites is subject to approval and may be limited by the Planning Committee.
    - b) Signage may be placed 14 days before the event and must be removed within 24 hours after the event.
    - c) On-going seasonal, multi-site tours/events may be granted off-premises signage for the duration of the season with Planning committee review and approval.

(i) Legal Nonconforming Signs.

1. Loss of legal nonconforming status. A sign loses its legal non-conforming status if one or more of the following occurs:
  - (a) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to make the sign less in compliance with requirements of this chapter than it was before alteration. Normal maintenance and repair includes rebuilding or reestablishing signs damaged by vehicles, snowplowing, vandalism or storm damage.
  - (b) The sign is relocated.
  - (c) The sign fails to conform to this chapter regarding maintenance and repair, abandonment or dangerous or defective signs.
  - (d) The principal content or nature of the sign, such as the name of a business or product, is changed or altered.
  - (e) On the date of occurrence of any of the above, the sign shall be brought in compliance with this chapter with a new permit secured therefore or shall be removed.
  - (f) Granting of conditional use approval for a premises to allow additional development thereon shall entitle the Plan Committee to require as a condition of such approval that existing signs and new signs be made to conform.
1. Legal Nonconforming Sign Maintenance and Repair. Nothing in this chapter shall relieve the owner or user of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this chapter regarding safety, maintenance and repair of signs.
2. Reproduction of Signs by Conditional Use. Signage legally nonconforming as to size, as of the effective date of this language, may be considered for replacement by conditional use. Whereas the existing square footage is not exceeded, and the applicable criteria to be considered (below) are evaluated.

- (a) Consideration of whether or not the signage is within the historic district
  - (b) Consideration of the visual impact of current signage vs. proposed signage – Changes in location, quantity, wording, color, and or lighting of the sign(s).
  - (c) Consideration of the overall square footage of signage and its degree of compatible infill with the district.
  - (d) Consideration of signage thought to complement historically significant buildings.
- (j) Violations.
- 1. Signs that are not maintained in a safe, presentable and good structural condition.
  - 2. Signs advertising a business that is no longer conducted on the premises.
  - 3. Any sign erected, established, altered, moved or structurally modified without a permit or altered with a permit, but in violation of the provisions of this chapter.
- (k) Penalties.
- 1. If the violation is a failure to obtain a permit for a conforming sign, the permit fee shall be five times normal fees.
  - 2. If a property owner fails to remove a sign in violation of the ordinance or bring that sign into compliance with this chapter, the zoning administrator shall give the property owner 30 days written notice to remove the violation. Upon failure to comply with this notice, the Village may cause removal to be executed, the expenses of which will be assessed to the tax roll of the property on which the sign is located. Additional penalties of \$50 per day may be applied after receipt of written notification.

**(19) Fences**

- (A) A solid fence may be placed on property subject to the following standards:
- (1) A solid fence shall not be placed on front lot lines or in the required front yard area, except to screen an off-street parking lot in compliance with ordinance 17.15(9)(h) and except stone fences up to 2’ high.
  - (2) A solid fence shall not exceed 6’ in height when placed between the property lot lines and the required side and rear yard setback area for a principal building.
  - (3) A solid fence may not exceed 9’ in height if the fence is placed behind all principal building setback lines.
  - (4) A solid fence shall comply with ordinance 17.15 (7) as to traffic visibility and vision clearance.
- (B) A see through fence may be placed on property subject to the following standards:



- (1) A see through fence shall not exceed 42” in height when placed between the property lot lines and the required setback area for a principal building.
- (2) Chain link fences shall not be placed on front lot lines or in the required front yard area. A chain link fence shall not exceed 14’ in height when placed between the property lot line and the required rear and side yard setback area for principal building.
- (3) The use of barbed wire or electrical fences is prohibited in all zoning districts, except the RR district.
- (4) A see-through fence shall comply with ordinance 17.15(7) as to traffic visibility and vision clearance.

**(20) SOLAR ENERGY SYSTEMS. As a permitted accessory use.**

- (1) Solar energy systems shall be designed to blend into the architecture of the building to the extent that such provisions do not diminish solar production or increase costs, consistent with WI State Statute §66.0401.
- (2) As a general principle, roof or rooftop placement of such systems are encouraged, with care for placement away from public view and obstruction.
- (3) Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district nor shall they extend beyond the perimeter of the building on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
- (4) Ground-mounted or free-standing solar energy systems are considered accessory structures and are subject to dimensional standards in the applicable zoning district. They must be maintained in functional condition.
- (5) Within the Historic Preservation District, any solar energy system must meet the special standards designed to preserve the unique characteristics of the district within the limitations of WI State Statute §66.0401.
- (6) Applicants must file the appropriate application forms available from the village zoning officer as follows:
  - (a) Rooftop systems apply via general village zoning permit.
  - (b) Ground-mounted or free-standing systems apply as accessory structures.
  - (c) All plans within the Historic Preservation District must also submit the Historic Preservation District Solar Checklist and be reviewed by the HPC for recommendation to the Plan Committee.

## **17.16 STANDARDS FOR SPECIFIC USES.**

### **(1) ANIMALS.**

- a) Commercial raising, preparation, boarding or butchering of animals, such as dogs, cats, rabbits, goats, dairy or beef cattle, pigs, commercial production of eggs, hatching, raising, fattening of poultry are allowable only in the R-4 District.
- b) Buildings housing such animals, barnyards and feedlots shall be at least 100' from any waterway and shall be established and operated so that manure will not drain into any waterway. Buildings housing such animals, barnyards and feedlots shall be at least 200' from any residence other than that of the animals keepers.

### **(2) COMMERCIAL TRANSIENT LODGING.**

(a) Commercial transient lodging is the provision of furnished lodging on a transient basis as defined for State sales tax purposes, that is, occupancy for periods of 30 days or less. The Plan Committee may determine the definition of a unit within this usage.

**(1/9/90)** Rental on a casual, non-commercial basis of residential dwelling units is not considered commercial transient lodging. Casual non-commercial use is defined as transient (per State definition) rental of property for 30 days or less, not to exceed 16 weeks per calendar year. This is interpreted as applying to rental of the entire dwelling as one rental; separate rental of individual rooms within a dwelling structure would constitute multiple rental units and would be commercial transient lodging rental.

**(7/5/94)** Signs erected on rental property shall conform to 17.15(18)(c) (4) which restricts signage to 2 square feet; furthermore, on-premise signs for rental houses or cottages in PW, R-1 and R-4 districts shall not advertise the structure as rental property or provide a phone number. Forms of commercial transient lodging that may be considered in the C District are listed in the PERMITTED and CONDITIONAL USES at the beginning of the section on the Commercial District [17.25(2)].

(b) Rental units within projects shall be less than 1,000 sq. ft. in size. Zoning review of permit applications shall include detailed scrutiny of floor plans specifically to assure that buildings and units are physically established in a mode of transient use and not in a mode of non-transient residential use. A commercial transient lodging facility must have an on-premises central office-reception area and storage areas for linens and cleaning supplies. Rental units in such a facility shall not have apartment style lockers of a character normally associated with apartment buildings. Kitchen facilities, if provided, are required to be sized and equipped for limited, transient usage.

(c) Subject to Automatic Sprinkler Ordinance in Building Code Chapter 14.

**2/13/96**

(d) Where Commercial Transient Lodging establishments contain units known as “lock-out suites” by definition in this ordinance, each rentable unit shall be counted as a separate unit for density purposes. **5/13/96**

**(3) TRADE AND CONTRACTOR'S ESTABLISHMENTS.**

Such establishments shall be limited to plumbers, heating and air conditioning contractors, excavators, carpenters, painting contractors, electricians and well drillers. Such uses shall not include the manufacture, fabrication or assembly of parts or equipment other than that incidental to the nature of the activity and for installation at a job site. Display areas for merchandise associated with the business shall not exceed 20% of the floor area devoted to the business.

**(4) UTILITY FACILITIES.**

Utility services customarily rendered by public utility corporations or municipalities in the nature of electricity, gas, telephone and water and sewer, including the appurtenances used in connection with supplying such services (e.g., substations, equipment building, relay and repeater stations, standpipes, water towers, lift stations and other such structures), shall be permitted in all zoning districts in accordance with the following:

(a) Structures that project 4' or less above average grade elevation of the structure shall be considered as accessory uses requiring a regular zoning permit. Such structures are exempt from the lot area width, yard and setback, but not vision clearance requirements of this chapter.

(b) Structures that project more than 4' above grade elevation of the structure shall be considered as special exceptions. Such structures shall be subject to the lot area and width, yard, setback, vision clearance and other applicable requirements of this chapter. **(6/8/98)**

(c) Structures installed at or below grade shall be permitted without a zoning permit requirement.

(d) Telephone, telegraph and power transmission poles and wires are exempt from the lot area, width, yard, setback, vision clearance and zoning permit requirements of this chapter.

**(5) PUBLIC AND SEMI-PUBLIC FACILITIES.**

This use includes buildings, structures and use of premises for purposes of public administration, drainways for facilities, public scenic and historic sites, museums, travel information centers, schools and other public buildings and structures. The use includes

similar civic facilities owned by organizations, such as foundations, associations and clubs. The use does not include churches and church facilities or cemeteries which are separately enumerated. A use classifiable as either a public/semi-public facility or a recreational facility shall be regulated as a recreational facility. Each public and semi-public facility shall require a conditional use permit unless specifically identified as a permit use in the applicable district. Facilities of public agencies are exempt from Village zoning only if the Village Attorney so rules in a specific case.

(6) **PARKING LOTS.**

All parking lots in all districts are subject to the location, material paving and screening standards of ordinance 17.15(9)(b).

(7) **RECREATIONAL FACILITIES.**

Structures or areas designated and/or developed for human enjoyment, refreshment, interaction, diversion or amenity. This includes, but shall not be limited to, parks; playgrounds; play fields; trails and paths and areas or structures associated with skiing, sledding, picnicking, golfing, hiking, sightseeing, fishing, boating and related water sports, swimming and other active recreation. A recreational facility that is part of another use, such as beach associated with a motel, can be treated as a separate and distinct use for purposes of receiving conditional use review if, in the judgment of the Zoning Administrator or Plan Committee, the use is a distinct focus of activity, generating its own set of impact concerns. The Plan Committee shall have responsibility and discretion to identify the overall area likely to be involved in the use, which may extend into the water, and to calculate parking requirements thereto.

(8) **OUTDOOR OR MOBILE FACILITIES OR OPERATIONS.**

This includes outdoor sales and/or service areas of business establishments, outdoor cooking and/or food service areas connected with restaurants, establishment and operation of mobile or nonfixed location facilities, such as vending carts or trailers, carnivals, outdoor bazaars, festivals, races or similar contests or parades on public ways, whether temporary or permanent. Such use, whether principal or accessory, requires conditional use approval. Because of the unique nature of such uses, the Plan Committee shall have broad responsibility and discretion to define parking, buffering and similar requirements, to establish conditions and limits or to deny the proposed use if it cannot be conditioned so as not to be unreasonably disruptive.

(9) **MULTIPLE-OCCUPANCY RESIDENTIAL HOUSING IN THE COMMERCIAL DISTRICT.**

This is a conditional use in all commercial districts, up to 8 units per acre prorated down to the nearest unit with a half acre minimum lot size. Footprint maximums for commercial transient lodging in the particular district shall apply; square footage requirements of residences shall apply, except as defined below. (*Passed 03/14/05*)

Rental restrictions are applicable as in Residential zones of the Village. Multiple-occupancy residential housing must be served by municipal sewer.

(a) As of the date of this ordinance, existing structures located in the commercial zone may be expanded or divided to create new residences of 600 square feet or greater via conditional use approval, including design review. Previous Board of Appeals "Findings of Facts and Conclusions of Law" on the applicant's property must be observed, and existing dimensional standards must be observed, including but not limited to parking and lot coverage. *(Passed 03/14/05)*

(10) **EXCLUDED USES; ALL DISTRICTS.**

The following activities are specifically prohibited within the Village:

(a) No explosives shall be stored within the limits of the Village, except that a daily supply may be kept in a locked storage box of the type approved by Ch. ILHR 7, Wis. Adm. Code, and in an uninhabited building. A daily supply of detonators shall not be kept within 50' of such daily supply of explosives.

Both such daily supplies of explosives and detonators must be at all times under the supervision and control of a permittee or licensee qualifies under Public Law 91-452, 91<sup>st</sup> Congress 30, October 15, 1970. The Fire Chief must be notified in advance of the time and place where explosives are to be used.

(b) The use of fireworks for patriotic displays is permitted only as covered in ordinance 12.06 of this Code of Ordinances.

(c) Dumping of garbage, offal or dead animals.

(d) Mobile homes, trailer or camper parks or camps.

(e) Camping on public or private property with or without the use of tents or similar shelters. [ See also ordinance 17.15(16) ]

(f) Any other use that may be noxious or offensive to physical senses by reason of the emission of odor, smoke, gas or dust or other offensive or noxious substances or that may be the source of excessive noise or bright lights that are or may be objectionable to the residents.

(g) Mink farms or fox farms for the raising or harboring of such animals.

(h) Non-permanent seasonal structures shall not be allowed.

(11) Village owned properties. Village owned properties shall be subject to the provisions of this ordinance except that the Village Board may grant special exceptions to any dimensional standards required by this ordinance as provided by this section.

(a) After referral of the matter to the Plan Committee and Historic preservation Committee (if applicable) if the proposed use, change of use, or structure is in violation of a dimensional standard the Village Board may, upon majority vote, schedule the matter for a hearing on the granting of a special exception.

(a) The Village shall post notice of such hearing as provided Section 17.49. The notice shall include a general description of the special exception to be considered.

(b) The Village Board shall open the hearing to hear from interested parties. An extraordinary vote of at least 75% of the Board membership present and without conflict shall be required to pass the special exception.

#### **17.17 NONCONFORMING USES, STRUCTURES AND LOTS. 4/2/90**

##### **(1) NONCONFORMING USES.**

The use of a building, structure or parcel of land existing at the time of the effective date of the adoption or amendment of this chapter that would not be capable of establishment after effective date because the use is not legally permissible under the sue provisions of this chapter for the particular location and/or because the dimensional circumstances of the property do not conform to this chapter is a nonconforming use. Such use may be continued with limitations even though the use does not conform with the provisions of this chapter provided, however:

(a) Continuation means continuation of only the use of the property that was the nonconforming use as of such effective date. If a property owner seeks to substitute a new use for the nonconforming use, a change of use application shall be made and shall be supported with a narrative statement from the applicant explaining the manner and extent to which the substituted use will differ from the nonconforming use. Such application shall be transmitted to the Plan Committee and reviewed at the nearest Plan Committee meeting. The Plan Committee may deny issuance of the permit upon finding that the substituted use is materially different. If the Plan Committee makes a favorable finding or makes no finding at all, the change of use permit for substitution of a comparable use shall be issued. In the course of normal review, conditions may be attached. If the new comparable use is a use that still does not conform with the provisions of this chapter, it shall remain in nonconforming use status.

(b) The right to continue a nonconforming use shall cease if the nonconforming use is discontinued or terminated for a period of 36 months and, thereafter, any future use of the structure or land shall conform to the provisions of this chapter.

(2) **EXISTING NONCONFORMING LOTS.** Where the nonconforming condition is a failure of the lot that was created prior to the effective date of adoption or amendment of this chapter to satisfy the lot size or width requirements or the lot size to density ratios, the condition shall be known as a nonconforming lot. A nonconforming lot condition may be considered for

development or redevelopment through conditional use review for the establishment of buildings and structures on a vacant nonconforming lot and/or for demolition/removal and replacement of preexisting structures otherwise allowable in the application zoning district in accordance with the following:

(a) Documentation of such lot creation shall be known by duly recorded land subdivision, certified survey map, deed or land contract in the office of the Door County Register of Deeds. Such recorded instruments must predate the time of adoption or amendment of this chapter.

(b) If 2 or more adjoining lots are in the same effective ownership, they shall be considered a single parcel if doing so brings them into conformity or closer to conformity and a survey document shall be created and recorded to unify the parcels.

(c) Conditional use approval is required to allow the use, development or redevelopment of lots having characteristics specified in this section. In conditional use review of development of historically vacant lots, the Plan Committee shall assure that all relevant dimensions and intensity of a project are scaled back in proportion to the substandard dimensions of the lot. The fact that the lots are above the dimensions specified in par. (d) does not guarantee conditional use approval by the Plan Committee, if the Plan Committee is not satisfied that the dimensions and intensity can be successfully scaled back. In conditional use review of redevelopment of lots that have nonconforming structures, the burden of proof and persuasion shall be on the applicant and approval may be given by the Plan Committee only upon a specific finding of community advantages. The Plan Committee is not required to scale back relevant dimensional standards in proportion to the dimensions of the lot.

