CHAPTER 6: ZONING CODE

Table of Contents

6.1 PURPOSE. 2
6.2 INTENT. 2
6.3 DEFINITIONS. 3
6.4 VILLAGE ZONING DISTRICTS. 8
6.5 RESIDENCE DISTRICT REGULATIONS. 8
6.6 RESTRICTIONS ON LAKE ACCESS. 24
6.7 NONCONFORMING LOTS, USES AND STRUCTURES. 25
6.8 CHANGES AND AMENDMENTS TO THIS CHAPTER AND ZONING MAP. 27
6.9 REMOVAL OF SHORE COVER. 28
6.10 VIOLATION, PENALTY. 29
6.11 INTERPRETATION AND PURPOSES. 30
6.12 ZONING CERTIFICATE AND ENFORCEMENT. 30
6.13 APPEALS. 30
6.14 SHORELAND – WETLAND. 32
6.15 SHORELAND ZONING REGULATIONS FOR ANNEXED AREAS. 41
6.16 RESTRICTIONS ON LAND DIVISIONS. 44
6.17 LAND DIVISIONS CONSTITUTING SUBDIVISIONS. 45
6.18 CLUSTER DEVELOPMENT PROVISIONS. 54
6.19 OFFICIAL MAP 55
6.20 CONDITIONAL USES 58
6.21 THE ADOPTION OF THE VILLAGE OF CHENEQUA COMPREHENSIVE PLAN PURSUANT TO WIS. STAT. §66.1001 66

CHAPTER 6: ZONING CODE

6.1 PURPOSE.

(1) The Village is primarily and almost exclusively a community of private residences, and is intended to be devoted primarily to residence purposes so as to afford to its citizens the peace and quiet and restfulness unobtainable in the City;

(2) Territory available for business, manufacturing and other purposes which are not residential in nature is readily accessible to the Village, and can easily supply the needs of the Village, and is hereby found to be sufficient for the purposes and needs of the Village;

(3) There is no municipal water or sewer system in the Village, and it is necessary for each residence to be equipped with its own such systems, and the public health demands that sufficient area be segregated to each residence to avoid contamination of water supply and to dispose of its sewage without danger of pollution of adjoining property;

(4) It is necessary in order to preserve the existing rural character of the Village, to conserve the value of the property therein, and to protect its ecology, all in accordance with the comprehensive plan of the Village and to limit the number and character of structures located in proximity to the lake shores within the Village;

Accordingly, the Village Board of the Village of Chenequa, for the purpose of promoting the health, safety, aesthetics and general welfare of the residents of the Village of Chenequa, has enacted this zoning code pursuant to sections 61.35 and 62.23 (7) Wisconsin Statutes.

6.2 INTENT.

It is the general intent of this Chapter that the provisions herein aid and promote planning and zoning which will:

(1) Regulate and restrict the use of all structures, lands, and waters;

(2) Regulate and restrict lot coverage, population distribution and density and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets, roads and highways;

(3) Secure safety from fire, flooding, panic and other dangers;

(4) Provide adequate light, air, sanitation and drainage;

(5) Prevent overcrowding, avoid undue population concentration;

(6) Facilitate the adequate provision of public facilities and utilities;

(7) Stabilize and protect property values;

(8) Further the appropriate use of land and conservation of natural resources;

(9) Preserve and promote the beauty of the Village;

(10) Prohibit public and private structures that are incompatible with the character of the Residence District and, insure that new and remodeled single family dwellings are of a size in keeping with their natural surroundings and neighboring structures, and that they do not detract from the uncrowded, rural atmosphere of the Village;

(11) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;

(12) Further the maintenance of safe and healthful water conditions;

(13) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects; and

(14) Provide for the administration and enforcement of this Chapter and provide penalties for the violation of this Chapter.

6.3 DEFINITIONS.

(1) **ACCESSORY BUILDING:** A fully enclosed structure having a roof and walls. (Amended 2/2025)

(2) **ACCESSORY SHED:** An accessory building of not more than one hundred (100) square feet in floor area and not more than twelve (12) feet in height, without plumbing other than a single hose bib. An accessory shed shall not be considered an accessory building. (Amended 2/2025)

(3) **ACCESSORY STRUCTURE:** A detached structure customarily incidental and subordinate to the principal structure, building, use or a use constituting a conditional use. An accessory structure shall not contain cooking or sleeping facilities but an accessory structure may include bathroom facilities and indoor recreational facilities. (Amended 3/11/2019)

(4) **ACCESSORY USE:** A use customarily incidental and subordinate in nature, intent or purpose to the principal use of a structure, building or lot.

(5) BASEMENT: That portion of a dwelling below the first floor or ground floor with its entire floor below grade. Basements shall be excluded when calculating the number of stories for a building or structure.

(6) BUILDING: A fully enclosed structure having a roof and walls. (Amended 2/2025)

(7) BUILDING OR STRUCTURE ALTERATION: Any change to the supporting members of a building or structure such as bearing walls, beams, columns or girders; any addition to the building or structure which changes the footprint or building or structure envelope.

(8) CHAPTER: This Chapter 6: Zoning Code of the Village of Chenequa, unless the context indicates otherwise.

(9) CODE: The Code of Ordinances of the Village of Chenequa, Wisconsin, as amended.

(10) CONFORMING LOT: Any lot which complies with the minimum lot area requirements in Section 6.05.

(11) CONFORMING STRUCTURE: Any structure which complies with all of the regulations of this Chapter. A structure shall be considered in compliance with any provision of this Chapter for which a variance has been explicitly granted, provided the structure is in compliance with all conditions and terms of the variance.

(12) CONFORMING USE: Any use of a structure or lot which complies with the provisions of this Chapter.

(13) CORNER LOT: A lot situated at the junction of and fronting on two (2) or more streets, roads or highways.

(14) DETACHED STRUCTURE: A structure which is physically separate from other structures, where the use of the structure is distinct and the foundations, roof lines or primary exterior structural walls are separate from other structures.

(15) DEVELOPMENT: Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

(16) ELEVATION: A particular side of a building or a structure.

(17) FAMILY: Any number of individuals related by blood, marriage, or law, living in a single family structure and living and cooking together as a single housekeeping unit. A family may include in addition up to two (2) persons not related by blood, marriage, or law.

(18) FARM: Land consisting of five (5) acres or more on which produce, crops, or flowers are grown primarily for off-premise consumption, use or sale, or on which horses or livestock are housed or raised for personal use.

(19) FOOTPRINT: The exterior outline or impression of the footing or foundation. Fully enclosed atriums, courtyards, and vaulted areas are included. Patios, decks, terraces, or landings without roofs, and areas beneath overhang are excluded.

(20) FRONTAGE: All of the property abutting on one (1) side of a street measured along the street line.

(21) GARAGE: A structure or portion thereof used primarily for parking or temporary storage of self-propelled vehicles.

(22) HEIGHT OF STRUCTURE: The vertical distance from the ground level of any elevation to the highest point on the roof or highest projection on such elevation. Chimneys shall be excluded when measuring the height of a building or structure.

(23) INDOOR RECREATIONAL FACILITIES: Exercise rooms and equipment, ball courts, hot tubs, saunas and steam rooms, swimming pools and similar facilities or equipment for personal leisure activities. (Amended 3/11/2019)

(24) LAKE FRONTAGE: Lake frontage is the natural shore line of any lake in the Village at the ordinary high water mark. Prior to August 10, 1998 (the original effective date of this provision), lake frontage was measured at the ordinary low water mark. The change in definition shall not make nonconforming as to required area or lake frontage, any lot which complied with all provisions of this Chapter immediately prior to the original effective date of this provision. Further such change shall not make nonconforming as to the required setback from any lake, any structure which complied with all provisions of this Chapter immediately prior to the original effective date of this provision, provided that such structure is not extended in any manner within said setback.

(25) LANDSCAPE MATERIALS: Living trees, shrubs, ground cover and other similar natural and decorative features but not including fences or walls. (Amended 2/2025)

(26) LEGAL NONCONFORMING LOT: A lot the dimensions of which were recorded with the Register of Deeds either (a) no later than April 1, 1957 or (b) after April 1, 1957, if expressly approved by the Village Board. If recorded on or before April 1, 1957, the lot area may have been increased but not subsequently reduced.

(27) LEGAL NONCONFORMING STRUCTURE: A nonconforming structure which complied with the regulations of this Chapter applicable at the time the structure was constructed.

(28) LEGAL NONCONFORMING USE: A nonconforming use which complied with the regulations of this Chapter applicable at the time the use was begun.

(29) LIVING AREA: The total usable space available within the perimeter walls on all floors of a building including interior corridors, stairs, elevators, passageways, and finished basements serving the primary function of the building. Unfinished basements and attics, unheated porches and breezeways, garages and maintenance shops are excluded from living area determinations. Heated basement or attic areas are considered finished if all of the walls, ceilings and floors are finished. Walls and ceilings shall be deemed finished only if they are covered with plaster, wallboard or similar material; floors shall be deemed finished only if they are covered with carpeting, tile, linoleum or similar material.

(30) LOT: A platted lot of a recorded subdivision or certified survey map or a lot created as otherwise provided by law to be used as a single parcel.

(31) MODIFICATION: A "building or structure alteration" and/or a "reconstruction".

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

(33) NONCONFORMING STRUCTURE: Any building or structure which does not comply with all of the regulations of this Chapter. If there are two or more buildings on a lot, each of which has cooking or sleeping facilities, then each building is nonconforming.

(34) NONCONFORMING USE: Any use of a lot or structure which does not comply with the regulations of this Chapter.

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

(36) PERMANENTLY PLACED: Placed for more than one (1) month, provided; however, that piers, shore stations and boat lifts (placed in or above the water during the summer months) may be placed on the shore during the period from September 1 of any year through June 1 of the next year and will not be considered permanently placed during such period.

(37) PRIVATE DRIVEWAY: Any way serving not more than five (5) lots which is used primarily for ingress to and egress from such lots by motor vehicles and which is established by private easement for multiple lots.

(38) RECONSTRUCTION: The rebuilding of a structure in such a manner and to such an extent as to substantially replace the existing structure.

(39) RECREATIONAL FACILITY: Anything which: (i) exceeds one hundred (100) square feet; (ii) is constructed or erected and requires permanent location on or in the ground; and; (iii) is primarily used for recreational purposes; including, without limitation, swimming pools and tennis courts.

(40) ROAD: Any highway, street or road intended for use as a public or private right-of-way for vehicular traffic, that is not a private driveway.

(41) SCREEN: A setback or open space with a fence, wall or landscaping that provides a visual barrier between uses, lots or parcels. (Amended 2/2025)

(42) SIDE YARD: An open unoccupied space on a lot between a structure and a side lot line and extending from the front lot line to the rear lot line. Where two (2) side lot lines intersect, the rear lot line shall be the point of intersection of the two (2) side lot lines.

(43) SINGLE FAMILY STRUCTURE: A detached building designed for and occupied by one family which is enclosed, heated and built on a foundation.

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

(45) SHORELINE BUFFER ZONE: a strip of land paralleling the lake frontage and extending seventy five (75) feet inland from the lake frontage, measured over the contour of the ground.

(46) STORY: That portion of a building or structure located above the basement, between the floor and the ceiling.

(47) STREET: Any highway, street or road intended for use as a public or private right-of-way, that is not a private driveway.

(48) STREET WALL: The main wall nearest to and facing on a street, road or highway including sun-parlors, and roofed porches, open or closed, but excluding open steps or entranceways.

(49) STRUCTURE: Anything permanently placed on or in the ground for any use whatsoever; including but not limited to any new or existing building, fences, pillars, gated entrances requiring a permit under Section 5.19 and recreational facilities. Private driveways shall not be considered to be structures.

(50) SUBDIVISION: Subdivision shall mean the division of a parcel or tract of land by the owner or the owner's agent for the purpose of sale or of building development where:

(51) TELECOMMUNICATION FACILITIES: Any tower or telecommunication tower, mounting equipment, antenna, equipment shelter buildings, and any other equipment which a person seeks to locate, or has installed upon or near a tower or antenna support structure, pursuant to the Federal Telecommunications Act of 1996 (Public Law 104-104, 110 Stat. 56, 1996), as amended.

(52) TEMPORARY STRUCTURE OR USE: A structure placed on a lot or the use of a lot for a period not to exceed one (1) year.

(53) TOWER OR TELECOMMUNICATION TOWER: Any ground or roof-mounted pole, spire, structure, or combination thereof, taller than fifteen (15) feet, including support lines, cables, wire, braces, and masts, which is designed and constructed for the purpose of mounting and supporting one or more antennas, meteorological devices, or similar apparatus above ground, used in providing wireless communications.

(54) WETLANDS: Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

(55) WIRELESS COMMUNICATIONS: Any personal wireless services as defined in the Federal Telecommunications Act of 1996, as amended, including FCC licensed wireless telecommunications services that are interconnected with the public telephone network and are offered commercially to the public. Examples include cellular and similar services (such as personal communications service or "PCS"), paging and similar services, certain dispatch services, and services that use wireless technology to provide telephone services to a fixed location such as a home or office.

(56) ZONING ADMINISTRATOR: The Village Administrator or the Village Administrator's designee.