(d) In no case shall development be allowed under this section for nonconforming [zoning] lots that are below the following standards:

<b>TABLE OF STANDARDS</b>		
<b>DISTRICT</b>	<b>MINIMUM WIDTH</b>	<b>MINIMUM AREA</b>
PW	<b>65'</b>	<b>6,000 sq. ft.</b>
R-1	<b>65'</b>	<b>10,000 sq. ft.</b>
R-R	<b>100'</b>	<b>15,000 sq. ft.</b>
C-South Area	<b>65'</b>	<b>10,000 sq. ft.</b>
C-Central Area	<b>65'</b>	<b>10,000 sq. ft.</b>
C-North Area	<b>100'</b>	<b>15,000 sq. ft.</b>
Other	<b>Lots in other districts are not eligible for conditional use review under this section</b>	

The Committee shall not scale back required setbacks or other dimensional requirements. With regard to (4) below and the ability to re-establish structures as a result of calamity, the Committee shall not scale back required setbacks or other dimensional requirements when considering redevelopment of substandard lots.

(3) **NONCONFORMING STRUCTURES.** A structure shall be considered a nonconforming structure if it does not conform to minimum or maximum square footage requirements, height, setbacks, or other structure requirements of this ordinance, or is used for a non-conforming use. **2/13/96**

(a) If in conjunction with a nonconforming use on the property, continuation includes the right to make ordinary and necessary repairs and upkeep not involving expansion or intensification of the nonconforming use. The right to extend, enlarge or move such a structure is allowed only when require to do so by law or order.

(b) Continuation includes the right, subject to ordinarily conditional use permits and statutory requirements provide in s.s. 62.23(7)(h), Wis. Stats., to enlarge the physical dimensions of a structure that is nonconforming as to dimensional standards, provided that the height, density, setback and floor area provisions of this chapter are met in full for the enlargement. Parking requirements must be updated to conform for the property if enlargement of structure is allowed by the Plan Committee.

(4) **ADDITIONAL RIGHTS OR PRIVILEGES AVAILABLE TO NONCONFORMING PROPERTIES BY CONDITIONAL USE.**

A nonconforming property shall be allowed to reestablish a structure or structures on the premises when the original structures are damaged as a result of fire, explosion, flooding, storm damage or similar calamity. If site conditions allow, the restoration development shall respect required setbacks and parking standards and determinations to this effect shall be made by the Plan Committee. Subject to such determination, the restoration development shall be allowed to replicate building floor area and bulk.

(see map for Zoning Districts)

**17.18 REGULATION OF WIRELESS COMMUNICATION SERVICE AND OTHER TRANSMISSION FACILITIES**

**SECTION 1:** Section 17.18, Ephraim Zoning Code, is hereby created to read as follows:

**1. PURPOSE. THE PURPOSE OF THE REGULATION REQUIREMENTS OF THIS SECTION ARE TO:**

- a. Accommodate the communication, radio, television, electricity generation needs while protecting the public health, safety and general welfare.
- b. Minimize the visual impacts of wireless communication service and other transmission facilities through site planning and design standards.
- c. Avoid potential damage to adjacent properties from construction, location, operation of wireless communication and other transmission facilities through maximum standards and set back requirements.



- d. Maximize the joint use of existing and approved towers, buildings or structures to accommodate new wireless service to minimize the number of towers needed to service the community.
- e. Accomplish the foregoing while preserving the character of the Village so as to ensure that structures and other features that would detract from the natural scenic value and appearance of the Village be minimized or prohibited.

**Definitions.**

Alternative tower structure shall mean man made trees, clock towers, bell steeples, flag poles, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers including, but not limited to, building and rooftop mounted facilities.

Alternative Facility shall mean a transmission facility that appropriately models or mimics in size and shape, scale and color something that exists in the immediate landscape or which could legally be placed there at the time of the application such as a silo in a farm setting or a tree in a forested area and which is unrecognizable to a casual observer as a transmission facility.

Antenna shall mean any exterior apparatus designed for telephonic, radio or telecommunications through sending or receiving of electromagnetic waves.

Collocation means a wireless telecommunications facility comprising a single telecommunication tower, monopole or building supporting the antennas owned and used by more than one telecommunication carrier or other provider of similar service. Pole locations shall also include location of wireless telecommunication facilities with other facilities such as water tanks, lights standards or other facilities and structures.

FAA – Federal Aviation Administration .

FCC – Federal Communications Commission.

Preexisting Transmission Facilities: Towers, tower accessory structures and alternative tower structures permitted and in operation prior to the effective date of this ordinance.

Height, when referring to a tower or structure, shall mean the distance from ground level to the highest point of towers structure even if said highest point is an antenna stealth facility a wireless communication service or other transmission facility which appropriately models or mimics in shape, scale and color something which exists in the immediate landscape or which could legally be placed or already exists there at the time of the application such as a silo in farm settings, a tree in forest lands and what is unrecognizable to the casual observer such as a transmission utility tower.

Stealth facility: Transmission facilities that are entirely enclosed in structures existing and permitted in the zone in which the facility is sited provided that such facilities are not subject to view by an observer from outside of the structure

Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas or wind generators, including guide towers, monopole towers and self-supporting lattice towers.

Transmission Facilities: Any WCSF, radio, television or electric generation tower, equipment, accessory structure other than an electric transmission line.

Wireless communication service facility (WCSF). All equipment, buildings and structures with which a wireless communications service carrier or provider broadcasts and receives the radio frequency waves which carry its services, and all locations of said equipment, buildings and structures.

Applicability.

Preexisting transmission facilities. There are no transmission facilities that exist in the Village that are not in compliance with the provisions and intent of this ordinance on the effective date of this ordinance, April 15, 2005. Accordingly, all existing facilities will be deemed to have been permitted under this Section and will be subject to the provisions of this Section.

Public Property. Antennas or towers located on property owned, leased or otherwise controlled by the Village shall be exempt from the requirements of this ordinance provided a license or lease that addresses the intent and purposes of this ordinance has been approved by the Plan Committee and Village Board. The Village expressly reserves the right to the reservation of space on any tower located on Village land for the collocation of Village property as a term of any lease or license.

Use Regulation:

Conditional Use. Subject to the requirements of the Telecommunications Act of 1996, Transmission facilities shall be conditional uses subject to the provisions of Sec. 17.44 of the Ephraim Zoning Code and the remainder of this ordinance, in the zones listed below.

Towers. Transmission facilities utilizing a tower shall be permitted as a conditional use only in the R-R Rural Residential District.

Stealth Facilities. Shall be permitted as a conditional use in any zone.

General Requirements.

Any transmission facility shall comply with all FCC and FAA rules and regulations.

Any installation of transmission facility shall comply with the manufacturer's specifications. The plan shall be approved and certified by a registered professional engineer.

Installation of any transmission facility shall comply with all applicable state and local building and electrical codes.

All lease sites will require written authorization for the siting of a transmission facility which must be obtained from the property owner.

Any transmission facility must be adequately insured against personal injury, wrongful death and property damage claims and current certificate of such insurance shall be maintained on file by the Village Administrator. The Village of Ephraim shall be listed as a co-insured on said policy.

Any transmission facility which is unused for the use for which the permit was granted for twelve (12) consecutive months must be removed and the site restored in a reasonable time, but not more than three (3) months after the removal is requested by the Village. Upon removal, the site shall be restored to its original or improved condition and anchoring elements shall be removed from the ground to the depth of at least eight (8) feet. If removal and/or restoration is not completed, the Village is authorized to complete remove and site restoration and to charge to the cost to the performance bond.

Proposals to erect a new transmission facility shall be accompanied by a required federal, state or local agency license or application for such license.

Only one (1) tower is permitted on each parcel of land although, transmission facilities can be collocated on such tower.

Except in cases where an acceptable alternative tower structure may be used, the monopole is the required tower structure. Guide or lattice towers are prohibited. Antennas must be contained within or mounted flush with the monopole.

Any owner of a preexisting transmission facility for which a permit has been issued or deemed issued by this provision shall be designed to accept in the future at least two collocations on reasonable terms so long as adverse visual impacts do not result.

In the interest of minimizing the visual impact of the transmission facilities, the following requirements shall be imposed:

At a transmission facility site, the design of the buildings and related structures shall to the extent possible represent alternative facilities as defined in subsection (2) above.

To the extent possible, all transmission towers shall be placed in an alternative tower structure.

In the event the tower cannot be placed in an alternative tower as noted in (k)2. above, towers shall be painted in neutral colors so as to reduce visual obtrusiveness, with color choices approved by the Plan Committee.

If an antenna is installed on a structure other than a tower the antenna and supported electrical mechanical equipment must be of neutral color that is identical to or closely compatible with the color of the supporting structure so as to make an antenna and related equipment as visually unobtrusive as possible.

Prohibitions.

No transmission tower shall be installed on a parcel within a subdivision created for residential purposes.

No advertising message shall be affixed to a transmission facility.

No transmission facility shall be illuminated unless required by FCC or FAA regulations, and such requirement shall be disclosed and evaluated when considering the granting of a conditional use for such tower.

No part of any transmission facility shall extend across or over public right-of-way, street, highway, sidewalk or property line.

A temporary mobile transmission facility site is not permitted except in the case of failure equipment testing, equipment replacement or emergency; prior authorization must be obtained from the Zoning Administrator. Use of a temporary site for testing purposes shall be limited to twenty-four (24) hours and a temporary site for equipment failure, equipment replacement or emergency shall be limited to thirty (30) days unless extended for good cause in writing by the Zoning Administrator. Any such extension will be reported to the Plan Committee.

Federal requirements. All towers must meet or exceed current standards of the FAA and FCC and any other agency of the federal government with authority to regulate towers and antennas. If such standards and regulations are changed then the owner of towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal tower and antenna at the owners expense.

Building code. The owner of a transmission facility shall ensure it is maintained and complies with the standards contained in the applicable building codes and to the applicable standards for transmission towers which are published by the Electronic Industries Association as amended from time to time. If upon inspection the Village Board concludes a tower fails to comply with such codes and standards and constitutes a danger to persons on the property then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such facility into compliance with such standards. If the owner fails to bring such tower into compliance within thirty (30) days the Village Board may remove such tower at the owners expense.

Permitting Requirements. Application for conditional use permit for a transmission facility shall comply with the following provisions in addition to those of Sec. 17.44 of the Ephraim Zoning Code:

Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of existing towers that are either within the jurisdiction of Ephraim or within neighboring jurisdictions including specific information about the location, height and design of each tower. The Zoning Administrator may share such application with other applicants applying for conditional use permits or administrative approvals under this ordinance or other organizations seeking to locate antennas within the jurisdiction of this Village provided however, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

Any information of an engineering nature that the applicant submits whether civil, mechanical or electrical shall be certified by a licensed professional engineer.

Information required by each applicant requesting a permit under this ordinance shall submit a scaled site plan and a scaled elevation view and other supporting drawings and computer generated renderings calculations or other documentations signed and sealed by appropriate licensed professionals showing the location and dimensions of all improvements including information concerning topography, radio frequency coverage, tower or height requirements, set backs, drives, parking, fencing, landscaping, adjacent uses and other information deemed by the Plan Committee to be necessary to assess compliance with this ordinance.

Each application for conditional use permits shall include a facility plan containing the following information:

Written description of the types of consumer services each provider will provide to its customers (radio television, electric, generation, cellular, paging or other anticipating wireless communication service).

List of all existing sites, existing sites to be upgraded, replaced and proposed sites within the Village for services to be provided by the provider.

Map of Door County showing the adjacent governmental units in which transmission facilities of the applicant are located.

A visual analysis including photo simulations of the view of the vicinity of the transmission facility before and after the proposed transmission facility is built taken from approximately a mile from the transmission facility from the north, south, east and west proposed site and from the Bay which may include photomontage, field mockup or other techniques which identifies the potential visual impacts of the proposed transmission facility. Consideration shall be given to views from public areas, as well as from private residences. The analysis shall assess the cumulative impacts of the proposed transmission facility and other existing foreseeable transmission facilities in the area and shall identify and include the feasible mitigation measures consistent with the technology requirements of the proposed services.

In addition to the factors set forth in Sec. 17.44 of the Ephraim Municipal Code, the Plan Committee and Village Board shall consider the following factors in determining whether to issue a permit although, the Village Board may waive or reduce the burden on the applicant if one or more of the criteria concludes that the intent of the ordinance is better served thereby:

Height of proposed tower.

Proximity of the tower to residential structures and residential boundaries.

Nature of uses on adjacent and nearby properties.

Surrounding topography.

Surrounding tree coverage and foliage.

Design of the tower particularly with reference to design characteristics that have the effect of accommodating other users and reducing or eliminating visual obtrusiveness.

Proposed ingress and egress.

Financial impact of the proposed tower.

The increased need for the installation for wireless communication service facilities.

The intent of the Village's Zoning Code that the view of the Village be protected from structures and other features that would detract from its natural scenic value and appearance.

The location, siting and construction of wireless communication service and other facilities which may result in potential adverse impacts on the surrounding area.

The need to provide a fair nondiscriminatory procedure for providing wireless communication service facilities and tower facilities for other technologies such as wind generation of electricity and digital television, while protecting health, safety and welfare, minimizing adverse visual impacts of such services, avoiding potential hazards or damages to adjacent properties for tower structures and to maximize existing or other approved structures to minimize the need for such structures

The interplay of related Federal regulations on the applicability of this ordinance.

Landowner acknowledgement. Written acknowledgement by the landowner of a leased site that he/she will abide by the applicable terms and conditions of the land use permit or special exemption permit including the restoration and reclamation requirements provided in this ordinance.

A performance bond in a form acceptable to the Zoning Administration in an amount sufficient to provide for the removal of the transmission facility shall be presented with the application.

Additional information and analysis.

The Zoning Administrator or Plan Committee or, upon appeal, the Board of Adjustment, may at their discretion require a visual impact demonstrations including mockups and photomontages, screening and painting plans, network maps, alternative site analysis, list of other nearby transmission facilities or facility design alternatives for the proposed transmission facility.

The Zoning Administrator, Plan Committee or Board of Appeals, on appeal, may employ, on behalf of the Village, independent technical experts to review materials submitted by the applicant or prepare materials required, but not submitted by applicant. The applicant shall pay the cost of such review or independent analysis.

Photographic documentation of pre-construction conditions of the site.

Waiver of Guidelines. The guidelines set forth in this ordinance shall govern the location of all towers and the installation of all transmission facilities; provided however, that the Village Board may waive these requirements if it determines that the goals of this ordinance and the requirements of federal law are being served thereby.

Availability of other suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the satisfaction of the Village Board that no existing tower or alternative structure can accommodate the applicants' proposed antenna. Evidence submitted to demonstrate that no existing tower or alternative structure can accommodate the applicants proposed antenna may consist of any of the following:

No existing towers or structures are located within the geographic area required to meet the applicants engineering requirements.

Existing towers or structures are not of sufficient height to meet the engineering requirements.

Existing tower or structures do not have sufficient structural strength to support the applicants proposed antenna or equipment.

The applicants proposed antenna would cause electromagnetic interference with an antenna on existing towers or structures or antenna on existing structures or towers would cause interference with applicants proposed antenna.

These costs or contractual provisions required by the owner in order to share an existing tower or structure are unreasonable.

The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

Accommodation of other users.

Any proposed telecommunications tower and tower site shall be designed structurally and electrically in all respects to accommodate collocation of the applicants' antennas and comparable antennas for at least two additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon to tower to accept antennas mounted at varying heights and to accommodate supporting buildings and equipment.

The holder of a permit for a tower shall allow collocation of at least two additional users and shall not make access to the tower and tower site for additional users economically unfeasible. If additional users demonstrate through independent arbitrator other pertinent means that the holder of the tower permit has agreed access to a tower economically unfeasible then the permit shall become null and void.

Set backs and separation. The following set backs and separation requirements shall apply to transmission facilities provided however, the Village Board may reduce the standards and separation requirements if the intent to this ordinance is better served thereby:

Towers must be set back a distance equal to or greater than the height of the tower from any residential structure or lot line.

In any zoning district towers over ninety feet in height shall not be located within a quarter mile of any existing tower that is over ninety (90) feet in height. This one-quarter mile limitation may be waived by the Village Board after the Village Board gives consideration to collocation possibilities and the factors set forth in this ordinance.

Security Fencing. Towers shall be enclosed by a security fence not less than six (6) feet in height and/or shall be equipped with the appropriate anti-climbing device, provided however, that the Village Board may review such requirement for stealth facilities and provided that such fencing requirement is not applicable to alternative structures siting.

Accessory structures shall conform to the setback, height and other dimensional standards established for structures in the district in which they are located.

Landscaping the following shall govern the landscaping surrounding towers however, the Village Board may waive such requirements if the intent of the ordinance be better served thereby.

Tower facilities shall be landscaped with a buffer of plants that effectively screen the view of tower site from adjacent property. The standard buffer shall consist of a landscape strip at least four feet wide.

In locations where the visual impacts of the tower would be minimal, the landscaping requirement may be reduced or waived all together.