6.4 VILLAGE ZONING DISTRICTS.

The Village is hereby divided into the following zoning districts:

(1) Residence District.

(2) Shoreland Wetland District.

(3) Special Commercial District.

6.5 RESIDENCE DISTRICT REGULATIONS.

(1) **GENERAL**. No structure or lot shall be used, and no structure shall be hereafter erected or modified, within the Village unless otherwise provided in this Chapter, except for a permitted use or for a conditional use pursuant to Section 6.20.

(2) PERMITTED AND PROHIBITED USES. (Recreated 03/11/2019)

(a) Permitted Uses:

(i) Single Family Residence.

(ii) Temporary structures and uses incidental to construction.

(iii) Accessory Uses.

(iv) Farming, the keeping of livestock, truck gardening, and nursery operations; except within a shoreline buffer zone.

(v) Municipal.

(vi) Any rental of a single family residence in the Village to the same person for seven (7) or more consecutive days but less than twenty nine (29) consecutive days shall be permitted provided that the person who owns and maintains, manages or operates the rental property (1) complies with all requirements of the State of Wisconsin governing short-term rentals, including but not limited to obtaining from the Department of Agriculture, Trade and Consumer Protection a license as a "tourist rooming house", as such term is defined in Wisconsin Statutes Section 97.01(15k); (2) obtains a license for conducting such activity from the Village subject to additional regulations as the Village may prescribe from time to time (the "Rental License"); and (3) pays an annual fee to the Village for the Rental License in an amount equal to Twenty Five Dollars ($25) per year. Added 04-2021.

(b) Prohibited Uses:

(i) No lot within the Village shall be used for the parking, location or accommodation of more than one camp trailer, motor home or other vehicle designed for human habitation.

(ii) No camp trailer, motor home, trailer or other vehicle shall be used for human habitation within the village.

(iii) No single family residence in the Village shall be rented for any period of six (6) consecutive days or less Added 04-2021.

(3) HEIGHT RESTRICTIONS

(a) Single Family Structures. Height restrictions set forth in this chapter are determined based upon the size of the side yards provided on each side of a single family structure and whether the lot abuts a lake. The height of a structure is the vertical distance from the ground level of any elevation to the highest point of the roof or highest projection on such elevation. Chimneys shall be excluded when measuring the height of a building or structure.

(i) A single family structure which complies with the minimum side setback requirements of Section 6.5, for all side yards, may be erected, modified or altered to a height not exceeding thirty five (35) feet on any lot.

(ii) The height of a single family structure on any lot abutting a lake may be increased from a maximum height of thirty five (35) feet by one foot increments for each one and one half (1½) feet of that additional side yard setback, for all side yards, over and above the requirements of Section 6.5; provided, however, that the maximum height shall not exceed forty (40) feet for such structures.

(iii) The height of a single family structure on any lot **NOT** abutting a lake may be increased pursuant to subsection (ii) above and may be further increased to a maximum of forty five (45) feet by one foot (1) increments for each one and one half (1½) feet of additional side yard setback, for all side yards, over and above the requirements of Section 6.5.

(iv) Notwithstanding the foregoing, no single family structure shall exceed three (3) stories in height. A story is that portion of a building or structure located above the basement, between the floor and the ceiling.

(v) Additional requirements applicable to structures abutting a lake which exceed thirteen thousand (13,000) square feet are set forth in below.

(b) All Other Structures. A structure that is not a single family structure or a conditional use structure may be erected or altered to a height not exceeding thirty five (35) feet. The height of a structure is the vertical distance from the ground level of any elevation to the highest point of the roof or highest projection on such elevation. Chimneys shall be excluded when measuring the height of a building or structure.

- 20' in height requires a 10' side yard setback
- 30' in height requires a 15' side yard setback
- 35' in height requires a 17.5' side yard setback
- 40' in height requires a 27.5' side yard setback (40' maximum for structures located on lots abutting a lake except as provided in Section 6.5 (4) (c) below).
- 45' in height requires a 37.5' side yard setback (45' maximum for structures located on lots **NOT** abutting a lake).

(4) SETBACK/LIVING AREA RESTRICTIONS: PERMITTED USES

(a) Lot Abutting Lake – Lake Frontage Setback.

(i) No structure shall hereafter be erected, modified or moved on any lot abutting a lake so that the minimum distance measured over the contour of the ground between the lake frontage and nearest point of the structure or any projection thereof shall be less than seventy five (75) feet except that:

A. A legal non- conforming structure lotcated within the shoreline buffer zone may be modified, during its lifetime so long as such modification does not increase the footprint, living area or height of the structure, as provided in Section 6.7(4)(b) below; Added June 2025.

B. Within the area located between the lake frontage and a line thirty (30) feet distant therefrom and parallel thereto there may be constructed and maintained ground level marine railways, below-ground water pumping facilities, one uncovered stairway

and one (1) uncovered walkway level with the ground and not exceeding four (4) feet in width; and

C. Within the area located between the thirty (30) foot line referred to in (A) above and a line seventy five (75) feet from the lake frontage and parallel thereto there may be constructed and maintained uncovered terraces, patios, one (1) uncovered stairway, ground level marine railways, below-ground water pumping facilities, and one (1) uncovered walkway located at or beneath the ground level; and

D Within the entire area between the lake frontage and a line seventy five (75) feet from the lake frontage and parallel thereto there may be constructed and maintained one (1) flagpole and one (1) satellite dish not to exceed two (2) feet in width and two and one half (2 1/2) feet in height (and with landscaping surrounding it to minimize its visibility to neighbors and from the lake) and a temporary fence to be used as a goose barrier as provided in Section 5.19 (3) (a).

E Within the entire area between the lake frontage and a line seventy five (75) feet from the lake frontage and parallel thereto, there may be constructed and maintained a dry or rock river bed provided the following conditions are met: (1) the bed is constructed with natural materials and/or must have natural characteristics that blend with the surrounding natural landscape; (2) the sole purposes of the beds are purely decorative and/or to facilitate drainage and protect the ground surface from eroding into the lake; (3) the beds do not serve as a pathway for persons to traverse across the area between the lake frontage and the line which is seventy five (75) feet from the lake frontage and parallel thereto; (4) none of the bed shall exceed eighteen (18) inches in height measured from the ground surface immediately adjacent to and not part of the bed; and (5) none of the bed shall exceed a width of forty eight (48) inches.