Existing mature tree growth and natural land form on the site shall be preserved to maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be a sufficient buffer.

Abandonment. Abandoned or unused towers or portions of towers shall be addressed in the following manner.

All abandoned and unused towers associated with facilities shall be removed within twelve (12) months of the cessation of the operations of the site unless a time extension is approved by the Plan Committee. If leased property, a copy of the relevant portions of the signed lease which requires the applicant to remove the tower upon the cessation of operations that the site shall be submitted at the time of application. In the event that the tower is not removed within twelve (12) months of the cessation of operations, the tower and associated facilities may be removed by the Village and the cost of remove assessed against the property. See also 17.18(5)f.

Unused portion of towers above a manufactured connection shall be removed within six (6) months of the antenna relocation unless a new user notifies the Zoning Administrator of its intent to locate on such unused portion. In which case, the six (6) month provision may be waived. Unused equipment shall be removed within sixty (60) days of abandonment of the tower. The replacement of the portions of the tower previously removed and equipment requires the issuance of new conditional use permit.

Liability and Enforcement. The owner of the transmission facility maintains all liability relating to said facilities and shall be required to keep a current certificate of insurance, with Village as co-insured, demonstrating the existence of insurance sufficient to address such liability concerns.

In addition to the procedures provided at Sec. 17.44 of the Ephraim Zoning Code, the Plan Committee shall act promptly upon the application taking into consideration the nature and scope of the request and may require additional meetings to review an application for a transmission facility. The Plan Committee shall, upon its decision either to grant or deny the permit, make detailed written findings explaining the rationale and provide substantial evidence for the course of action taken. Such decisions



shall be subject to appeal and review by the Board of Appeals as provided in Sec. 17.44, Ephraim Zoning Code.

**SECTION II:** If any section, subsection, paragraph or sentence of this ordinance is for any reason deemed unconstitutional or otherwise unenforceable by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance.

**SECTION III:** This ordinance shall take effect upon its passage and publication according to law.

## **17.19 MEMORIALS**

- (1) **MEMORIALS** – It is the intent of the Village of Ephraim to allow the placement of commemorative memorials when deemed appropriate and when compatible with the unique architectural and historical character of the village.
- (a) All requests for memorials on public property shall be reviewed by the Village Board of Trustees. Upon approval the Village Board will become the applicant and the item will be forwarded to the plan committee for review.
  - (b) Plan committee design review and approval are required prior to issuance of a permit for the placement of a memorial on Public or Private Property.
  - (c) When not placed on an existing building, memorials and any accompanying memorial structures shall be placed outside of the road right of way.
  - (d) Memorials shall not exceed a size of one and a half square feet or have a single dimension longer than 18 inches.
  - (e) Memorials placed on stone or other freestanding memorial structures shall be approved on a case by case basis by the plan committee by the design review process. In the course of design review, consideration shall be given to sizing memorial structures in order to best facilitate the intended viewing of the memorial.
  - (f) No memorial shall be so located as to interfere with the visibility or effectiveness of any official traffic sign or with driver vision at any access points or intersections.
  - (g) Memorials existing prior to the adopted date of this ordinance shall be considered grandfathered.
- (2) Applications for Memorial benches are reviewed by the Village Board upon receiving written request. Requests are approved or denied based on the villages' current needs. Each donated bench features the words "In memory of \_\_\_\_\_, and is paid for by the applicant once the bench has been completed. Benches are placed on public property with no assigned or preferential location.

## **17.20 PROTECTED WATERFRONT (PW) DISTRICT**

(1) **INTENT.** Recognizing that the open shoreline is one of Ephraim's most distinctive features, the intent of this ordinance is to provide for as much open viewing space along our shoreline as possible. As an important contributing component of the Ephraim Historic District owners of residences in the PW district are encouraged to use and maintain their existing residences. Since most of the residential buildings in this district are sited on small non-conforming lots that would otherwise prohibit the erection of such structures under existing

ordinance, the Village position is that residences shall be restricted to those in existence. Existing residences can be modified, or torn down and reproduced, subject to approved Plan committee “PW Design Review” whereas the individual footprints, lot coverage, and setbacks for this district are grandfathered. (3/10/08), (9/8/2020)

**(2) PERMITTED USES.**

(A) Park and open space provided that any proposed structural elements are given conditional use approval.

(B) Beaches, provided that any proposed structural elements are given conditional use approval.

**(3) CONDITIONAL USES.**

(A) On parcels where there is not a residence: ~~as of January 1, 1998:~~ (3/10/08)

- Dockage and launching;
- Boat and related rentals;
- Sale of marine fuel and accessories for marine use only;
- Structures necessary for permitted and conditional uses in the district, including bathrooms. Special Plan Committee approval shall determine the number of required parking spaces on a case-by-case basis, unless the use has a number established under ordinance 17.15(9); parking requirements may be met through a combination of off-street, on-site and/or dedicated parking spaces within common ways. Pervious surfaces for parking are preferred in this district.
- Non-Profit Organizations on village owned property. Sales within such shall be subject to any existing lease or other agreements with the village. In the event no such agreement speaking to sales exists, the Village of Ephraim Planning Committee, thru Conditional Use review, shall oversee and have final approval over any such sales area. This review will include but is not limited to, the type of merchandise sold, and the total amount of display area the merchandise will envelop. Passed 5/11/09

(B) Residential buildings in the district shall be restricted to those existing as of January 1, 1998. A “PW Design Review” shall be required for the reproduction of an existing residential structure as well as for additions or any modification to existing structures resulting in an increase to the footprint, height, or total square footage of these buildings. Visual impact from the streetscape is to be minimized. Residences destroyed by natural

disaster or fire in this district may be replaced to former footprint, location and size.  
(9/8/2020)

(C) Other restrictions as regards structures in the PW District:

- No more than two garage or carport spaces/lot;
- No sheds, accessory buildings or boathouses;
- No structures or buildings shall exceed 15' in height as measured from the crown grade of Water Street abutting the property; or as determined by the Plan Committee in consideration of the height of adjacent structures, and existing rooflines and pitches. (3/10/08)
- The setback and lot coverage requirements (from 17.24) shall be mandated except in the case of buildings, structures or public projects along the shoreline that are deemed to be in the greatest interest to the public by a majority of the Plan Committee and a majority of the Village Board, and this exception can occur only through special exception review. (4/08/02)

(4) PROTECTED WATERFRONT DESIGN REVIEW by Historic Preservation Committee and Plan Committee

(A) Design Criteria For Residential Building Reproduction

- Consideration given to applications in which the proposed reproduction will closely reflect the design and look of the original structure. New building may be constructed to the grandfathered footprint, location, and size of the existing residence.
- Consideration given to applications in which the proposed reproduction will result in a slightly different look than the original building but whose design results in a smaller footprint with less lot coverage, a fitting building height, increased setbacks, and an overall better look that is in keeping with the character of the village and would lessen the ecological impact on the property.
- Consideration given to applications in which the proposed reproduction will generally reflect the look of the original building but will also require some degree of design modification which is subject to par(B). (3/10/08)

(B) Design Criteria for Modification

- Consideration given to applications where an increase in height would be required to make an existing building structurally sound, or to meet existing building codes and requirements. (9/8/2020)

- Consideration given to applications resulting in the modification of a building that does not result in increased footprints, and does not exceed the current height of the existing building.
- Consideration given to applications resulting in footprint modification to the primary structure whereas the footprints from additional existing structures to be removed can be reclaimed.
- Consideration given to allow for 10% additional lot coverage when that area will be used for adding off street parking. (3/10/08)

(5) **DIMENSIONAL STANDARDS.** See ordinance 17.24.

(6) **PROHIBITED USES.** Home occupations are not permitted in the PW District.

## **17.21 SINGLE-FAMILY RESIDENTIAL (R-1)**

(1) **INTENT.** The R-1 District is intended to provide for single family residential development and other uses compatible with single family residences. The district encompasses land areas within the Village where larger lots than PW lots are appropriate.

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

- (a) Single-family dwellings.
- (b) Cemeteries.
- (c) Residential accessory structures.

### **(3) CONDITIONAL USES.**

- (a) Public and semi-public uses.
- (b) Churches.
- (c) Utility facilities.
- (d) Parking lots, area or facilities with spaces for 6 or more vehicles, trailers or boats, accessory to another use on the parcel.
- (e) Home occupations.
- (f) Planned Residential Development (see 17.22)
- (g) Accessory structures larger than 1,000 square feet.

(4) **DIMENSIONAL STANDARDS.** See ordinance 17.24.

**17.22 PLANNED RESIDENTIAL DEVELOPMENT**

(1) **INTENT.** The rationale behind permitting Planned Residential Development (PRD) is to provide the opportunity for the community to participate in the development of clustered, single-family homes (or duplexes), through condominium ownership, on larger tracts of land so that a maximum amount of green space is preserved. At the same time, although it is understood that ownership cannot be regulated, it is not the village’s main intent that PRDs provide second vacation homes for non-permanent residents. Rather, the hope is that the PRD approach will play a role in establishing permanent, moderately priced homes for permanent residents who will contribute to the diversity of the community in terms of age, income-level and background. To this end, the village will retain the right to either participate in, or deny, any proposed PRD that is not in keeping with the above goals and the goals set forth in Ephraim’s *Comprehensive Plan*.

(2) **CONDITIONS OF PRDs.** Any proposed PRD is subject to **Conditional Use** and **Design Review** considerations, as well as any applicable infrastructure regulations pertaining to sewer (Utilities Ordinance 13.08 and 13.12), roads, drainage (Chapter 16), access and egress (Zoning Ordinance 17.15(6) and (7), etc. In addition, there may be other requirements and limitations as shall be imposed by the Plan Committee and the Board of Trustees in permitting the project to go forward.

(a) PRDs are allowed in two zoning districts: R-1 Residential and Rural Residential;

(b) The minimum tract size for PRD consideration is 5 acres; the maximum tract size for such consideration is 30 acres;

(c) It is required that PRD development be accessed from an existing public road; whenever possible, access and egress shall not be from Highway 42;

(d) If the Village believes the project contributes to the overall community good, as described in the Intent section above, there is a density incentive allowed of 1.25 to 1.5 times the density normally allowed, depending on the district and the size of the units proposed. The following table sets for the incentive standards, and Appendix A in this section for further detail and examples:

	Density Multiplier	Footprint Maximum in Square Footage	Overall Maximum in Square Footage
R1	1.50	1000-1500 sq. ft.	1000-2250 sq. ft.
1-acre minimum	1.25	1501-2000 sq. ft.	2251-3000 sq. ft.
R-R	1.50	1000-2000 sq. ft.	1000-3000 sq. ft.
2-acre minimum	1.25	2001-3000 sq. ft.	2001-4000 sq. ft.

**Note 1:** Footprint and overall square footage excludes an attached garage, as stated in the residential footprint table.

(e) Rental of each unit constructed in a PRD shall be limited to once per year. The developer of a PRD must include this requirement (as a covenant or restriction) in the deed for each unit, and a buyer must agree to such a condition in writing;

(f) Duplexes are permitted in PRDs but are limited to no more than 25% of the total number of dwelling units in the PRD complex;

(g) Square footage. See Table of Standards for Residential Buildings.

*See Appendix A before index for examples of PRDs*

**17.23 RURAL RESIDENTIAL DISTRICT**

(1) **INTENT.** This district is intended to provide for the location of residences, certain agricultural uses and certain other land extensive uses situated on relatively large parcels in a spacious, rural environment.

(2) **PERMITTED USES.**

- (a) Uses listed as permitted in the R-1 District.
- (b) Agricultural uses not involving farm livestock.

(3) **CONDITIONAL USES.**

- (a) Commercial greenhouses.
- (b) Trade and Contractors' places of business.
- (c) Airport.
- (d) Golf Course.
- (e) Keeping of Farm Livestock.
- (f) Home Occupations.
- (g) Accessory structures over 1000 square feet.
- (h) Planned Residential Development (see 17.24(4)).

(4) **DIMENSIONAL STANDARDS.** See ordinance 17.24.

**17.24 SUPPLEMENTAL RESIDENTIAL STANDARDS.**

The following standards are consolidated here and apply to the various districts as identified below:

(1) **DIMENSIONAL STANDARDS FOR RESIDENTIAL DISTRICTS.**

**Table of Standards**

	<b>PW</b>	<b>R-1</b>	<b>R-R</b>
Minimum Lot Size	10,000sq. ft.	1 acre	2 acres
Minimum Lot Width	100'	100'	200'

Front Setback Minimum	30'	40'	75'
Side Setback Minimum	15'	15'	20'
Rear Setback Minimum	40'	40'	50'
Maximum Lot Coverage	20%	20%	10%
Min. Building Separation			

\* Also recommended prorated upwards from minimum lot size but not beyond the maximums recommended for RR

\*\* Existing homes in the PW district can be modified, or torn down & reproduced, subject to approved “PW Design Review”.

\*\*\* Any existing legally non conforming parcel that is buildable but does not meet the minimum lot size standards of its respective zoning district may, by special exception, be exempted from proration of footprint and total residence maximum. *Added 4/13/09*

Dimension	PW	R1	RR	C-S	C-C	C-N	PRD (allowed in R-1 or RR)
Minimum Lot Size	10,000 sq. ft	1 acre 43,560 sq ft.	2 acres 87,120 sq ft.	1 acre	1 acre	1-1/2 acres	5 acres min. 30 acres max.
Total Lot Coverage	20%	20%	10%	20% residential 50% by condit'l use 50% commercial	20% residential 50% by condit'l use 50% commercial	20% residential 50% by condit'l use 50% commercial	20% in R-1 10% in RR
Minimum Lot Width	100'	100'	200'	150'	150'	200'	Determined by Conditional Use
Front Setback Minimum	30'	40'	75'	40'	40'	75'	As for district; if less, by agreement with neighboring property owners
Side Setback Minimum	15'	15'	30'	15'	15'	At least 25' no less than total of 100' not closer than 75' to bldg. on adjacent land	As for district if less by agreement with neighboring property owners
Rear Setback Minimum	40'	40'	50'	40'	40'	40'	As for district if less by agreement with neighboring property owners
Minimum Bldg. Separation				25'	25'	75' (where one or both are accessory structures, 25')	Determined by Conditional Use
		----- -	Residences	----- -			
Residential Unit Footprint Maximum	**Existing homes only	3000 sq. ft.	4000 sq. ft.	3000 sq. ft.	3000 sq. ft.	4000 sq. ft.	In R-1: 2000 sq. ft. In RR: 3000 sq. ft.
Total Residence Unit Maximum	**Existing homes only	5000 sq. ft.	6500 sq. ft.	5000 sq. ft.	5000 sq. ft.	6500 sq. ft.	In R-1: 3000 sq. ft. In RR: 4000 sq. ft.
Where Lot Size is Buildable but Less Than Minimum Size	**Existing homes only	Prorated by percent of minimum acreage size that exists	Prorated by percent of minimum acreage size that exists but not below 1 acre	Prorated by percent of minimum acreage size that exists <b>but not below .5 acre</b>	Prorated by percent of minimum acreage size that exists <b>but not below .5 acre</b>	Prorated by percent of minimum acreage size that exists <b>but not below .5 acre</b>	



17.24, 17.25

(a) Where a garage is attached to a house, in R1, C-S and C-C, ~~480~~ 750 sq. ft. may be subtracted from the proposed footprint, but not to exceed the proposed, actual garage square footage. In RR and C-N, ~~672~~ 1,000 sq. ft. may be subtracted from the proposed footprint, but not to exceed the proposed, actual garage square footage. **08/14/06**

(b) Basements shall not be counted as part of the overall square footage where they are not open to the front or side of the building.

(c) Other Requirements. In R1 and RR, for each 100 square feet over the footprint allowed on one minimum lot, the front setback shall increased 5 feet, the side setback shall increase 2 feet, and the rear setback shall increase 2 feet.

Residential footprints over the allowed footprint on one minimum lot shall necessitate a plan of screening with trees, etc., to lessen the impact of the building in open areas (when greater than 1 lot is involved and the footprint has maxed out).

**(2) ADDITIONAL STANDARDS THAT APPLY TO ALL RESIDENTIAL DISTRICTS.**

(a) Minimum front setback shall be modified by street setback requirements as provided in ordinance 17.15(8), if the latter are more restrictive.

(b) Front and Street setbacks apply to all lot faces abutting on streets or roads.

(c) Waterfront lots abutting Eagle Harbor shall have a setback line established on the waterfront side by the Plan Committee under ordinance 17.15(11).