(ii) Notwithstanding paragraph (i) above, no structure shall hereafter be erected, modified or moved on any lot abutting a lake if the surface area of the lake elevation of such structure shall exceed four thousand (4,000) square feet, unless the minimum distance measured over the contour of the ground between the lake frontage and the nearest point of the structure or any projection thereof shall be more than one hundred (100) feet. For the purposes hereof the elevation abutting the lake shall be determined from that place on the lake from which the elevation would have the greatest surface area. Surface area shall mean the area of the

entire elevation including the roof area included in said elevation within the outline of such elevation abutting the lake determined on a two-dimensional basis.

(iii) Notwithstanding paragraphs (i) and (ii) above, no single family structure, shall hereafter be erected, modified or moved on any lot abutting a lake if the living area of that structure exceeds thirteen thousand (13,000) square feet, unless the following living area vs. distance calculation, measured over the contour of the ground between the lake frontage and the nearest point of the structure or any projection thereof, is met:

Living Area	Distance from Lake Frontage
13,000 but less than 15,000 square feet	125 feet
15,000 but less than 17,000 square feet	150 feet
17,000 or greater square feet	175 feet

(b) Structure Line Setback. No structure shall be erected, modified or moved on any lot in the Village where a street wall is nearer than seventy-five (75) feet to the right-of-way or boundary line of any public street, road or highway; except Highway 16, and in no event nearer than twenty five (25) feet to a rear or front lot line; except Highway 16 where the minimum setback to a rear lot line shall be ten (10) feet.

(c) Side Yard Setback.

(i) A side yard of six (6) inches in width for each foot in height of a structure, with a minimum of ten (10) feet shall be provided on each side of every structure. No single family structure shall be erected, modified or moved within fifty (50) feet of an existing single family structure on an adjoining lot, and no accessory building or recreational facility shall be erected, modified or moved within one hundred (100) feet of an existing single family structure on an adjoining lot within the Village. Existing recreational facilities shall not prohibit the owner of a single family structure on an adjoining lot from erecting, modifying or remodeling inside the one hundred (100) foot setback for a recreational facility. (August 14, 2023, Ordinance No. 2023-08-14-1)

(ii) For structures abutting a lake which exceed thirteen thousand (13,000) square feet of living area the minimum side yard and minimum distance

from other existing single family structures on adjoining lots shall be determined as follows:

Living Area	Side Yard	Distance from Other Single Family Structure
13,000 but less than 15,000 square feet	9" in width per foot of height	75 feet

- 30' in height requires a 22.5' side yard setback
- 35' in height requires a 26.25' side yard setback
- 40' in height requires a 37.5' side yard setback
- 45' in height requires a 48.75' side yard setback

15,000 but less than 17,000 square feet	12" in width per foot of height	100 feet

- 30' in height requires a 30' side yard setback
- 35' in height requires a 35' side yard setback
- 40' in height requires a 47.5' side yard setback
- 45' in height requires a 60' side yard setback

17,000 or greater square feet	15" in width per foot of height	125 feet

- 30' in height requires a 37.5' side yard setback
- 35' in height requires a 43.75' side yard setback
- 40' in height requires a 57.5' side yard setback
- 45' in height requires a 71.25' side yard setback

(d) Living Area. The living area of a one-story single family structure shall be greater than two thousand (2,000) square feet. The living area of a single family structure of two or more stories shall be greater than two thousand five hundred (2,500) square feet and the first floor living area of such structures shall be greater than one thousand five hundred (1,500) square feet. This requirement for minimum living area shall not apply to a building in existence for which a valid building permit was issued on or before July 10, 1972, except that no existing building of this description shall be modified so as to decrease its heated living area.

(e) Corner Lot – Vision Triangle. On any corner lot where a front or side yard is required or provided, no structure, hedge or other obstruction shall be placed so

as to interfere with clear vision from one street, road or highway to the other across the corner.

(f) Application. The provisions of this Chapter governing structures having thirteen thousand (13,000) square feet or more of living area are applicable as follows:

(i) to all new structures constructed after February 13, 2006;

(ii) to any buildings or structure modification which is commenced after February 13, 2006;

(iii) to the completion of any part of a structure which was unfinished on February 13, 2006.

(5) MINIMUM LOT REQUIREMENTS (Amended 4/10/2023)

(a) Lot not abutting lake. No lot shall be modified, including but not limited to by way of a lot line adjustment, and no new lot shall be created, which is not abutting any lake unless such lot shall have an average width of not less than two hundred (200) feet and shall contain at least five (5) acres.

(b) Lot abutting lake. No lot shall be modified, including but not limited to by way of a lot line adjustment, and no new lot shall be created, which is abutting any lake unless such lot shall have an average width of not less than one hundred fifty (150) feet for each lake on which the lot abuts and shall meet the minimum requirements as to lake frontage and area set forth in Section 6.6.

(c) Lot width measurements. The purpose of this provision is to set forth the methodology utilized to determine whether a lot meets the lot width requirements set forth in Sections 6.5(a)-(b) hereof. For purposes of determining compliance with Sections 6.5(a)-(b) hereof, as applicable:

A four-sided figure shall be drawn wholly within the lot as indicated on a certified survey map which must meet the following criteria:

1. The envelope must contain at least eighty (80%) percent of the minimum lot area required by this Chapter.
2. The envelope must contain a building envelope within it which meets all requirements in this Chapter for offset and setback from the lot lines;
3. At all points the opposite sides of such figure shall be no closer than the required minimum lot width set forth in Sections 6.5(a)-(b) hereof;
4. If the proposed lot abuts a lake, then the minimum required lake frontage set forth in Section 6.6 hereof must form one of the sides of the figure, but said side need not encompass the entire lake frontage of the lot; and

5. All lines of the four-sided figure shall be straight lines, except the lake side of the figure."

(d) Examples. The following depictions of lot width measurements serve as limited examples of lot widths that comply and do not comply with the minimum lot requirements of this Section 6.5(5):

Example 1



This parcel is 3.46 acres and has approximately 600 feet of frontage. Based on minimum frontage requirements set forth in Section 6.6(1), this parcel is required to have a minimum of 2 acres.

1. The envelope must contain at least eighty (80%) percent of the minimum lot area required by this Chapter. **The envelope contains 3 acres which is more than 80% of the minimum lot area, which for this lot is 1.6 acres.**
2. The envelope must contain a building envelope within it which meets all requirements in this Chapter for offset and setback from the lot lines; **A building envelope meeting applicable offset and setbacks will fit within the envelope.**
3. At all points the opposite sides of such figure shall be no closer than the required minimum lot width set forth in Sections 6.5(a)-(b) hereof; **At all points the opposite sides of such figure are no closer than the required minimum width for this lot, which is 150 feet.**
4. If the proposed lot abuts a lake, then the minimum required lake frontage set forth in Section 6.6 hereof must form one of the sides of the figure, but said side need not encompass the entire lake frontage of the lot; and **This lot abuts a lake, and the minimum required lake frontage for this lot of 180 feet forms one side of the figure.**
5. All lines of the four-sided figure shall be straight lines, except the lake side of the figure." **All lines of the envelope are straight lines, except for the lake side figure.**

This lot **would comply** with proposed lot width measuring formula.

Example 2



This parcel is 2.2 acres and has approximately 638 feet of frontage. Based on minimum frontage requirements set forth in Section 6.6(1), this parcel is required to have a minimum of 2 acres.

1. The envelope must contain at least eighty (80%) percent of the minimum lot area required by this Chapter. **The envelope contains 2.08 acres which is more than 80% of the minimum lot area, which for this lot is 1.6 acres.**
2. The envelope must contain a building envelope within it which meets all requirements in this Chapter for offset and setback from the lot lines; **A building envelope meeting applicable offset and setbacks will fit within the envelope.**
3. At all points the opposite sides of such figure shall be no closer than the required minimum lot width set forth in Sections 6.5(a)-(b) hereof; **At all points the opposite sides of such figure are no closer than the required minimum width for this lot, which is 150 feet.**
4. If the proposed lot abuts a lake, then the minimum required lake frontage set forth in Section 6.6 hereof must form one of the sides of the figure, but said side need not encompass the entire lake frontage of the lot; and **This lot abuts a lake, and the minimum required lake frontage for this lot of 200 feet forms one side of the figure.**
5. All lines of the four-sided figure shall be straight lines, except the lake side of the figure." **All lines of the envelope are straight lines, except for the lake side figure.**

This lot **would comply** with the lot width measuring formula.

Example 3



This parcel is 2.3 acres and has approximately 85 feet of frontage. Based on minimum frontage requirements set forth in Section 6.6(1), this parcel is required to have a minimum of 4.5 acres.

1. The envelope must contain at least eighty (80%) percent of the minimum lot area required by this Chapter. **The envelope contains 2.25 acres which is less than 80% of the minimum lot area, which for this lot is 3.6 acres.**
2. The envelope must contain a building envelope within it which meets all requirements in this Chapter for offset and setback from the lot lines; **A building envelope meeting applicable offset and setbacks will fit within the envelope.**
3. At all points the opposite sides of such figure shall be no closer than the required minimum lot width set forth in Sections 6.5(a)-(b) hereof; **On side 1, this figure is narrower than the required minimum width for this lot, which is 150 feet.**
4. If the proposed lot abuts a lake, then the minimum required lake frontage set forth in Section 6.6 hereof must form one of the sides of the figure, but said side need not encompass the entire lake frontage of the lot; and **This lot abuts a lake, and <u>does not</u> meet the minimum required lake frontage requirement of 200 feet.**
5. All lines of the four-sided figure shall be straight lines, except the lake side of the figure." **All lines of the envelope are straight lines, except for the lake side figure.**

This lot does not meet the requirements of 1, 3, and 4. Therefore, it **<u>would not</u> comply** with the lot width measuring formula.

Example 4



This parcel is 3 acres and has approximately 180 feet of frontage. Based on minimum frontage requirements set forth in Section 6.6(1), this parcel is required to have a minimum of 3 acres.

1. The envelope must contain at least eighty (80%) percent of the minimum lot area required by this Chapter. **The envelope contains 1.9 acres which is less than 80% of the minimum lot area, which for this lot is 2.4 acres.**
2. The envelope must contain a building envelope within it which meets all requirements in this Chapter for offset and setback from the lot lines; **A building envelope meeting applicable offset and setbacks will fit within the envelope.**
3. At all points the opposite sides of such figure shall be no closer than the required minimum lot width set forth in Sections 6.5(a)-(b) hereof; **At all points the opposite sides of such figure are no closer than the required minimum width for this lot, which is 150 feet.**
4. If the proposed lot abuts a lake, then the minimum required lake frontage set forth in Section 6.6 hereof must form one of the sides of the figure, but said side need not encompass the entire lake frontage of the lot; and **This lot abuts a lake, but the minimum required lake frontage of 180 feet <u>does not</u> form one side of the figure.**
5. All lines of the four-sided figure shall be straight lines, except the lake side of the figure." **All lines of the envelope are straight lines, except for the lake side figure.**

This lot does not meet the requirements of 1 and 4. Therefore, it **<u>would not</u> comply** with the lot width measuring formula.

Example 5



This parcel is 4.1 acres and has approximately 184 feet of frontage. Based on minimum frontage requirements set forth in Section 6.6(1), this parcel is required to have a minimum of 3 acres.

1. The envelope must contain at least eighty (80%) percent of the minimum lot area required by this Chapter. **The envelope contains 2.09 acres which is less than 80% of the minimum lot area, which for this lot is 2.4 acres.**
2. The envelope must contain a building envelope within it which meets all requirements in this Chapter for offset and setback from the lot lines; **A building envelope meeting applicable offset and setbacks will fit within the envelope.**
3. At all points the opposite sides of such figure shall be no closer than the required minimum lot width set forth in Sections 6.5(a)-(b) hereof; **Because of the distance between Sides 2 and 4 at Side 3, this figure does not meet the required minimum width, which is 150 feet.**
4. If the proposed lot abuts a lake, then the minimum required lake frontage set forth in Section 6.6 hereof must form one of the sides of the figure, but said side need not encompass the entire lake frontage of the lot; and **This lot abuts a lake, and the minimum required lake frontage for this lot of 160' forms one side of the figure.**
5. All lines of the four-sided figure shall be straight lines, except the lake side of the figure." **All lines of the envelope are straight lines, except for the lake side figure.**

This lot does not meet the requirements of 1 and 3. Therefore, it would not comply with the lot width measuring formula.

Example 6



This parcel is 7.9 acres and does not abut a lake. Based on minimum lot requirements set forth in Section 6.5(5)(a), this parcel is required to have a minimum of 5 acres.

1. The envelope must contain at least eighty (80%) percent of the minimum lot area required by this Chapter. **The envelope contains 5 acres which is more than 80% of the minimum lot area, which for this lot is 4 acres.**
2. The envelope must contain a building envelope within it which meets all requirements in this Chapter for offset and setback from the lot lines; **A building envelope meeting applicable offset and setbacks will fit within the envelope.**
3. At all points the opposite sides of such figure shall be no closer than the required minimum lot width set forth in Sections 6.5(a)-(b) hereof; **At all points the opposite sides of such figure are no closer than the required minimum width for this lot, which is 200 feet.**
4. If the proposed lot abuts a lake, then the minimum required lake frontage set forth in Section 6.6 hereof must form one of the sides of the figure, but said side need not encompass the entire lake frontage of the lot; and **This lot does not abut a lake**
5. All lines of the four-sided figure shall be straight lines, except the lake side of the figure." **All lines of the envelope are straight lines.**

This lot **would comply** using the lot width measuring formula.