(d) The minimum required floor area of any newly constructed dwelling unit, for year-round or seasonal use, be it single family dwelling, living quarters in a commercial building or a dwelling unit in a duplex or multiple family dwelling, shall be as follows: (updated 11/13/2000)

1. One or 2 bedrooms. 1,000 sq. ft.

2. Three or more bedrooms. 1,200 sq. ft.

(e) Lighting. There shall be restraint in terms of outdoor lighting of properties or structures to provide privacy and prevent impinging on neighboring properties, while providing safety and sufficient lighting for the homeowner's own needs. Lighting shall avoid glare and/or distraction for motorists. If there are written complaints, the Plan Committee and/or Historic Preservation Committee, if within the Historic District, has the right to review the situation taking all factors into account and require changes that will correct the situation. (4/10/00)

(f) The minimum required floor area of any dwelling unit existing as of the date of passage of this ordinance (11/13/2000), be it single-family dwelling, living quarters in a commercial building, or a dwelling unit in a duplex or multiple-family dwelling, shall be as follows:

1. If an existing structure is to be used as a residence, a minimum of 600 square feet is required. (11/13/2000)

**(3) SITE AND DEVELOPMENT STANDARDS. See ordinance 17.15.**

## 17.25 COMMERCIAL DISTRICT (C).

(1) **INTENT.** (a) This district is intended to provide for the location of retail shops, offices, service and business establishments, commercial transient lodging and related uses, and on a conditional use basis, multiple-occupancy residential housing. The district has 3 subareas:

1. **South subarea** along STH 42 facing the PW waterfront residential neighborhood, surrounded by residential property and characterized by small lots and small scale structural developments.
2. The **Village center**, the hub of community activities, including the Village Hall, library and post office, and a concentration of commercial uses. Also, in this area are several historical structures and buildings and spaces that characterize the Village's distinctive appearance.
3. The **north commercial area** along STH 42 forms the north entrance to the Village on Highway 42. An open, rural feeling with open space around and between buildings rather than intense development will help preserve this character.

(b) Regulations established for the commercial areas are intended to accomplish a balance between accommodation of development and change to allow the Village to share the economic growth of Door County and to provide visitors with facilities and services desired by them while not, in the process, destroying the distinctive atmosphere and character of the Village as a small Village emphasizing unique historic traditions.

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

- (a) Business professional offices.
- (b) Stores and shops.
- (c) Medical facilities.
- (d) Restaurants.
- (e) Financial institutions.
- (f) Commercial transient lodging: hotels, motels, hotel/ motel resorts, tourist rental rooms, resorts, bed & breakfast establishments, condo rental pools of transient duration, tourist cabins
- (g) Single family detached dwellings.
- (h) Dwelling units within a building that is predominantly commercial in use, which shall be utilized only as seasonal or year-round residences, not for commercial transient use (4/12/99)
- (i) Accessory structures per 17.15(3)
- (j) Bar Rooms and bar rooms used in conjunction with a retail sales establishment

**(3) CONDITIONAL USES.**

- (a) Theaters (indoor only).
  - (b) Recreation facilities.
  - (c) Gas and automobile service stations.
  - (d) Laundries.
  - (e) Public and semi-public uses.
  - (f) Churches.
  - (g) Utility facilities.
  - (h) Parking lots, areas or facilities, where the parking use is the principal use of the lot.
  - (i) Yard and garden supply stores.(north area only).
  - (j) Trade and contractors' establishments (north area only).
  - (k) Outdoor food service or eating areas.
  - (l) Drive-up/drive through financial facilities.
  - (m) Drive-up/drive through service facilities for any business establishment otherwise allowed within this district.
  - (n) Timeshare interval ownership/occupancy facilities **1/9/90**
  - (o) Accessory structures over 1,000 square feet. 2/14/96
  - (p) Within the portions of the Commercial zone that are in the Historic District, adaptive re-use of a building at least 75 years old. Specific consideration must be given to maintaining the architectural integrity of the structure and its visual contribution to the district. This re-use can only be considered with recommendation from the Historic Preservation Committee. Dimensional requirements of the district shall apply for residential use if applicable.
- In cases of buildings in the State or National Register, the building shall not be changed such that it jeopardizes its status on the State or National Register. (4/9/2001)
- (q) Multiple-Occupancy Residential Housing up to 8 units per acre, prorated down to the nearest unit. Subject to dimensional minimum square footage for residences, **except as defined below Passed 03/14/05** (see 17.24(2) (e0 1. and 2.), parking

requirements set forth in 17.15(9)(g), and maximum footprint standards for commercial transient lodging (17.25 (4)(c)7(d). See also 17.16(9), Standards for specific Uses. *Passed 7/12/04*

(r) As of the date of this ordinance, existing structures located in the Commercial zone may be expanded or divided to create new residences of 600 square feet or greater via conditional use approval, including design review. Previous Board of Appeals "

Findings of Facts and Conclusions of Law" and existing dimensional standards must be observed, including but not limited to parking and lot coverage. *Passed 03/14/05*

(s) Commercial transient lodging facilities and bed & breakfast establishments on lots smaller than the minimum lot area for the district 12/8/2008.

**(4) DIMENSIONAL STANDARDS.**  
17.25(3)

a) Zoning map. The zoning map identifies 3 subdistricts (south, central, and north) that relate to the dimensional standards herein.

b) Table of Standards.

**SUBDISTRICTS**

	<b>SOUTH</b>	<b>CENTRAL</b>	<b>NORTH</b>	
Minimum Lot Area	1 acre	1 acre	1.5 acres	
Minimum Lot Width	150'	150'	200'	
Minimum Front Setback **	40'	40'	75'	
Minimum Side Setback **	15'	15'	See Note A	
Minimum Rear Setback **	40'	40'	40'	
Minimum Building Separation, Comm'l Transient Lodging	25'	25'	25'	10/93 & 6/96
Minimum Building Separation, all other Commercial	25'	25'	25'	12/93
Maximum Lot Coverage Residential Use **	20% **	20% **	20% **	
Nonresidential Use	50%	50%	50%	10/93

**(c) ADDITIONAL STANDARDS.**

1. Definitions and additional standards of ordinance 17.24(3) shall apply.

2. Each site must have space designated for all parking spaces required for the use by ordinance 17.15(9) and for all driveway, loading and related spaces required under the same section.

3. The 20% maximum lot coverage requirement for residential use applies to lots where the sole principal use is residential and non-residential usage are governed by the 50% maximum lot coverage standard. **10/93**

\*\*Residential lot coverage in the commercial subdistricts may be increased up to a maximum of 50% with special exception approval by the planning committee.

4. (a) The minimum size of sales display area per shop in shops within a newly constructed complex or establishment having 2 or more shops on the same parcel shall be 500 sq. ft., not counting storage area. Such a complex shall have public restroom facilities. If shops are being established within an existing structure having current or prior residential use and if the amount of usable floor area to be devoted to shop purposes equals or exceeds 20% of total floor area, the premises must have sufficient parking space per ordinance 17.24 (9) ratioed to sales floor area and must have public restroom facilities.

(b) The maximum footprint size for each commercial structure (except for commercial transient lodging) shall be as follows:

	North subarea	10,000 sqsq. ft	
	Central subarea	6,000 sqsq. ft	<b>08/16/06</b>
	South subarea	6,000 sqsq. ft	

(c) All commercial developments requiring a building permit shall be subject to Design Review. **(12/2/93)**

5. Commercial transient lodging facilities shall conform to the following standards. See also 17.16(2) "Specific Uses":

1. The minimum required floor area of any dwelling unit existing as of the date of passage of this ordinance (11/13/2000), be it single-family dwelling, living quarters in a commercial building, or a dwelling unit in a duplex or multi-family dwelling, shall be as follows:

2. If an existing structure is to be used as a residence, a minimum of 600 square feet is required. (11/13/2000)

6. Regarding lighting, the Plan Committee and/or Historic Preservation Committee, if within the Historic District, shall review plans for outdoor lighting to assure that the lighting of the property and structures is appropriate for the district, avoids glare and distraction of motorists, and prevents imposing on neighboring properties while providing safety and sufficient lighting for the needs of that property. If there are written complaints, the Plan Committee and/or Historic Preservation Committee, if within the Historic District, has the right to review the situation taking all factors into account and require changes that will correct the situation. (see next page for Comm'l Transient Lodging Densities)

**COMMERCIAL TRANSIENT LODGING DENSITIES**

<u>Size of Rental Unit</u>	<u>Parcel Size</u>	<u>South Subarea</u>	<u>Central Subarea</u>
250-449 sq. ft.		12/12	12/16
450-749 sq. ft.		8/8	8/12
750-999 sq. ft.		6/6	6/8
<b><u>North Subarea</u></b>			
250-449 sq. ft.	1-3.9 acres		18/18/1
	4-5.9 acres		18/18/2
	6-10 acres		18/18/3
450-749 sq. ft.	1-3.9 acres		13/13/1
	4-5.9 acres		13/13/2
	6-10 acres		13/13/3
750-999 sq. ft.	1-3.9 acres		9/9/1
	4-5.9 acres		9/9/2
	6-10 acres		9/9/3

**999 sq. ft. is maximum unit size.**

**Note:** The following example demonstrates how densities would be determined for a project having mixed unit sizes:

A project proposing 30 small units (in the 250-449 sq. ft. range) and 10 larger units (in the 750-999 sq. ft. range) in the north subarea would need  $43,560/18 = 2,420$  sq. ft.  $\times 30 = 72,600$  sq. ft. in lot area for the small units and  $43,560/9 = 4,840 \times 10 = 48,400$  sq. ft. in lot area for the larger units or a total lot area of  $72,600 + 48,400 = 121,000$  sq. ft. (2.8 acres)

7. Additional standards for commercial transient lodging facilities:
- (a) A commercial transient lodging development may ~~not~~ be established on a zoning lot containing less than the minimum lot area for the C subdistrict **by conditional use. 12/8/2008.**
  - (b) ~~Starting with portions of zoning lots beyond the minimum lot area,~~ The number of units **allowed (per density table in 17.25)** may be prorated **up or down** to fractional acres with fractions of units rounded down. **12/8/2008.**

- (c) A dwelling unit shall be provided on the same parcel for the owner/manager and shall be used for housekeeping occupancy by an on-site manager.
- (d) A maximum footprint size for each structure as follows:
  - North** subarea 10,000 square feet
  - Central** subarea 6,000 square feet *10/93 and 6/10/96*
  - South** subarea 6,000 square feet *8/14/06*
- (e) Design review shall be conducted on all construction of commercial transient lodging establishments. (10/93)
- (f) No parking for commercial transient lodging shall be allowed within the front setback. 8/11/97

**8. TIMESHARING/INTERVAL OCCUPANCY LODGING.**

(a) Applications. All projects of this character shall require conditional use review and approval. In addition to information normally required for zoning permit applications, projects of this character shall submit full prospectus documentation of all covenants, agreements, instruments of title, disclosures, article of incorporation and bylaws of associations and rental agreements establishing the project and its intended marketing and operation.

17.25(7)

(b) Standards. In addition to otherwise applicable zoning standards, the following standards apply to timesharing/interval occupancy lodging:

1. All signs, banners and flags within the Village associated with the marketing of the project shall fully conform with Village sign control standards and with additional requirements imposed in conditional use review.

2. No commercial activities other than restaurants shall be permissible on the same site, except commercial activities serving only residents of the project.

3. All units within the project shall be subject to the timesharing/interval occupancy regime, unless exceptions are specifically approved by the Plan Committee in conditional use review.

4. The project shall have a resident manager's quarters and a garage therefor not to exceed 3 stalls. Accessory storage structures shall be sized solely to accommodate commonly owned equipment or furniture.

5. The site shall have 2 parking spaces per unit and 2 parking spaces for the manager's quarters.

6. As a condition of permit issuance, the applicant/developer shall submit to the Zoning Administrator proof that construction of the facility will be fully inspected during inspection by a State Licensed inspector against State Building Code requirements. As a condition of occupancy permit, proof shall be submitted that all inspections under DILHR codes were satisfied.

7. Minimum parcel size shall be 2 acres.

8. Other standards of the C District apply to the components of a timeshare/interval occupancy lodging use.



(c) **Additional Standards.** 1. In addition to the above specific standards and other applicable conditional use standards, the Plan Committee shall consider and base the conditional use decision in part upon whether the project can be conditioned to produce the reasonable stability and continuity in management responsibility. Such conditions shall address development documentation, presence of a full-time or seasonal manager's office on the premises, bonding or other sureties.

1. The Committee shall also consider and base its decision upon direct or indirect impacts of timesharing on property values within the Village, within the sectors of permanent residential property or transient lodging property.

(d) **Condominium Ownership.**

Nothing in this section or in its administration shall be construed to treat projects under condominium ownership different than projects that are physically similar but not under condominium ownership.

(e) The combination within a single parcel or premises of commercial transient lodging uses with other commercial uses, when other such commercial uses are open to persons other than guests within commercial transient lodging units, renders the development a conditional use. Within the conditional use review, the Plan Committee shall review the proposed mixture for compatibility and impact upon the community. If the Plan Committee determines to approve the use mixture, the Committee shall determine the total floor area and retail floor areas as defined in ordinance 17.09 and the zoning lot must be large enough to accommodate such under subpar.4.

**(5) CONDITIONAL USE REVIEW STANDARDS; RELATION TO DIMENSIONAL STANDARDS.**

(a) In making conditional use reviews, the Plan Committee shall consolidate review of land use, design and review any substandard lot conditions, if the application and documentation is ready for each review.

(b) In conducting conditional use reviews, in addition to applying the standards spelled out in the design review section, the Committee shall make decisions and impose requirements aimed at assuring that future development and redevelopment in the C District is self contained in the sense of accommodating parking, traffic demand, activity and sanitary impacts upon public ways or private properties; moderate intensity in order not to aggravate problems described in ordinance 17.25; and consistent with other Village ordinance standards, such as drainage and erosion control.

(c) In conducting design reviews of projects within the north subarea, the Plan Committee shall seek to achieve the following planning principles: 17.25(8)

1. Retention of larger lots and development of projects on a scale consistent with those larger lots.

2. Development of coordinated frontage road arrangements on both sides of STH 42.
3. Provisions of landscape and other screening along the rear portions of lots that abut residential properties.
  - (d) When a conditional use on a parcel exists, any change or intensification of that use shall be subject to further conditional use review for modification or further restrictions on conditions originally imposed.

**(6) SPECIAL EXCEPTION REVIEW STANDARDS; RELATION TO DIMENSIONAL STANDARDS.**

(a) In allowing special exceptions, the Plan Committee shall make decisions consistent with Village ordinance intent, including conformity with applicable Village-approved plans such as the Coastal Management Plan, Wastewater Strategic Engineering Plan, and Comprehensive Plan, and in consideration of preservation of the distinctive atmosphere and character of the Village. A special exception may require more than one meeting for final determination by the Plan Committee.

**(7) COMMERCIAL TRANSIENT LODGING ESTABLISHMENT.**

Any newly established commercial transient lodging within the Village limits that does not have 24-hour on-site management shall have installed a Knox box system which will allow the Fire Department or other emergency personnel access to the building through Door County Communications Center on a controlled and restricted basis. Existing businesses without 24-hour on-site management as of the passage of this ordinance (10/8/01) shall have Knox boxes installed no later than 05/01/02 to comply.

## **17.26 HISTORIC DISTRICT ORDINANCE (12-6-93)**

### **Historic Preservation District.**

**1. Description and Intent.** The Village of Ephraim, as an exercise of its zoning and welfare powers for the purpose of promoting the health, safety, and general welfare of the community and of the Village by this ordinance addresses the structures and sites within the Village that have special character, historic interest, aesthetic interest, or other significant value, for the purpose of preserving such structures and sites and their significant characteristics, thereby enhancing the economic and aesthetic values of the Village. From the very beginning in 1853, this district was the center of Village activities. Many historic sites and structures remain in this area.

In describing the “look” of Ephraim, visitors and residents often refer to the attractive simple lines of many of its buildings, with traditional gable roof-shapes and construction of wood or native stone. Windows of the older buildings are of the multi-sash type with simple vertical rectangles with small panes of glass, and white is considered to be the traditional color, although the gray of weathered cedar is often seen. From a distance, the white buildings tend to sharply define the Village profile against a backdrop of trees along the bluff. This district is a mix of commercial buildings and private residences, with most of the commercial buildings restrained in bulk and scale.

The Historic District, with its panoramic water view to the west, is laid out in a way that invites people to leave their vehicles and explore on foot. For a more complete description of Ephraim’s perceived unique features, see “What Makes Ephraim Unique” (document of Dec. 6, 1992, based on input at Town Hall meetings). The intent of this section is to provide standards and incentives to retain public views of historic structures and shoreline vistas, (10/4/99) as well as the appearance, bulk, scale, and density of buildings in order to preserve the overall character of the Historic District. The goal is to provide ordinance guidelines and regulations which will help retain the identifiable features which define this community.

### **2. Definitions**

**(a) Historic Preservation Certification** - This is the letter of certification issued by the Historic Preservation Committee (HPC) in support of any alteration, rehabilitation, construction, reconstruction, demolition of a historic structure or historic site in the Historic District.