Example 7



This parcel is 5.1 acres and does not abut a lake. Based on minimum lot requirements set forth in Section 6.5(5)(a), this parcel is required to have a minimum of 5 acres.

1. The envelope must contain at least eighty (80%) percent of the minimum lot area required by this Chapter. **The envelope only contains 2.87 acres which is less than 80% of the minimum lot area, which for this lot is 4 acres.**
2. The envelope must contain a building envelope within it which meets all requirements in this Chapter for offset and setback from the lot lines; **A building envelope meeting applicable offset and setbacks will fit within the envelope.**
3. At all points the opposite sides of such figure shall be no closer than the required minimum lot width set forth in Sections 6.5(a)-(b) hereof; **At all points the opposite sides of such figure are no closer than the required minimum width for this lot, which is 200 feet.**
4. If the proposed lot abuts a lake, then the minimum required lake frontage set forth in Section 6.6 hereof must form one of the sides of the figure, but said side need not encompass the entire lake frontage of the lot; and **This lot does not abut a lake.** All lines of the four-sided figure shall be straight lines, except the lake side of the figure." **All lines of the envelope are straight lines.**

This lot does not meet the requirements of 1. Therefore, it **would not comply** with the lot width measuring formula.

(6) Accessory Building and Structure Requirements

(a) Lot Abutting Lake - Location.

(i) No accessory building shall be erected, modified or moved on any lot abutting a lake so that it is located between the shoreline buffer zone and the nearest point of the principal structure or any projection thereof, except that:

A. An accessory building may be erected, modified or moved on any lot abutting a lake between the shoreline buffer zone and the nearest point of the principal structure or any projection thereof if the nearest point of such accessory building is at least two hundred twenty-five (225) feet beyond the shoreline buffer zone.

B. A legal nonconforming structure located between the shoreline buffer zone and the nearest point of the principal structure or any projection thereof may be modified, during its lifetime so long as such modification does not increase the footprint, living area or height of the structure, as provided in Section 6.7(4)(b) below. Added June 2025.

(b) Lot Abutting Lake - All Other Structures - Location.

(i) Accessory structures which are not accessory buildings may be erected, modified or moved on any lot abutting a lake at any location meeting applicable setback requirements; including, between the shoreline buffer zone and the nearest point of the principal structure or any projection thereof; provided, however, that accessory sheds between the shoreline buffer zone and the nearest point of any principal structure or projection thereof shall be screened with landscape materials so that no more than twenty (20) percent of the lake elevation of the accessory shed is visible from the lake or an adjoining lot during the summer months.

(c) Accessory Buildings - Maximum Footprint.

(i) The maximum footprint of all accessory buildings erected, modified or moved on any lot shall not exceed two (2) percent % of the total lot area.

(d) Accessory Buildings - Maximum Number.

(i)

Lot Area	Number of Accessory Buildings
2.5 acres or less	2
2.5 but less than 7 acres	3
7 acres or more	4

(e) Appeals.

(i) Appeals from any decision of the Village Administrator or Village Zoning Administrator may be taken to the Board of Appeals by any person aggrieved, or by an officer, department or bureau of the Village under Section 6.13 of the Village Code. Notwithstanding the foregoing, an application to construct an accessory building or an accessory structure outside of the shoreline buffer zone but at a location not permitted by this section shall be considered by the Village Board using the standards, requirements and procedures under Section 6.20 of the Village Code applicable to Conditional Uses.

6.6 RESTRICTIONS ON LAKE ACCESS.

(1) No real estate shall be subdivided into lots, sold, leased or used, nor shall any easement be granted or created in such a manner as to give access by easement or otherwise to any lake for more than one (1) family or owner, and their occasional invitees, for every two hundred (200) feet of lake frontage; except that such frontage may be reduced to not less than one hundred fifty (150) feet as follows:

Lake Frontage of Lot	Area of Lot
150 feet or more, but less than 160 feet	4 ½ acres
160 feet or more, but less than 170 feet	4 acres
170 feet or more, but less than 180 feet	3 ½ acres
180 feet or more, but less than 190 feet	3 acres
190 feet or more, but less than 200 feet	2 ½ acres
200 feet or more	2 acres

(2) Notwithstanding any other provisions of this Chapter, only persons owning or leasing lots abutting upon any lake, and their occasional invitees, shall have access to such lake, and no easements or rights shall be created in any manner as to give access to a lake by easement or otherwise over a lot abutting a lake.

6.7 NONCONFORMING LOTS, USES AND STRUCTURES.

(1) **LEGAL NONCONFORMING LOTS.** A structure may be built on a legal nonconforming lot provided:

(a) The proposed structure complies with all applicable provisions of this Chapter and a building permit has been obtained pursuant to Section 5.03; and

(b) Plans for any proposed structure shall be submitted to the Plan Commission for approval. The Plan Commission shall grant approval only if it finds that the lot is a legal nonconforming lot as defined in Section 6.3, and that the requirements of paragraph (a) above have been met. The Plan Commission may require the submission and preparation of whatever materials and studies it deems necessary to make its finding; including, but not limited to the following:

(i) Plans and certified survey as specified in Section 5.03;

(ii) Evidence regarding the date of creation of the lot and any modifications thereto;

(iii) Report from the Village Administrator and/or Building Inspector regarding compliance with the provisions of this Chapter; and

(iv) Report from the Village Attorney.

(2) **LEGAL NONCONFORMING USES**. A legal nonconforming use may be continued. However, such nonconforming use may not be extended, expanded or changed except to a conforming use. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed back to a nonconforming use. If the nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use shall comply with the use provision of this Chapter.

(3) **LEGAL NONCONFORMING STRUCTURES.** A legal nonconforming structure may be continued. However, it shall not be modified except as permitted in this Section or if required by law, or if it is changed to a conforming structure. Whenever a nonconforming structure has been changed to a conforming structure, it shall not be changed back to a nonconforming structure.

A proposed plan to modify a legal nonconforming structure shall require that a building permit be obtained by the owner pursuant to Section 5.03. Plans for the proposed modifications to the structure shall be submitted to the Plan Commission for approval.

The Plan Commission shall grant approval only if it finds that the proposed modifications comply with the provisions of this Chapter, including this Section. The Plan Commission may require the submission and preparation of whatever materials and studies it deems necessary to make its finding, including but not limited to the following:

(a) Plans and certified survey as specified in Section 5.03 (3);

(b) Evidence regarding the date and manner in which the structure became nonconforming;

(c) Report from the Village Administrator and/or Building Inspector regarding compliance with the provisions of this Chapter; and

(d) Report from the Village Attorney.

(4) MODIFICATIONS TO LEGAL NONCONFORMING STRUCTURES. A modification to a legal nonconforming structure, other than a modification which makes it a conforming structure, shall be subject to the following conditions:

(a) A legal nonconforming structure which is not located in whole or in part within the shoreline buffer zone may be modified to increase the footprint, living area or height where the modifications fully comply with all setback, living area and height requirements of this Chapter, all other applicable provisions of this Code and other applicable laws.

(b) A legal nonconforming structure that is located within the shoreline buffer zone or seventy-five (75) feet or less from the ordinary high-water mark of any navigable water, lake, pond, flowage, river or stream may, at the option of the owner, be modified, during its lifetime so long as such modification does not increase the footprint, living area or height of the structure. The roof of a legal nonconforming structure that is located within the shoreline buffer zone may be used as a deck if the structure has a flat roof with no side walls or screens; provided that the roof must pitch away from the lake and that open handrails under three and one-half (3½) feet tall may be constructed on the roof of the structure. Notwithstanding anything to the contrary herein, an owner may increase the height of a nonconforming accessory structure if necessary to address modifications or repairs to the accessory structure's roof so long as such modification or repair does not increase the accessory structure's useable area.

(c) In addition, a legal nonconforming structure which is nonconforming solely because it is located in part within the shoreline buffer zone and because portions of it are seventy-five (75) feet or less from the ordinary high-water

mark of any navigable water, lake, pond, flowage, river or stream may be modified to increase either its footprint, living area or height where all modifications and all changes constituting either a building or structure alteration or reconstruction take place outside of the shoreline buffer zone or more than seventy-five (75) feet from the ordinary high water mark. No such modification shall expand the nonconformity within the shoreline buffer zone.

(d) No modification shall extend or increase a structure's existing level of encroachment with respect to any setback requirements.

(e) Any modification of a legal nonconforming structure must comply with all other applicable provisions of this Code.

(f) Repairs to or maintenance of a legal nonconforming structure which do not constitute a modification are subject to the requirements of this Chapter.

(5) RESTORATION OR REPLACEMENT OF CERTAIN LEGAL NONCONFORMING STRUCTURES LOCATED WITHIN THE SHORELINE BUFFER ZONE.

(a) Legal nonconforming structures which are located within the shoreline buffer zone and which are damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation may be restored or replaced at a size, subject to subsection (b) below, location and use the same as those in existence immediately before the damage or destruction occurred.

(b) A legal nonconforming structure subject to subsection (a) above may be larger than the size it was immediately before the damage or destruction if necessary to comply with applicable state or federal requirements.

6.8 CHANGES AND AMENDMENTS TO THIS CHAPTER AND ZONING MAP.

(1) AUTHORITY. Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein or amend, change or supplement the text of the regulations established by this Chapter. Such change or amendment shall be subject to review and a recommendation from the Plan Commission.

(2) PROCEDURE.

(a) A change or amendment may be initiated by the Village Board, the Plan Commission, or by a petition of one (1) or more of the owners of property within the area proposed to be changed.

(b) Petitions for any change or amendment shall be filed with the Village Clerk and shall describe the proposed amendment, list the reasons justifying the petition and in the event of a proposed amendment to the zoning map, have attached the names and addresses of the owners of all properties lying within two hundred (200) feet of the area affected by the proposed change or amendment, and any additional information required by the Village Administrator or the Village Board.

(c) The Village Board shall hold a public hearing as provided for in Section 62.23 (7) (d) Wisconsin Statutes. Following such hearing, the Village Board shall make a determination.

6.9 REMOVAL OF SHORE COVER.

(1) **PURPOSE.** The purpose of tree, shrubbery and ground cover cutting regulations applicable to the shoreland area is to protect scenic beauty, control erosion and reduce effluent, sediment and nutrient flow from the shoreland into lakes which are located in or adjacent to the Village. These provisions shall also apply to the removal of storm damaged, dead, diseased or dying trees or shrubbery, but not to silvicultural thinning upon recommendation of the Village Forester. If there is a question as to the condition of any trees or shrubbery, the Village Forester shall be consulted as set forth herein.

(2) **SHORELINE CUTTING.** A Village issued shore cover removal permit is required of anyone attempting to cut/trim or remove any tree or shrubbery within the shoreline buffer zone.

(a) The Village may allow the removal of trees and shrubs within the shoreline buffer zone to create access/viewing corridors; provided, however, that the combined width of all access/viewing corridors shall be no more than twenty (20) percent of the lake frontage as measured along the ordinary high water mark.

(b) In the remainder of the shoreline buffer zone, natural shrubbery and herbaceous layer shall be preserved as far as practicable and, where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

(c) Any tree six (6) inches in diameter or greater that is cut for any reason, needs to be replaced with a similar tree of two (2) inches in diameter or greater and planted in the shoreline buffer zone.

Exemption: A replacement tree may be planted outside of the shoreline buffer zone if conditions restrict planting within the shoreline buffer zone.

Exemption: The replacement requirement shall be waived if the stump is allowed to sucker and become tree form. If the stump fails to sucker, a two (2) inch replacement tree is required.

(d) Any grading within shoreline buffer zone requires a grading permit as set forth in this Code.

(3) PATHS. Any path or passage within the shoreline buffer zone shall be constructed and surfaced to control erosion effectively.

(4) CUTTING PLAN. As an alternative to subsection (2) above, a special cutting plan allowing greater cutting may be approved and a permit issued by the Village Forester. In applying for such a plan, the lot owner shall submit a sketch (plan) of the lot to the Village Forester, including the following information: location of structures and buildings, streets, roads, drives and parking areas, paths and passages, gradient of the land, existing vegetation, proposed cutting, and proposed replanting. The Village Forester may approve such a plan only if the Village Forester finds that such special cutting plan:

(a) Will not cause undue erosion or destruction of scenic beauty; and

(b) Will provide substantial shielding of dwellings, accessory structures and parking areas from the lake. Where the plan calls for replacement plantings, the Village Forester may require the submission of a bond which guarantees the performance of the planned tree or shrubbery planting by the lot owner.

(5) CUTTING MORE THAN SEVENTY-FIVE FEET INLAND. From the inland edge of the shoreline buffer zone to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management practices and sound soil conservation practices which protect water quality. See Section 6.14, Wisconsin DNR "Best Management Practices for Water Quality"- PUB FR-093 2010, and Wisconsin Department of Commerce, Uniform Dwelling Code Section 5.

6.10 VIOLATION, PENALTY.

(1) FINES. Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with the enforcement of any of the provisions of this Chapter, shall upon conviction thereof forfeit an amount not to exceed Two Thousand Five Hundred Dollars ($2,500), together with the costs of prosecution. Each offense, and each day that a violation exists shall constitute a separate offense.