**(b) Historic Preservation Committee** - The HPC shall consist of five individuals serving without compensation, with all five members subject to confirmation by the Board of Trustees. All five members shall have demonstrated a sensitivity to architectural preservation and/or have shown a special interest in Door Co. history. Special consideration will be given to individuals who have had professional experience in architectural preservation. All members of the HPC shall be appointed by the Village President with approval by the Village Board of Trustees. Four of these must be permanent residents of Ephraim. The fifth appointee may be from outside the Village but must own a home within the village. One appointee must be a member of the Plan Committee of the Village. The Village President may accept a recommendation from the President of the Ephraim Foundation. The Committee shall be viewed as a regular standing committee of the Village, with the chairperson appointed by the Village

President. Terms shall be for three years, and appointments shall be such that the terms are staggered.

(c) **Historic District** - An area or zone designated by the Board of Trustees and recognized by the HPC that contains improvements, sites, or roadways of special character related to the history of the Village, and which contribute to the collective unique characteristics of the community.

(d) **Historic Site** - Any parcel of land or feature on a parcel of land that has value in tracing the history of the community, or upon which a historic event has occurred, which has been so designated under this ordinance.

(e) **Historic Structure** - Any improvement which has a special character or special historic interest or value as part of the heritage or cultural characteristics of the Village, and which has been designated as a historic structure under the provisions of this chapter. In keeping with the age criterion of the State Historical Society, any structure 50 years of age or older may be evaluated for designation by the HPC as a historic structure.

(f) **Improvement** - Any building, structure, place, work of art or other object constituting a physical improvement or betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

(g) **Compatible Infill** - Any improvement, particularly in the case of new construction, which is in keeping with the simple lines, mass, scale, building materials, setbacks, window treatment, color, and architectural style of adjacent structures, and which enhances the overall character of the village rather than drawing attention to itself and detracting from overall character. Whether or not infill is considered compatible shall be the responsibility of the HPC and the Plan Committee.

(h) **Plan Committee** - The clearly constituted Village body as defined in Section 1 of the main body of the Village ordinance.

### 3. **HPC Powers and Duties**

- (a) The HPC shall review and make recommendations in an advisory capacity to the Plan Committee, on any building permit application involving new construction, reconstruction, exterior remodeling, alteration and/or demolition within the Historic District, and for any aforementioned activity on or attached to any building listed in the Local Register of Historic Structures of the Village (“Register”).
- (b) The HPC shall make recommendations only in regard to siting of a structure, external components of improvements, including roof type (i.e. shape) and covering, siding type, window type and treatments, foundation treatment (if exposed), architectural and/or ornament details, masonry, and incidental accessory structures including, but not limited to, pet houses and/or runs, HVAC equipment, signs and fencing, including colors of all components and landscaping used for screening.
- (c) HPC shall recommend approval of the application unless

- a. The proposed work detrimentally changes or destroys an external component of a structure listed in the Register.
  - b. The proposed work does not represent compatible infill with respect to neighboring properties.
  - c. The proposed work does not conform to 17.26(1).
  - d. The proposed work further obstructs and/or substantially changes public view of a structure listed in the Register in an adverse way.
- (d) The HPC shall submit recommendations to the Plan Committee prior to the next scheduled Plan Committee meeting following subject application. Should the HPC fail to meet with a quorum at their regularly scheduled meeting, all applications requiring HPC involvement shall be forwarded to the next regular monthly Plan Committee meeting. At this time the present members of the HPC will be invited to join in the discussion. If action on an application before the Plan Committee is postponed to a future meeting, the HPC shall re-enter the review process. If special circumstances exist which prevent the HPC from so communicating in a timely manner, the HPC shall notify the Zoning Administrator, Applicant and Plan Committee of same, including the reasons for delay and the time frame within which recommendations shall be submitted.
- (e) The HPC may recommend to the Plan Committee that a specific building be considered for inclusion on the Register.
- (f) Except in the case of Concept Review as defined in 17.39, no fees shall be charged by the Village for HPC involvement.

#### **4. Appeals**

Following denial of certification by the HPC, and subsequent denial of building permits from the Plan Committee, the applicant may appeal such decisions to the Board of Appeals within sixty (60) days of the Plan Committee's denial. In addition, if the HPC fails to issue certification, the HPC shall, with the cooperation of the applicant, work with the applicant in attempting to satisfy the guidelines of this ordinance such that certification can be reconsidered by the HPC.

#### **5. Recognition of Historic Structures, Sites, Roadways and Districts**

At such time as a historic structure, site, roadway, or district has been properly designated, the HPC, in cooperation with the property owner, may cause to be prepared and erected on such property (at village expense), a suitable plaque declaring that such property is a historic structure, site, roadway, or district.

#### **6. Boundaries of the Historic District**

The Historic District shall include all of the area defined by Highway 42 to the west and Moravia Street to the east, including properties located abutting these streets, from Anderson Lane to German Road, as well as the Anderson Barn Museum, and the ice house and gas station

structures on the Irene Anderson property adjacent to the Anderson Dock. Extending northward, the Historic District shall extend along Highway 42 to and along Amundson Lane to and including the old Highway 17 bridges.

To the south, The Historic District shall include all properties abutting highway 42 to the Village limits beyond Maple Grove Road. Certain historic buildings outside the Historic District may be designated historic such that any proposed alterations to these buildings would be subject to review by the HPC. The mechanism for designating buildings and sites as historic lying outside the Historic District is that described below in Subsection 17.15(13)©(d)8,a.

## **7. Establishment of an Initial Inventory of Historic Buildings**

- The initial inventory of historic buildings shall include those identified in the 1984 study by Claudette Streger, as sponsored by the State Historical Society and the Village of Ephraim. This listing or inventory of historic buildings shall be known as Ephraim’s “Local Registry” of historic buildings. The recognized historic buildings are:
  1. Andreas Iverson house (built in 1853)
  2. Thomas Goodletson Log Cabin (built in 1857)
  3. Halvor Anderson house (built around 1858; now in disrepair)
  4. Hillside Hotel (built in 1890)
  5. Abraham Oneson house (ca. 1880; second Oneson house on site?)
  6. Aslag Anderson house (built in 1864)
  7. Anderson Family Barn (ca. 1870)
  8. Moravian Church (built between 1857 and 1859)
  9. Lutheran Church (built in 1883)
  10. Aslag Anderson Store (built in 1858)
  11. Aslag Anderson Warehouse (ca. 1880; the third on the site)
  12. Aslag Anderson Icehouse (late 1800s)
  13. Oscar Wilson’s Ice Cream Parlor (1907)
  14. Evergreen Beach Hotel (built by Fordel Hogenson in 1890)
  15. Hansen’s General Store (now Edgewater Hotel; built in late 1800s)
  16. Pioneer Schoolhouse (built in 1869)
  17. Log Schoolhouse built by Rev. Andreas Iverson (ca. 1857)
  18. Ephraim Information Center (built in 1932 by Milton Hansen)
  19. Village Hall (built in 1927)
  20. Old Firehouse, Highway 42
  21. German Road as a historic road (**added 11/6/95**)

## **8. Designation of Additional Historic Structures, Historic Sites, and Historic Districts**

(a) The HPC may, after notice and public hearing, recommend to the Plan Committee additional historic structures, historic sites, improvements, and historic districts, or rescind such designation, after application of the criteria set forth above and below. At least ten (10) days prior to such hearing, the HPC shall notify the owners of record, as listed in the office of the assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected or within the boundaries of the Historic District.

(b) After providing notice, the HPC shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The HPC may conduct an independent investigation into the proposed designation or rescission. Within ten (10) days after the close of the public hearing, the HPC may designate the property as either a historic structure, historic site, or recommend its inclusion in a historic district, or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners and the recommendation of the HPC forwarded to the Plan Committee for their approval or denial.

## **9. Requirements for New Construction in the Historic District**

(a) Properties between  $\frac{1}{4}$  –  $\frac{1}{2}$  acre are allowed, via the permit process, to change the use of an existing principal structure to transient lodging of four units or less. No new construction of transient lodging is allowed on less than  $\frac{1}{2}$  acre.

These density standards apply to a single use on a property. Mixed use proposals require further Plan Committee review and approval.

(b) Excluding existing parcels of land greater than 2 acres at the time of passage of this the Historic District ordinance, a maximum lot size of 2 acres shall apply in this District, even if the property is jointly owned. Properties which adjoin a developed commercial property of more than one acre shall not be utilized for the expansion of that commercial enterprise.

(c) General Comments. Large scale development in this District is to be discouraged in order to preserve the existing appearance and scale. Incentives will be considered for owners who seek to alter their structures to bring them more in keeping with the Design Review and Historic District standards (see 17.15(13) and 17.26(11)(a-h). New construction must represent compatible infill and ideally would have simple lines, wood siding or the appearance of wood siding, and be relatively unadorned.

Compatible infill refers to the style of construction being in character with the Historic District in terms of mass, scale, building materials, setbacks, spacing between buildings, fenestration (window and door patterns), and architectural style. The Planning Committee shall require Design Review and request detailed written documentation that the builder has taken into consideration the intent and guidelines set forth in the Historic District Section of the Ordinance. Design Review standards are set forth both in (17.15(13) and 17.26 (11) (a-h). Procedures for Design Review are found in Sections 17.39 and 17.45.

**10. Permit Application** Major faceprint alteration and exterior remodeling within the designated Historic District shall in every case be subject to Design Review to better determine compliance with requirements of this Section. New construction shall be given more latitude in conforming to the Ephraim “look” as set forth in Subsection 17.26 (1) above in and Subsection 17.26 (11) (a-h) below.

Applications filed in behalf of historic structures or properties in the historic district shall be subjected to a two-tier review as set forth above. First, the application is considered by the HPC, which passes along its determination to the Plan Committee. Second, the application and the HPC determination are considered by the Plan Committee. Note that applications not involving historic structures or properties in the historic district shall be acted on only by the Plan Committee, as is the usual procedure, although the Plan Committee may wish to consult with the HPC in regard to certain applications. Upon filing of any application, the HPC and Plan Committee shall consider the following:

- (a) In the case of a **designated historic structure or site**, whether the proposed alteration (repair and/or renovation) would detrimentally change, destroy, or adversely affect any exterior architectural feature of historical significance; repair and/or renovation should be compatible with the design standards set for the Historic District. When renovation is planned that would detrimentally change, destroy, or adversely affect any exterior feature, the Plan Committee shall give consideration to the possibility of bringing the property into conformity as to setbacks, lot coverage, and parking. In the case of repair and/or renovation, consideration should be given as to whether the building or structure is of such old and unusual or uncommon design, texture, and material, that it could not be reproduced without great difficulty or expense; whether the building is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it to use.
- (b) In the case of **new construction**, or any alterations or remodeling requiring a building permit, whether the exterior of such improvement would adversely affect or be incompatible with the intent of this Section and/or the architectural guidelines listed in (17.15(13) and 17.26(11)(a-h).
- (c) In the case of a **demolition permit** request or a request to move any building listed on the Village’s inventory list of key historic buildings, members of both the Planning Committee and the Board of Trustees shall be immediately notified. Thereafter further permit action shall be delayed for no more than 60 days to give the Village the opportunity to:
  - 1) attempt to find a buyer for the building who would be willing to preserve the structure in place, or
  - 2) arrange to purchase the property in behalf of the Village, with or without subsequent resale to insure preservation of the property. An inventory list of key historic buildings (at least 50 years old) will be maintained by the Village.

**11. Architectural Guidelines for Proposed Construction, Reconstruction, Alterations, or Demolition within the Historic District.** The following guidelines are intended to assist the



HPC and Plan Committee and the property owner in making decisions regarding the appropriateness of design and construction within the Historic District.

**(a) Structure Form.** Generally, a single rectangle or combination of two or more rectangular forms. Simplicity is the key descriptive word. The style of most of the older buildings in Ephraim is along the lines of “Early Wisconsin Farmhouse,” which suggests a simple frame building of one or two stories, usually painted white, with a front and back porch, often showing the lateral addition of several extra rooms or storage areas. Porches and even gables provided for a varied facade in many of Ephraim’s older buildings. The Nelson farmhouse near the corner of Highway Q and Townline Rd. is prototypic of this style, and the Village maintains a file of photographs of buildings which capture the historic “look” of Ephraim.

**(b) Roof Shape and Pitch.** Traditionally, roofs have been in the form of a simple gable or multi-gable, with some historic buildings showing false fronts along the roof edge. Mansard, cone, or other complicated or unusual roof forms would detract from the character of the Historic District and are not permitted. Primary roof pitch shall not be less than 3:12 nor more than 12:12. Tar and gravel are not compatible with the Historic District. Metal roofs are allowed only by application for a special exception. Unfinished or galvanized metal siding or roofing is highly discouraged.

**(c) Exterior Walls.** Walls should be wood or have the appearance of wood, and if native limestone is used it should be used in conjunction with wood. Exterior walls shall be of like materials to the existing building or adjacent buildings, or of material commonly found in the district. Not more than two external sidewall materials, excluding glass, are traditional in the district.

**(d) Color.** White has been the distinctive building color in the district. It makes the village stand out against the green of the bluff. White and naturally weathered wood are traditional. House trim, sash, window and door frames, and porch trim color shall be compatible with the character of the Historic District; fluorescent and bright colors are prohibited. In all buildings painted white which are designated by the Village as historically significant and which appear on the inventory of historic buildings, the owner or owners must obtain permission from the Planning Committee to initiate a change in color.

(All buildings currently painted with bright or fluorescent trim are given a two-year grace period to change to a more compatible color scheme. If such properties are sold within the two-year grace period, the new owners will have to comply within 60 days or by June 1.) **(expired 12/6/95)**

**(e) Window Shapes.** Windows shall be simple vertical rectangles, as should door shapes, although in the case of new construction, particularly in areas not visible from the public rights-of-way, more latitude may be granted.

**(f) Landscaping.** Plantings rather than large expanses of grass lawn are to be encouraged, and live native plants should be used. Where paving is used, it shall be kept

to a minimum and buffered with landscaping where possible. Native flagstone is an excellent substitute for concrete or asphalt in pedestrian areas.

**(g) Fences and Gates.** Fences as property boundaries are discouraged in favor of natural boundary plantings. If fences are constructed, they shall preferably be of wood or stone, using dimensional requirements set forth in this Zoning Ordinance. Traditional fences in the district were dry stone and wood fencing, which represent a historically authentic kind of fencing. In

the case of metal, vinyl or plastic fences, samples must be provided for evaluation by the Historic Preservation Committee for referral to the Plan Committee. This will provide the use of non-traditional materials that reflect the look of traditional fencing. Specialized fencing to meet State safety requirements must still be reviewed for appearance.

**(h) Electrical Service.** Power and phone lines shall be buried for new construction and for any structural changes involving additions. To encourage the burying of electric and phone cables, certain incentives might be utilized (see Subsection 12 below).

## **12. Historic District Incentives**

To encourage property owners to preserve and maintain historically significant structures, those who comply with the requirements of this Subsection may qualify for certain incentives to be determined by the HPC and Plan Committee. Such incentives will be periodically reviewed, with changes as appropriate. Appendix #1 provides some examples of incentives that could be considered.

**13. Penalties for Violations** Any person or persons violating any provision of this Subsection shall be fined two hundred dollars (\$200) for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the building inspector.

**14. Separability** In the event that any one or more provisions of this chapter or the application thereof to any person or circumstances should, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions of this chapter.

**15. Periodic Review** Every two years the HPC and the Plan Committee shall meet together in a public meeting to evaluate and review the Historic District Ordinance. At this meeting, input from the public will be encouraged. Based on this meeting a written letter of evaluation shall be forwarded to the Board of Trustees by the chairperson of the HPC. This letter should indicate the perceived level of effectiveness of the Historic District Ordinance in meeting its intent. If needed, recommendations for appropriate change in this Ordinance should be set forth in this letter of evaluation.

## **APPENDIX #1**

Possible Incentives to Encourage Property Owners to Preserve and Maintain Historically Significant Structures:

1. Providing owners with special recognition and commemoration by providing plaques to affix to their historic structures, or by display in a public place a well-designed commemorative list of Historic District participants and their properties. Also, special recognition can be provided through annual newspaper releases or even box displays announcing the historic properties of Ephraim and the owners of such properties.
2. Waiver of nonconforming status as to dimensional standards, to allow structural repairs and reconstructions not otherwise possible in a nonconforming status, according to State statutes. Any additions or reconstructions to structures under this waiver shall not increase the nonconformity of the dimensional standards currently existing.
3. Waiver of parking requirements to the extent possible for the property. For example, if lot size or building location does not allow for the required five parking spaces for a commercial establishment, but does allow for three spaces, the requirement could be waived and three spaces permitted. In cases of parcel size of ½ acre or less where the intent is to preserve the existing building(s), open paving blocks may be permitted for whatever off-street parking can be created. There may be cases where lot size and/or configuration will not accommodate any off-street parking. In such cases, parking requirements may be waived at the discretion of the Plan Committee.
4. Property owners who preserve and maintain historically significant buildings in keeping with the intent and guidelines set forth in this Section shall receive a commemorative plaque from the Village indicating their participation in the preservation of Ephraim’s Historic District, as indicated above in Subsection 5. Such weatherproof plaques could be mounted on the designated structure. Furthermore, property owners participating in the preservation of Ephraim’s Historic District, and their buildings, will be listed in a booklet published every two years and made available to the public.

**17.27 SHORELAND-WETLAND DISTRICT (S-W).**

This ordinance is adopted pursuant to the authorization in sections 61.35 and 61.351 for Villages Wisc. Stats.

**(1) INTENT.** Uncontrolled use of the shoreland-wetland and pollution of the navigable waters of Ephraim would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- (1) Promote the public health, safety, convenience and general welfare;
- (2) Maintain the storm and floodwater storage capacity of wetlands;
- (3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;

- (5) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth-moving activities.

**(2) COMPLIANCE.**

(a) The use of wetlands and the alteration of wetlands within the shoreland area of Ephraim shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations (however, see section 17.27(11) of this ordinance for standards applicable to nonconforming uses). All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by provision of this ordinance.

(b) Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this ordinance and obtain all necessary permits.

(c) This ordinance supersedes all the provisions of any Village zoning ordinance enacted under sections 61.35, 62.23 or 87.30 Wisc. Stats., which relate to floodplains and shoreland-wetlands; except that where another municipal zoning ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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

17.27(3)

**(3) INTERPRETATION.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in the favor of the Village of Ephraim and shall not be deemed a limitation or repeal of any other powers granted by Wisc. Stats. Where provision of this ordinance is required by a standard in chapter NR 117, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the chapter NR 117 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

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

**(5) ANNEXED AREAS.** The Door County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The Door County shoreland zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the Zoning Administrator.

**(6) SHORELAND-WETLAND ZONING MAPS.** The following maps are hereby adopted and made part of this ordinance and are on the file in the office of the Village Clerk:

- (a) Wisconsin Wetland Inventory maps stamped 'FINAL' on July 11, 1992.
- (b) Village of Ephraim zoning map amended to show DNR final wetland areas above, dated August 3, 1992.
- (c) Future floodplain zoning maps for the Village of Ephraim.
- (d) United States Geological Survey maps dated 1986.

**(7) DISTRICT BOUNDARIES.** The shoreland-wetland zoning district includes all wetlands in Ephraim shown on the final Wetland Inventory Map that has been adopted and made part of this ordinance and which are:

- (a) Wetland areas designated by the Wisconsin Department of Natural Resources on the Wetland Inventory Map dated July 22, 1992; and
- (b) Wetlands which are within the U.S. Army Corps of Engineers, Section 404, permit program jurisdiction.

**The Department of Natural Resources has additional authority over proper administration of the ordinance in those designated wetland areas which are:**

(a) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance.

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

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

**(7.1) DISCREPANCIES.** When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the

Department of Natural Resources to determine if the shoreland-wetland district boundary as mapped is in error.

If Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping areas or acknowledge exempted wetlands designated in 17.27(7.1)(a) "Filled Wetlands" and 17.27(7.1)(b) "Wetlands Landward of a Bulkhead Line", the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period.

(a) Filled Wetlands. Wetlands which are filled prior to July 22, 1992, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this ordinance.

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

**(8) PERMITTED USES.** The following uses are permitted subject to the provisions of Chapters 30 and 31, Wisc. Stats., and the provision of other local, state and Federal laws, if applicable:

**(a) Activities are uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:**

- (1) Hiking, fishing, trapping, bow hunting as allowed by Ephraim ordinance, 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 pasturing of livestock if allowed in the underlying zoning; and
- (4) The cultivation of agricultural crops if allowed in the underlying zoning.

**(b) Uses which do require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below.** These uses may also require a permit under the Village of Ephraim Erosion Control ordinance.

- (1) The practice of silviculture, including the planting, thinning and harvesting (not clear-cutting) of timber; limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;

- (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
- (3) The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, providing that the filling is otherwise permissible and that the dredged spoil is placed on existing spoil banks where possible;
- (4) The construction and maintenance of fences for the pasturing of livestock where allowed, including limited excavating and filling necessary for such construction or maintenance;
- (5) The construction and maintenance of piers, docks, walkways, observation desk and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
- (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts on the natural functions of the shoreland-wetland listed in section 17.27(14)(c) of this ordinance; and
- (7) The maintenance, repair, replacement and reconstruction of existing highways and bridges including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

**(9) CONDITIONAL USES.** Uses which are allowed upon the issuance of a Conditional Use Permit and which may include wetland alterations only to the extent specifically provided below:

**(9.1)** The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under section 17.27(9) of this ordinance, provided that:

- (a) The road cannot, as practical matter, be located outside the wetland;
- (b) The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in section 6.13 of this ordinance;
- (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
- (d) Road construction activities are carried out in the immediate area of the roadbed only; and
- (e) Any wetland alteration must be necessary for the construction or maintenance of the road.

**(9.2)** The construction and maintenance of nonresidential buildings provided that:

- (a) The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
- (b) The building cannot, as a practical matter, be located outside the wetland;
- (c) The building does not exceed 500 square feet in floor area; and
- (d) Only limited filling and excavating necessary to provide structural support for the building is allowed.

**(9.3)** The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

- (a) Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
- (b) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
- (c) The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in section 17.27(9.1) of this ordinance; and
- (d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

**(9.4)** The construction and maintenance of electric and telephone transmission lines, water and sewage collection lines and related facilities, provided that:

- (a) The utility transmission and distribution facilities lines cannot, as a practical matter, be located outside the wetland;
- (b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and



- (c) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in section 17.27(14)(c) of this ordinance.

**10. PROHIBITED USES.** Any use not listed in sections 17.27(8) or 17.27(9) of this ordinance is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 17.27(14) of this ordinance. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed boathouse below the ordinary high-water mark of any navigable waters are prohibited.

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

- (a) The shoreland-wetland provisions of this ordinance authorized by Wisc. Stats. 61.351 shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to 62.23(7)(h) Wisc. Stats. which limits total lifetime structural repairs and alterations to 50% of current fair market value.

- (b) If a nonconforming use or use of a nonconforming structure is discontinued for a period of twelve (12) months, any future use of the building, structure or property shall conform to this ordinance.

- (c) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this ordinance adopted under 61.351 or 62.231 Wisc. Stats. may be continued although such use does not conform with the provisions of the ordinance. However, such nonconforming use may not be extended.

- (d) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of section 30.121 Wisc. Stats.

- (e) Uses which are nuisances under common law shall not be permitted to continue as conforming uses.

## 12. ADMINISTRATIVE PROVISIONS.

(a) **Zoning Administrator.** The Zoning Administrator shall have the duties and powers as noted in 17.36 of this ordinance. In addition, as it pertains to this Shoreland-Wetland ordinance, the Zoning Administrator shall submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments within 10 days after they are granted or denied, to the appropriate district office of the Department of Natural Resources, and investigate and report violations of this ordinance to the Plan Committee and the attorney for the Village of Ephraim.

(b) **Zoning Permits.** Unless another section of this ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator and/or Plan Committee before any new development, as defined in 17.09 of this ordinance, or any change in the use of an existing building or structure is initiated.

(c) **Application.** An application for a zoning permit shall be made to the Zoning Administrator per 17.44 "Procedures for Conditional Use" in this ordinance. In addition, other information must be included with the application, including location of the ordinary high-water mark of any abutting navigable waterways, boundaries of all wetlands, existing and proposed topographic and drainage features and vegetative cover, location of floodplain and floodway limits on the property as determined from floodplain zoning maps, location of existing or future access roads, and specifications and dimensions for areas of proposed wetland alteration, and other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance, including but not limited to environmental impact studies or audits in accordance with NR 150.22, "Preparation and Content of the Environmental Analysis or Environmental Impact Study." The applicant must also comply with any applicable ordinances in Chapter 16 of these ordinances, Erosion Control.

(d) Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Plan Committee.

**13. CONDITIONS.** Upon consideration of the permit application and the standards applicable to the conditional uses designated in section 17.27(9) of this ordinance, the Plan Committee shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance as listed in section 17.27(1). Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover, erosion controls; increase setbacks; specific sewage disposal and/or water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking area and signs; and type of construction. To secure information upon which to base its determination, the Plan Committee may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance.

**14. AMENDING SHORELAND-WETLAND ZONING REGULATIONS.** The Village of Ephraim may alter, supplement or change the district boundaries and the regulations contained in this ordinance in accordance with the requirements of 62.23(7)(d)2. Wisc. Stats., NR 117 Wis. Adm. Code and the following:

(a) A copy of each proposed text or map amendment shall be submitted to the appropriate Department of Natural Resources office within 5 days of the submission of the proposed amendment to the Plan Committee;

(b) All proposed text and map amendments to the Shoreland-Wetland Zoning regulations shall be referred to the Plan Committee and a public hearing shall be held after Class II notice as required by 62.23(7)(d)2 Wisc. Stats. The appropriate district office of the Department of Natural Resources shall be provided with written notice of the public hearing at least 10 days prior to such hearing;

(c) In order to insure that this ordinance will remain consistent with the shoreland protection objectives of section 144.26 Wisc. Stats., the Village may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:

- (1) storm and flood water storage capacity;
- (2) maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
- (3) filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) shoreline protection against erosion;
- (5) fish spawning, breeding, nursery or feeding grounds;
- (6) wildlife habitat, or
- (7) areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

(d) 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 section of this ordinance, the Department shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.

(e) The appropriate District Office of the Department shall be provided with (1) a copy of the recommendation and report, of any, of the Plan Committee on a proposed text or map amendment, within 10 days after the submission of those recommendations to the Village

board; (2) written notice of the action of the proposed text or map amendment within 10 days after the action is taken.

(f) If the Department notifies the Plan Committee in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in 17.24(14)(c)(1) of this ordinance, that proposed amendment, if approved by the Village Board, shall not become effective until more than 30 days have elapsed since written notice of Village approval was mailed to the Department, as required by 17.14(14)(c) of this ordinance. If within the 30-day period the Department notifies the Village that the Department intends to adopt a superseding shoreland-wetland zoning TABLE OF CONTENTS

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**1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS**

**1.1 STATUTORY AUTHORIZATION**

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

**1.2 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.

**1.3 STATEMENT OF PURPOSE**

This ordinance is intended to regulate floodplain development to:

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

**1.4 TITLE**

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

**1.5 GENERAL PROVISIONS**

(1) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood.

**Note:** Base flood elevations are derived from the flood profiles in the Flood Insurance Study.

Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(2) OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Village of Ephraim Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk, Village of Ephraim. If more than one map or revision is referenced, the most restrictive information shall apply.

OFFICIAL MAPS : Based on the Door County Flood Insurance Study (FIS), dated (March 2, 2009), Volume number (55029CV000A)

- (a) Door County Flood Insurance Rate Map (FIRM), panel numbers (**55029C0187C, 55029C0189C, 55029C0191C, 55029C0192C, 55029C0193C, and 55029C0194C**), dated (**March 2, 2009**); with corresponding profiles that are based on the Flood Insurance Study (FIS)

(3) ESTABLISHMENT OF DISTRICTS

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

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

(4) LOCATING FLOODPLAIN BOUNDARIES

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

- (a) 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.
- (b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

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

(5) REMOVAL OF LANDS FROM FLOODPLAIN

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

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

(6) 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.

(7) 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.

(8) ABROGATION AND GREATER RESTRICTIONS

(a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) 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.

(9) 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.

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(11) 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.

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

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

(13) GENERAL DEVELOPMENT STANDARDS

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

**2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

**2.1 HYDRAULIC AND HYDROLOGIC ANALYSES**

- (1) Except as allowed in par. (3) below, no floodplain development shall:
  - (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
  - (b) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.

- (3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.0.

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

**2.2 WATERCOURSE ALTERATIONS**

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

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

**2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT**

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 8.0.

**2.4 PUBLIC OR PRIVATE CAMPGROUNDS**

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

- (1) The campground is approved by the Department of Health and Family Services.
- (2) A land use permit for the campground is issued by the zoning administrator.
- (3) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (4) 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.
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- (6) Only camping units are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) 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.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0 or s. 4.0 for the floodplain district in which the structure is

located.

- (11) 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.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

### **3.0 FLOODWAY DISTRICT (FW)**

#### **3.1 APPLICABILITY**

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

#### **3.2 PERMITTED USES**

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

- they are not prohibited by any other ordinance;
  - they meet the standards in s. 3.3 and 3.4; and
  - all permits or certificates have been issued according to s. 7.1:
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
  - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.
  - (5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
  - (6) 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.
  - (7) Public utilities, streets and bridges that comply with s. 3.3(3).

#### **3.3 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS**

##### **(1) GENERAL**

- (a) Any development in floodway areas shall comply with s. 2.0 and have a low flood damage potential.

- (b) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1:
  - 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.
- (c) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

(2) 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:

- (a) The structure is not designed for human habitation and does not have a high flood damage potential.
- (b) It must be anchored to resist flotation, collapse, and lateral movement;
- (c) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
- (d) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
- (b) Construction meets the development standards of s. 2.1.

(4) FILLS OR DEPOSITION OF MATERIALS

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

- (a) The requirements of s. 2.1 are met;
- (b) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (d) The fill is not classified as a solid or hazardous material.

### **3.4 PROHIBITED USES**

All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;
- (5) 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;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (8) 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.

### **4.0 FLOODFRINGE DISTRICT (FF)**

#### **4.1 APPLICABILITY**

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

#### **4.2 PERMITTED USES**

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

#### **4.3 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS**

S. 2.1 shall apply in addition to the following requirements according to the use requested.

##### **(1) RESIDENTIAL USES**

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

- (a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
- (b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
- (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
- (d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
  - 1. 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
  - 2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(2) ACCESSORY STRUCTURES OR USES

- (a) Except as provided in par.(b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
- (b) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of Sections 3.3 (2) (a),(b),(c) and (d) and 4.3 (5) below.

(3) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), 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.

(4) MANUFACTURING AND INDUSTRIAL USES

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 7.5. Subject to the requirements of s. 4.3(5), 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.

(5) 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. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- (a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with s. 7.5 to the flood protection elevation;
- (b) 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.

(7) SEWAGE SYSTEMS

All on-site sewage disposal systems shall be floodproofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

(8) WELLS

All wells shall be floodproofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

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

(10) DEPOSITION OF MATERIALS

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

(11) MANUFACTURED HOMES

- (a) 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.
- (b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
  - 1. have the lowest floor elevated to the flood protection elevation; and
  - 2. be anchored so they do not float, collapse or move laterally during a flood

- (c) 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. 4.3(1).

(12) **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. 4.3 (11)(b) and (c). 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.

**5.0 GENERAL FLOODPLAIN DISTRICT (GFP)**

**5.1 APPLICABILITY**

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

**5.2 PERMITTED USES**

Pursuant to s. 5.4, it shall be determined whether the proposed use is located within a floodway or floodfringe area.

Those uses permitted in floodway (s. 3.2) and floodfringe areas (s. 4.2) are allowed within the general floodplain district, according to the standards of s. 5.3, provided that all permits or certificates required under s. 7.1 have been issued.

**5.3 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT**

S. 3.0 applies to floodway areas, s. 4.0 applies to floodfringe areas. The rest of this ordinance applies to either district.

**5.4 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS**

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

- (1) 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;
- (2) 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:
  - (a) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;



- (b) 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;
  - (c) Profile showing the slope of the bottom of the channel or flow line of the stream;
  - (d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (3) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 7.1(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

## **6.0 NONCONFORMING USES**

### **6.1 GENERAL**

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

If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

- (2) 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:
- (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.  
  
The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
  - (b) 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;

(c) 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;

- (d) 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. 4.3(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (e)
  - 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
  - 2. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.
- (f) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used.

**6.2 FLOODWAY AREAS**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
  - (a) Has been granted a permit or variance which meets all ordinance requirements;
  - (b) Meets the requirements of s. 6.1;
  - (c) Will not increase the obstruction to flood flows or regional flood height;
  - (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation;
  - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

1. 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;
  2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  4. The use must be limited to parking or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

### **6.3 FLOODFRINGE AREAS**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 4.3, except where s. 6.3(2) is applicable.
- (2) Where compliance with the provisions of par. (1) 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. 7.3, may grant a variance from those provisions of par. (1) 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:
  - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (b) Human lives are not endangered;
  - (c) Public facilities, such as water or sewer, will not be installed;
  - (d) Flood depths will not exceed two feet;
  - (e) Flood velocities will not exceed two feet per second; and
  - (f) The structure will not be used for storage of materials as described in s. 4.3(6).

- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
  - (a) Meets all other regulations and will be granted by permit or variance;
  - (b) Does not exceed 60 square feet in area; and
  - (c) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

## **7.0 ADMINISTRATION**

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

## **7.1 ZONING ADMINISTRATOR**

- (1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
  - (a) 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.
  - (b) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
  - (bm) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
  - (c) Keep records of all official actions such as:
    - 1. All permits issued, inspections made, and work approved;
    - 2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
    - 3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
    - 4. All substantial damage assessment reports for floodplain structures.

- (d) Submit copies of the following items to the Department Regional office:
  - 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  - 2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
  - 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

**Note: Information on conducting substantial damage assessments is available on the DNR website – <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>**

- (e) 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.
- (f) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(2) LAND USE PERMIT

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

(a) GENERAL INFORMATION

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

(b) SITE DEVELOPMENT PLAN

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

- 1. Location, dimensions, area and elevation of the lot;
- 2. Location of the ordinary highwater mark of any abutting navigable waterways;
- 3. Location of any structures with distances measured from the lot lines and street center lines;
- 4. Location of any existing or proposed on-site sewage systems or private water supply systems;
- 5. Location and elevation of existing or future access roads;

6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
7. 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);
8. 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 s. 3.0 or 4.0 are met; and
9. 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. 2.1. This may include any of the information noted in s. 3.3(1).

(c) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
  - a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
  - b. A map showing location and details of vehicular access to lands outside the floodplain; and
  - c. A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(d) EXPIRATION

All permits issued under the authority of this ordinance shall expire 1 year after issuance.

(3) 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:

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

- (c) 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;
- (d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of s. 7.5.

(4) **OTHER PERMITS**

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

**7.2 ZONING AGENCY**

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

**7.3 BOARD OF ADJUSTMENT/APPEALS**

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

(1) **POWERS AND DUTIES**

The Board of Adjustment/Appeals shall:

- (a) 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.
- (b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(2) **APPEALS TO THE BOARD**

(a) 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.

(b) **NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES**

1. Notice - The board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
- c. 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.

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

- a. Resolve boundary disputes according to s. 7.3(3).
- b. Decide variance applications according to s. 7.3(4).
- c. Decide appeals of permit denials according to s. 7.4.

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

- 1. Be made within a reasonable time;
- 2. Be sent to the Department Regional office within 10 days of the decision;
- 3. Be a written determination signed by the chairman or secretary of the Board;
- 4. State the specific facts which are the basis for the Board's decision;
- 5. 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;
- 6. 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.

(3) **BOUNDARY DISPUTES**

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



- (a) 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.
  - (b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
  - (c) 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 s. 8.0.
- (4) VARIANCE
- (a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
    - 1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
    - 2. 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;
    - 3. The variance is not contrary to the public interest; and
    - 4. The variance is consistent with the purpose of this ordinance in s. 1.3.
  - (b) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
    - 1. The variance may not cause any increase in the regional flood elevation;
    - 2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
    - 3. 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.
  - (c) A variance shall not:
    - 1. Grant, extend or increase any use prohibited in the zoning district.
    - 2. Be granted for a hardship based solely on an economic gain or loss.
    - 3. Be granted for a hardship which is self-created.
    - 4. Damage the rights or property values of other persons in the area.
    - 5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.1.
    - 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

- (d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

**7.4 TO REVIEW APPEALS OF PERMIT DENIALS**

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
  - (a) Permit application data listed in s. 7.1(2).
  - (b) Floodway/floodfringe determination data in s. 5.4.
  - (c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator.
  - (d) Other data submitted with the application, or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
  - (a) Follow the procedures of s. 7.3;
  - (b) Consider zoning agency recommendations; and
  - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
  - (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
  - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

**7.5 FLOODPROOFING**

- (1) No permit or variance shall be issued 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.
- (2) Floodproofing measures shall be designed to:
  - (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (b) Protect structures to the flood protection elevation;
  - (c) Anchor structures to foundations to resist flotation and lateral movement; and

- (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (2) Floodproofing measures could include:
  - (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or
  - (b) Adding mass or weight to prevent flotation.
  - (c) Placing essential utilities above the flood protection elevation.
  - (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
  - (e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
  - (f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

## **7.6 PUBLIC INFORMATION**

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

## **8.0 AMENDMENTS**

### **8.1 GENERAL**

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

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) 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.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

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

## **8.2 PROCEDURES**

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by ss. 5.4 and 7.1(2).

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. 1.5(4).)

## **9.0 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 \$ 5.00 and not more than \$ 500.00, 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.

## **10.0 DEFINITIONS**

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

- 1) "A ZONES" - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- 2) "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.
- 3) "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.

- 4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- 5) "BUILDING" - See STRUCTURE.
- 6) "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.
- 7) "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.
- 8) "CAMPING UNIT" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
- 9) "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.
- 10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 11) "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.
- 12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- 13) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- 14) "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.
- 15) "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.
- 16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- 17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation

of utilities, the construction of streets and either final site grading or the pouring of concrete pads

- 18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- 20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- 21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
  - ✓ The overflow or rise of inland waters,
  - ✓ The rapid accumulation or runoff of surface waters from any source,
  - ✓ The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
  - ✓ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- 22) "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.
- 23) "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.
- 24) "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.
- 25) "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.
- 26) "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.
- 27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but

not covered, by floodwater during the regional flood.

- 28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 29) "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.
- 30) "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.
- 31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- 32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 34) "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.
- 35) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- 36) "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.
- 37) "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.
- 38) "HISTORIC STRUCTURE" - Any structure that is either:
  - ✓ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
  - ✓ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
  - ✓ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
  - ✓ Individually listed on a local inventory of historic places in communities with historic preservation

programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

- 39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- 41) "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."
- 42) "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."
- 43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- 44) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" – Elevations referenced to mean sea level datum, 1988 adjustment.
- 45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- 46) "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.
- 47) "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.)
- 48) "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.)
- 49) "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.



- 50) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
- 51) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- 52) "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.
- 53) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 54) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- 55) "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.
- 56) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 57) "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.
- 58) "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.
- 59) "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.
- 60) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- 61) "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.

- 62) "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.
- 63) "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.
- 64) "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.
- 65) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- 66) "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.

66) "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.

ordinance for the Village as provided by section 62.231(6) and 61.351(6) Wisc. Stats., the proposed amendment shall not become effective until the ordinance adoption procedure under section 62.231(6) or 61.351(6) Wisc. Stats. is completed or otherwise terminated.

**15. ENFORCEMENT AND PENALTIES.** Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Plan Committee and municipal attorney, who shall prosecute such violations in accordance with Chapter 17.12 of these ordinances. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the Village, the state or any citizen thereof pursuant to section 87.30(2), Wisc. Stats.

**17.35 PLAN COMMITTEE.**

The Village Plan Committee, established and appointed pursuant to ordinance 1.21(1) of this code of ordinances, has those objectives and purposes in relation to this chapter that are delineated in ordinance 1.21(2) and within this chapter. All references in other parts of this code of Ordinances to the former Land Use and Building Design Committee shall henceforth refer to the Village Plan Committee.

**17.36 ZONING ADMINISTRATOR.**

The Zoning Administrator, an appointment coterminous with that of the Building Inspector under Ch. 1 of this code of ordinances, shall have the following duties and responsibilities:

- (1) At all times be knowledgeable about all Village ordinance requirements pertaining to land use planning, land subdivision, Ch. 14 of this Code of Ordinances, zoning, storm water management and erosion control, historic preservation, Village zoning and related matters and be capable of explaining these requirements to interested parties.
- (2) Within the limits of authority and discretion delegated by the Plan Committee, advise applicants for permits or approvals of the required applications, the required exhibits and prior county, State or Federal approvals and the documents required to be filed with applications.
- (3) Provide applicants with appropriate application forms and guide applicants to the appropriate reviewing bodies and when required by the reviewing bodies, answer and explain the application and identify relevant ordinance standards.
- (4) Receive completed applications which are accompanied by required fees in accordance with the latest fee schedule established by the Village board. The Zoning Administrator shall collect, provide receipts for the transmit to the Village Treasurer all application fees within 3 days of receipt.
- (5) Examine permit applications received and present properly completed applications to the Village Plan Committee at their next regularly scheduled permit review meeting.
- (6) If delegated by the Plan Committee, Board of Zoning and Building Appeals or the Village Board, correspond with interested parties regarding the processing of applications or outcome of Village decisions on same.
- (7) Decide upon those applications for permits or approvals when the power to make such decision has been specifically delegated in writing by the Village Plan Committee.
- (8) In other cases, when the decision on the application is to be made by the Plan Committee, Board of Zoning and Building Appeals or the Village Board, the Zoning Administrator shall notify the applicant in writing of any action taken on the application and issue any required permits within 3 days of such decision. If a permit or project is approved with conditions, a written statement of such conditions shall be recorded along with the permit. If a permit is denied, the Zoning Administrator shall inform the applicant of the right of appeal, but such information shall not be construed as encouragement to appeal.
- (9) Make required inspections of site and construction to monitor compliance and/or inspect the usage of premises to determine that conditions conform to all applicable ordinances and requirements and inform the Plan Committee of such compliance.
- (10) In the event of an appeal, transmit all records in the possession of the Zoning Administrator concerning an appeal to the board of Zoning and Building Appeals or the court.
- (11) Establish and maintain an inventory of all nonconforming premises and conditions.
- (12) Upon reasonable cause, initiate enforcement proceedings and file complaints on violations with the Village Attorney.

- (13) Maintain files of applications, permits and other relevant materials.
- (14) Serve as an agent of and as an advisory staff to the Plan Committee and the board of Zoning and Building Appeals.
- (15) Perform such other duties as are delegated by this chapter or by the Plan Committee, Board of Zoning and Building Appeals or Village Board.
- (16) Maintain regular office hours at designated Village offices as prescribed by the Village Board. On-site inspections shall not be performed during these scheduled time periods.

**17.37 DETERMINATION OF LOT DIMENSIONS AND REFERENCES.**

(1) **FINDINGS.** Many standards of this chapter are based upon lot area, lot lines and related parcel references. It is therefore, essential that the lot references be defined for each application. It is also a fact that some land records in the Village are ambiguous. The following process shall govern decisions on lot dimensions and references for purposes of ordinance administration.

(2) **CERTIFIED SURVEY REQUIRED**

(a) Any land division within the Village of Ephraim requires that a certified survey map as defined by the Village be submitted to the Zoning Administrator or other Village designee for Village review and confirmation that it meets zoning requirements. Proposed divisions resulting in three or more parcels of five acres or less within a five-year period are also subject to requirements per Chapter 18 Subdivision and Platting. (Added October 13, 2003)

(3) **PLAN COMMITTEE RESPONSIBILITIES.** The Plan Committee shall review the applicant's materials against public records and established patterns of land occupancy and shall then define the zoning lot (the lot boundaries that will be used for regulatory purposes). In making this determination, the Committee shall be guided by this criteria:

(a) Zoning lots shall not include lands under public rights-of-way, under functioning public roads or vehicular ways or under surface water bodies.

(b) If public roads or ways or public approved rights-of-way bisect a lot, each part of the parcel is a separate zoning lot. However, where a portion of such bisected lot is committed to open space usage under terms deemed acceptable by the Plan Committee including, but not limited to, waterfront open space zoning, Wetland and District zoning, Shoreland-Wetland District zoning and/or special deed restrictions with Village enforcement powers, that portion of the bisected lot may be included within unitary zoning lot with lands on the other side of the street, way or right-of-way for purposes of allowing a transfer of density or redevelopment portions of the lot. The amount of density or redevelopment opportunities from the open space portion to developable portions of the lot. The amount of density or redevelopment opportunity allowed to be transferred shall be no greater than that otherwise allowable in the restricted portion.

- (c) Separate parcels broken by features other than roads, but held in common ownership, shall be combined in a single zoning lot if doing so would produce a zoning lot that conforms to applicable dimensional standards,
- (d) In calculating lot area, parts of zoning lots that are occupied by navigable water bodies or public rights-of-way or roadways shall not be counted.
- (e) Lots that are apparently gerrymandered to include functionally unusable area solely to achieve required area may be redefined in establishing the zoning lot for purposes of zoning review.
- (f) Zoning lots may also be established for individual principal structures when more than one principal structure is allowed on a lot of record pursuant to ordinance 17.15(2) of this chapter and/or when functional equivalents of lots of record are established by condominium regime.

**(4) RELATIONSHIPS BETWEEN ZONING LOTS AND LOTS OF RECORD.** Unless otherwise specified, all zoning determinations for a parcel apply to the full lot of record, even if parts of such lot were not included in the zoning lot dimensions used for regulatory purposes.

**17.38 PERMITS REQUIRED.**

A zoning permit, either a regular zoning permit, conditional use permit or special exception permit, depending on the classification of the use, shall be required prior to establishment or change of a use of property or premises and/or prior to the establishment or alteration of a building or structure (see 17.11(1) for requirements), except for the following permit-exempt facilities:

- (1) Permit-exempt utility facilities are provided in ordinance 17.16(4).
- (2) Minor incidental structures, such as birdhouses, yard light poles, birdbaths, doghouses, tree houses, clothes line poles and mail boxes.
- (3) Minor incidental non-structural repairs or non-structural remodeling not facilitating or resulting in a change of use. However, a permit for major interior remodeling for commercial structures is required (no permit for new cabinets, floor or wall coverings, but a permit is required for replacing electrical, HVAC/plumbing piping/moving of floors, ceilings or walls). (12/10/01)
- (4) Structures that are 6” or less above the earth surface provided, however, that swimming pools and paved courts do not fall within this exemption. Resurfacing graveled areas to paved surfaces, even though the area is not expanded, requires a permit for the purposes of erosion control and runoff concerns.
- (5) The Plan Committee may require purely administrative, no-fee permits for excluded developmental activities for Village records to allow for taxation or other purposes.

(2) Change of Use. A Change of Use application must be submitted to the Plan Committee for any proposed change in classification of use on a property. Submission must include:

- (a) Types and dimensions of structures, existing and proposed, with their proposed use(s);
- (b) A site plan showing all roadways, waterways, existing and proposed structures, ell, sanitary systems and, if applicable, normal high water mark of navigable waters;
- (c) Building plans, including floor plans and at least one elevation;
- (d) Documentation re safe and adequate water supply and disposal of sewage;
- (e) A parking plan per 19.15(9)(g);
- (f) If applicable, a sales display area diagram per 9.09(4)(c).

The change of use must be approved by the Plan Committee prior to establishment of the new use. If the new use is a conditional use, the procedures in 17.44 apply.

**17.39 CONCEPT REVIEWS/DESIGN REVIEW.**

Prior to formal application under ordinance 17.40, applicants may apply to the Plan Committee for concept review. Concept review applications that come to the Plan Committee shall be subject to the following:

(1) Prior to a committee meeting the Zoning Administrator shall classify the proposed project as one requiring a regular zoning permit or a conditional use and as one requiring or not requiring design review. All such classification decisions shall be in accordance with other ordinance provisions and this section grants no independent power to impose or modify requirements. A primary purpose for the categorization and for this concept review is to identify areas of special concern that may need extra clarification and detail when subject to formal design review. No formal decision will be made at the concept review stage, it is an opportunity to apprise the Plan Committee of an upcoming application in an effort to aid the applicant in presenting a full and complete application at the normal Plan Committee design review meeting.

(2) The Plan Committee may identify applicable checklists, standards and timetables for the formal application and subsequent official review thereof.

**17.40 FORMAL APPLICATION.**

(1) The content of a formal application for regular zoning or conditional use permits shall include floor plans, detailed elevations of all floors, site plan, landscaping plan, and a completed application.

Upon request by the Plan Committee and/or the Zoning Administrator applicants may be required to provide additional information on:

- Building materials (roofing, siding, windows, doors, etc.) including colors. Providing material samples is recommended and may be required.

- Landscaping plan with elevation contours and tree removal plans.
- Erosion control plan pursuant to Chapter 16 of the Ephraim Municipal Code

(2) Documentation shall be provided that provisions have been made for safe and adequate water supply and disposal of sewage. The application shall also include a nonrefundable application fee in accordance with a schedule established by the Village Board. The Plan Committee may require purely administrative, no-fee permits for excluded developmental activities to allow Village records for taxation and other purposes.

(3) State approval stamps are not required at the time of application, but any Village approval shall be conditioned upon completion of all State reviews and approvals as required.

**17.41 REVIEW AND DECISION ON APPLICATIONS FOR REGULAR ZONING PERMITS.**

(1) Regular zoning permits may be issued by the Zoning Administrator for permits not requiring conditional use or special exception permits only after receipt of a complete application, after review and finding by the Zoning Administrator that such use or structure is in full compliance with the requirements of village ordinances, and Plan Committee Design Review has been approved (if required).

(2) The Village Plan Committee has legal responsibility under this chapter for decisions on regular zoning permits. The responsibility may be delegated by resolution establishing categories of regular zoning permit uses or modification on which decision responsibility is to be delegated to the Zoning Administrator. However, delegation may not be revoked as to particular permit application once a complete permit application has been accepted for review by the Zoning Administrator under a previous delegation.

**17.42 APPLICABILITY OF BUILDING CODE. See Ch.14.**

**17.43 ZONING ADMINISTRATOR TO INSPECT.**

The zoning administrator shall make at least one inspection of new construction during the construction period and one inspection at the completion of construction. The first such inspection shall be at the stage of pouring of footings. Each permit that issued shall inform the owner/contractor of the responsibility to call for such inspection in timely fashion. The Zoning Administrator shall make such inspection within 2 working days of the receipt of such call. If inspection is not made within such a 2 day period, construction may proceed without inspection. Absence of inspection does not absolve the property owner/contractor from the of compliance with this chapter. The second inspection shall be at the completion of construction and prior to occupancy.

**17.44 PROCEDURES FOR CONDITIONAL USES. and SPECIAL EXCEPTIONS**

**(A) CONDITIONAL USES.**

**(1) PERMITS REQUIRED.** Conditional use permits are required for all uses and operations identified for conditional use treatment anywhere in this chapter. A conditional use may require more than one meeting for final determination by the Plan Committee.

**(2) APPLICATION.** An application for conditional use permit shall be made to the Zoning Administrator for transmittal to the Plan Committee on forms furnished by the Village. Information provided on the application shall include the following:

- (a) Name and address of the property owner.
- (b) Signature of the property owner or agent.
- (c) Legal description of the subject site.
- (d) Proposed use of the site or structure.
- (e) Types and dimensions of structures, existing and proposed, with planned views and elevations contained in the application.
- (f) A site plan drawn to scale showing the dimensions of the subject site; the spatial relationship of the subject site to abutting roads and rights-of-way, private roads and navigable waters; the locations and dimensions of all existing structures and any proposed structures and their relationship to abutting public roads and rights-of-way, private roads, property lines, recorded easements, existing and proposed wells and sanitary waste disposal systems, bulkhead lines, wetlands; and the normal high watermark of navigable waters.
- (g) Building plans, including all floor plans and at least one elevation view.
- (h) Additional information as may be required by the Plan Committee in order to determine full compliance with the requirements of this chapter.
- (i) Documentation that provision has been made for safe and adequate water supply and disposal of sewage.
- (j) A nonrefundable application fee in accordance with the schedule established by the Village Board.

**(3) REVIEW, APPROVAL OR DENIAL.** The Plan Committee shall review and approve or deny conditional use permit applications. Before approving or denying an application the Plan Committee shall hold a public hearing. Prior to the public hearing, the Zoning Administrator shall visit the site and make a written report of his/her their observations as they may relate to the standards and criteria in (4) below.



The Zoning Administrator shall issue permits based on the decision of the Plan Committee. Those permits shall include an accurate description of the use permitted, a functional description of the property on which it is permitted and the conditions made applicable thereto. The Planning Committee may, in approving an application for a conditional use permit, impose such restrictions and conditions that it determines are required to prevent or minimize adverse effects from the proposed use or development on other properties and on the general health, safety, and welfare of the Village of Ephraim.

If an application for a conditional use permit is denied the grounds for denial shall be stated in writing.

**(4) BASIS OF APPROVAL.**

(a) The Plan Committee shall review each conditional use permit application against standards and criteria derived from the following:

1. Purpose and intent of relevant laws.
2. Purpose and intent of this chapter.
3. The Village master plan and master plan elements.
4. Community health, safety and welfare.
5. Character of this community and neighborhood.
6. Special community conditions including the predominant visual character as articulated in 17.15(13) of this chapter and seasonal nature of Village occupancy and economy. The Village Board directs the Plan Committee to take into account factors of seasonal peak traffic and demand and to regulate projects to accommodate to these peak conditions, where appropriate.
7. Standards, criteria and factors specified for particular uses in this chapter.
8. Harmony of the request with usage of nearby lands.
9. Other considerations relevant to those listed herein.

(b) The applicant's failure to satisfy applicable standards shall be deemed grounds to deny the conditional use permit.

**(5) EXPIRATION.** All outstanding conditional use permits shall expire 12 months from the date of issuance where no part of the permitted action has commenced. Action shall be deemed to have been commenced if construction or demolition of any structures has begun or if other actions are taken which are of such a nature that the Plan Committee can clearly determine the intent to establish the authorized use. If conditional use permit expires the property will revert to its previously approved use.

**(6) PROJECT COMPLETION.** All conditional uses authorized by the Planning Committee shall be given a specific amount of time within which the project must be completed. The time limit may be negotiated between the project applicant and the Planning Committee. If the applicant fails to complete the approved project within the designated time period, the Planning Committee may either extend the time limit or require the applicant to seek a new conditional use permit authorizing the remainder of the project.

**(7) REVIEW.** If there is a question as to whether an established conditional use is in conformity with the permit issued or with this chapter, such use shall be reviewed by the Zoning Administrator and brought forth to the Plan Committee for determination of compliance.

**(8) TERMINATION.** If it is determined by the plan Committee that an established conditional use permit issued does not continue in conformity with the permit or this chapter, the conditional use permit shall be terminated by action of the Plan Committee. If evidence exists that supports a claim that an established conditional use ceases for a period of more than 12 months, the future activity shall require a new permit.

**(9) APPEAL.** Any person or persons, jointly or severally, aggrieved by a decision of the Plan Committee concerning the issuance or denial of a conditional use permit may appeal such decision to the Board of Zoning Appeals.

## **B. SPECIAL EXCEPTIONS**

**(1) PERMITS REQUIRED.** Special Exception permits are required for all applications identified as special exceptions anywhere in this chapter.

**(2) APPLICATION.** An application for special exception permit shall be made to the Zoning Administrator for transmittal to the Plan Committee upon forms furnished by the Village. Information provided on the application shall include the following:

(a) Name and address of the property owner.

(b) Signature of the property owner or agent.

(c) Legal description of the subject site.

(d) Those special exception being requested, with applicable information to the exceptions that may apply. Documentation shall include types and dimensions of structures, site plan drawn to scale showing the dimensions of the subject site, the spatial relationship of the subject site to abutting roads, navigable waters, building plans, and any additional information as may be required by the Zoning Administrator and Plan Committee in order to determine full compliance with the requirements of this section.

(e) If the exception being requested has a spatial aspect—additional height, footprint, etc.—the applicant may be required to physically stake out the dimensions prior to the public hearing to demonstrate the potential impact of the request;

(f) A non-refundable application fee in accordance with the schedule established by the Village Board.

**(3) REVIEW, APPROVAL OR DENIAL.** The Plan Committee shall review and approve or deny special exception permit applications. Prior to the public hearing, at least two Plan Committee members and the Zoning Administrator shall visit the site and make a written report of their observations as they may relate to the standards and criteria in (4) below. Before passing on an application, the Plan Committee shall hold a public hearing and make a determination on the application at a subsequent meeting. The Plan Committee shall issue its decision in writing and shall include an accurate description of the exception permitted, a functional description of the property on which it is permitted and the conditions made applicable thereto. The grounds for denying a special exception permit shall be stated in writing.

**(4) BASIS OF APPROVAL.**

(a) The Plan Committee shall review each special exception permit application against standards and criteria derived from the following:

1. Purpose and intent of relevant laws.
2. Purpose and intent of this chapter.
3. The Village comprehensive plan and plan elements.
4. Community health, safety and welfare.
5. Character of this community and neighborhood.
6. Special community conditions including the predominant visual character as articulated in 17.15(13) of this chapter and
7. Other considerations relevant to those listed herein.

(b) The applicant's failure to satisfy applicable standards shall be deemed grounds to deny the special exception permit.

**(5) CONDITIONS.** The Plan Committee may attach conditions to any special exception permit that it deems necessary to further the purposes of the chapter standards established for the district. Such conditions may include specifications relating to, but not limited to, landscaping, type of construction, sureties, lighting, fencing, screening, operational control, hours of operation, traffic circulation, deed restrictions, road access, increased. Conditions shall be acknowledged by the owner of record of the lot in question.

**(6) TERMINATION.** All special exception permits shall expire 12 months from the date of issuance where no action has been taken on the permit to establish it. If a special exception does not conform with the permit or this chapter, the permit shall be terminated by action of the Plan Committee.

(7) **APPEAL.** Any person or persons, jointly or severally, aggrieved by a decision of the Plan Committee concerning the issuance or denial of a special exception permit may appeal such decision to the Board of Zoning Appeals.

**17.45 PROCEDURES FOR DESIGN REVIEW.**

Formal design review shall be conducted by Plan Committee in accordance with standards set forth in ordinance 17.15(13) and cross-referenced contained therein. The intent of this chapter is to streamline design review in the following ways:

(1) Hearing proposals in the concept review stage are intended to aid the applicant in presenting a full and complete application at the normal Plan Committee Design Review meeting.

(2) The Plan Committee may not impose changes on a permitted use project by design review that will render the project impossible.

(3) Imposition of such rigorous requirements on a conditional use project are permitted only if coupled with a finding that the use must be denied under conditional use review on land use grounds.

**17.46 CERTIFICATION OF COMPLIANCE.**

(1) **CERTIFICATE OF COMPLIANCE.** No land shall be occupied or used and no building hereafter erected, altered or moved shall be occupied until a certificate of compliance is issued by the Zoning Administrator.

(a) The certificate of compliance shall show that the building, premises or part thereof and the proposed use thereof conforms to the provisions of this chapter and all requirements imposed under this chapter.

(b) The certificate of compliance shall be issued if the building or premises or proposed use thereof conforms with all provisions of this chapter and any other applicable regulations.

(c) For commercial buildings, Ephraim's Fire Chief or his designate must inspect and sign off on the project prior to issuance of a certificate of compliance. (9/10/01)

(2) **TEMPORARY CERTIFICATES.** A temporary certificate of compliance may be issued for part of a building.

(3) **CERTIFICATION OF EXISTING BUILDING AND USE.** 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 the adoption of this chapter, certifying after inspection the extent and type of use of the building or premises and whether or not this use conforms to the provisions of this chapter.

**17.47 PERMIT RESPONSIBILITY.**

Acceptance of a permit by a property owner, a person with interest in the subject or an agent thereof shall bind all persons holding interest in such property and all agents of such persons to full compliance with all terms of this chapter, to all conditions attached to approved applications and to the precise terms and characteristics of the approved permit application. No alterations to approved plans as shown in Village zoning files shall be authorized without prior advance written approval of the Village Plan Committee or approval from delegated agents of such committee.

**17.48 LAND DISTURBANCE PERMIT REQUIREMENTS.**

An applicant for a regular or conditional use permit who proposes land disturbance activities must also comply with the provisions of this chapter. An applicant may request that the regular or conditional use permit be processed concurrently with a land disturbance permit, if required.

**17.49 PUBLIC HEARINGS.**

(1) Notice of any public hearing which the Village Board, Plan Commission or Board of Zoning Appeals is required to hold under the terms of this chapter shall specify the date, time and place of such hearing and shall state the matter to be considered at such hearing. Unless otherwise required by State law, hearing notice under this chapter shall be posted in at least 3 public places likely to give notice to persons affected at least one week prior to such hearing.

(2) The Village clerk shall also give at least 10 days prior written notice to the clerk of any city or Village within 1000' of any land to be affected by the proposed action. In addition, notice shall be mailed to owners of property located within 300' of the proposed action at least 10 days prior to such public hearing. The failure of such notice to reach any property owner shall not invalidate any amending ordinance or the granting of a permit or approval.

**17.50 BOARD OF ZONING AND BUILDING APPEALS.**

The board of zoning and building appeals shall be known herein as the Board of Zoning Appeals.

**(1) RULES.**

(a) Call for Meetings. The Board of Zoning Appeals shall meet at the call of the chairman and at such other times as the Board of Zoning Appeals may determine.

(b) Open Meetings. Meetings of the Board of Zoning Appeals shall be governed by the Wisconsin Open Meeting Law. This law does allow some matters to be considered by the Board of Appeals in closed session.

(c) Oath and Subpoena. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

(d) Concurring Vote. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant in any matter upon which it is requested to pass under any such ordinance. The grounds of every such determination shall be stated.

(e) Minutes. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be of public record.

(f) Rules of Procedure. The Board of Zoning Appeals may adopt such rules as are necessary to carry into effect the regulations of the Village Board.

## **(2) APPEALS TO BOARD.**

(a) General Provisions. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the Zoning Administrator or of the Plan Committee. Such Appeal must be taken within 30 days of the mailing date of the notice of the decision being appealed by filing with the Zoning Administrator and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator or Village Clerk shall immediately transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

(b) Stays. An Appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator or Plan Committee shall certify the Board of Zoning Appeals after the notice of Appeal shall have been filed that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Zoning Appeals or by a court of record on application on notice to the Zoning Administrator or the Plan Committee and on due cause shown.

(c) Hearing Appeals. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeals and give public notice thereof as well as give due notice to the parties in interest and decide the same within the reasonable time. At the hearings, any party may appear in person or by agent or attorney.

## **(3) POWERS OF BOARD.** The Board of Zoning Appeals shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or the Plan Committee in the interpretation or enforcement of ordinance 62.23, Wis. Stats., or this chapter.

(b) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where owing to special conditions a literal enforcement of the

provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done provided, however, that no such variance shall have effect of allowing in any district a use prohibited in that district.

(c) In exercising the above-mentioned powers, such Board may in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit.

### **17.51 AMENDMENTS.**

**(1) AUTHORITY.** Whenever the public necessity, convenience, general welfare or good zoning practice require, the Village Board may by ordinance amend the district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto. Such amendment shall be subject to prior review and recommendations of the Village Plan Commission.

**(2) INITIATION.** A change or amendment of either this chapter or to the district map boundaries may be initiated by any member of the Village Board, Plan Committee or by a petition of one or more of the owners of property within the area proposed to be changed.

**(3) PETITIONS.** Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Clerk, describing the premises to be rezoned or the regulations to be amended, listing the reasons justifying the petition and specifying the proposed use and have attached the following:

(a) Plot plan drawn to a scale of 1" equals 100' showing the area proposed to be rezoned, its locations, its dimensions, the locations and classification of adjacent zoning districts and the location and existing use of all properties within 300' of the area proposed to be rezoned.

(b) Owners' names and addresses of all properties lying within 300' of the area proposed to be rezoned.

(c) Additional information required by the Village Plan Committee, Village Board or Zoning Administrator.

**(4) RECOMMENDATIONS.** The Village Plan Committee shall review all proposed changes and amendments within the Village limits and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made at a meeting subsequent to and within 60 days of the meeting at which the petition is first submitted to the Village Board and the recommendation shall be made in writing to the Village Board.

**(5) HEARINGS.** The Village Board shall hold a public hearing upon each petition after recommendation by the Village Plan Committee and shall give notice of such hearing as required by law. Prior to such hearings, the Village Plan Committee or Village Board may hold a public informational meeting to solicit comments from and inform the public prior to their recommendation.

**(6) VILLAGE BOARD ACTION.** Following such public hearing and after careful consideration of the Village Plan Committee's recommendations, the Village Board shall, within 30 days from the date of the public hearing, approve or deny the proposed change or amendment.

**(7) REZONING WITHIN THE WETLAND DISTRICT.** Special standards found within Ch. NR 117, Wisc. Adm. Code, apply to rezoning of lands within the Wetland District and are adopted herein by cross-reference.

**(8) PROTEST PETITION.** In case of a protest petition against such amendment, signed and acknowledged by the owners of 20% or more, either of the area of the land included in such proposed amendment, by the owners of 20% or more of the area of the land immediately adjacent extending 100' therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100' from the street frontage of such opposite land, the amendment shall not become effective, except by the favorable vote of 3/4 of the members of the Village Board voting on the proposed change.

**17.52 PENALTY. See 17.12 of this chapter**

**Planned Residential Development Density Appendix A**

Units <i>per Acre</i>	Maximum Density	Footprint Maximum Square Footage	Overall Maximum Square Footage
<b>R-1</b>	1.50 <b>A</b>	1000-1500 square feet	1000-2250 square feet
	1.25 <b>B</b>	1501-2000 square feet	1501-3000 square feet
	1.00 <b>C</b>	2001-2600 square feet	3001-3900 square feet
<b>RR</b>	.75 <b>A</b>	1000-1500 square feet	1000-2250 square feet
	.625 <b>B</b>	1501-2000 square feet	2251-3000 square feet
	.5 <b>C</b>	2001-3500 square feet	3001-5250 square feet

**Lot Area Required per Dwelling Unit:**

<b>R1</b>	<b>1.50</b>	<b>29,040</b>
	<b>1.25</b>	<b>34,848</b>
	<b>1.0</b>	<b>43,560</b>
<b>RR</b>	<b>.75</b>	<b>58,080</b>
	<b>.625</b>	<b>69,696</b>
	<b>.50</b>	<b>87,120</b>

**EXAMPLES:**

**R1 - 10-ACRE SITE** -  $10 \times 43,580 = 435,600$  square feet site area  
 Category A units -  $435,600 / 29,040 = 15$  category A units





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