(2) RESTORATION. In addition to the above stated fines, forfeitures, and costs of prosecution, at the order of the Zoning Administrator, violators of Section 6.9 shall restore the affected

area to its original condition or a condition providing the same erosion control within sixty (60) days of notification of such violation and order. The restoration shall follow these general guidelines:

(a) In order to restore the functional value of a vegetative area as an erosion buffer, the restoration should consist of a ground cover and a tree canopy; The entire damaged portion of the shoreland buffer area must be revegetated so as to prevent erosion;

(b) Trees and shrubbery removed in violation of Section 6.9 shall be replaced with other vegetation which will provide the same erosion control and runoff protection;

(c) The violator must submit a restoration plan for the review and approval of the Village Forester; and

(d) If a violator owner fails to comply with the restoration order, the Village reserves the right to bring the site into compliance and place a special assessment on the lot. All costs are to be paid by the property owner.

6.11 INTERPRETATION AND PURPOSES.

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this Chapter to interfere with or abrogate or annul any existing easements or other agreements between private parties, provided, however, that where this Chapter imposes a greater restriction upon the use of a structure or premises, or upon the height or bulk of a structure, or requires larger open spaces than are imposed or required by other provisions of this Code, rules, regulations or permits, or by easements or agreements, the provisions of this Chapter shall control. Words used in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number.

6.12 ZONING CERTIFICATE AND ENFORCEMENT.

The Zoning Administrator shall issue a zoning certificate upon determining that a proposed project complies with the provisions of this Chapter. The provisions of this Chapter shall be enforced by the Village Administrator. The Village Administrator may delegate any enforcement responsibilities hereunder to any other employee and/or official of the Village.

6.13 APPEALS.

(1) **PROCEDURE**. Appeals from any decision of the Village Administrator or an employee or official to whom the Village Administrator has delegated enforcement responsibility may

be taken to the Board of Appeals by any person aggrieved, or by any officer, department or bureau of the Village. Section 1.04 shall apply to all appeals.

(2) **POWERS OF BOARD OF APPEALS**. In addition to the powers enumerated elsewhere in this Code, the Board of 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;

(b) To authorize such variance from the terms of this Chapter as provided for in subsection (3) below;

(c) Upon review and recommendation from the Village Board, to hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of permanent structures and are compatible with the neighboring uses. The permit shall be temporary and be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required;

(d) The Board of Appeals may reverse, affirm wholly or partly, modify the requirements decision or determination appealed from, or may issue or direct the issuance of a permit. The grounds of every decision of the Board of Appeals shall be stated in a written decision; and

(e) Variances, substitutions or temporary use permits granted by the Board of Appeals shall expire within six (6) months unless substantial work has been commenced and diligently pursued pursuant to such grant.

(3) **VARIANCE.**

(a) The Board of Appeals may 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 practical difficulty or unnecessary hardship, so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.

(b) For the purposes of this Section, "practical difficulty or unnecessary hardship" shall require a finding of the Board of Appeals of all of the following criteria:

(i) Strict compliance with this Chapter would unreasonably prevent the property owner from using the property owner's property for a permitted

purpose or would render conformity with this Chapter unnecessarily burdensome.

(ii) The practical difficulty or unnecessary hardship is caused by a unique condition of the property such as exceptional, extraordinary or unusual circumstances or conditions applying to the lot, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of such a general or recurrent nature as to suggest that this Chapter should be amended.

(iii) The practical difficulty or unnecessary hardship is not caused or created by the property owner or a previous owner.

(iv) The practical difficulty or unnecessary hardship is unnecessary, so that the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located and will not undermine the spirit and general and specific purposes of this Chapter.

(c) The Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

6.14 SHORELAND – WETLAND.

(1) **STATUTORY AUTHORIZATION**. This Section is adopted pursuant to the authorizations in Section 61.351 Wisconsin Statutes.

(2) **PURPOSE**. Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the Village would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The purpose of this Section is to establish minimum standards to enable the Village to accomplish the shoreline protection objectives established by the State legislature. The State legislature has delegated responsibility to all municipalities to:

(a) Promote the public health, safety, convenience and general welfare;

(b) Maintain the storm and flood water storage capacity of wetlands;

(c) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

(d) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;

(e) Prohibit certain uses detrimental to the shoreland-wetland area; and

(f) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

(3) GENERAL PROVISIONS.

(a) COMPLIANCE

The use of wetlands and the alteration of wetlands within the shoreland area of the Village shall be in full compliance with the terms of this Section and other applicable local, state or federal regulations. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

(b) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Section and obtain all necessary permits. State agencies are required to comply if Section 13.48(13) Wisconsin Statutes applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.2022(1) Wisconsin Statutes applies.

(c) ABROGATION AND GREATER RESTRICTIONS

(i) This Section supersedes all the provisions of any municipal zoning ordinance enacted under Sections 61.35, 62.23 or 87.30 Wisconsin Statutes, which relate to floodplains and shoreland-wetlands, except that where another provision of this Chapter is more restrictive than this Section, that Provision shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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

(iii) INTERPRETATION

In their interpretation and application, the provisions of this Section 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 powers granted by the Wisconsin Statutes. Where a provision of this Section is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the provision of this Section 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 Section or in effect on the date of the most recent text amendment to this Section.

(4) SHORELAND-WETLAND ZONING DISTRICT ESTABLISHED.

(a) District Boundaries, Map. There is hereby established a shoreland-wetland zoning district for the Village which district consists of all wetlands of five (5) acres or more within the Village which are shown on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer which is made part of this Section. The maps can be viewed at http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland

The Shoreland-Wetland District shall include all areas:

(i) 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 Section;

(ii) 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 Section. The most recent revision of the U.S. Geological Survey Map is also adopted and made a part of this Section.

(5) SHORELAND-WETLAND REGULATIONS.

(a) Uses Permitted in Shoreland-Wetland Districts. Subject to the use regulations of this Chapter:

(i) Activities and uses which do not require the issuance of a permit:

A. Hiking, fishing, trapping, swimming, snowmobiling and boating;

B. 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;

C. The practice of silviculture, including the planting, thinning and harvesting of timber; provided, however, not within a shoreline buffer zone;

D. The pasturing of livestock, provided, however, not within a shoreline buffer zone; and

E. The cultivation of agricultural crops.

(ii) Uses which do not require the issuance of a permit and which may involve wetland alterations, only to the extent specifically provided below:

A. The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;

B. The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;

C. The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;

D. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;

E. The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;

F. The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland district provided that such installation or maintenance is done in a manner

designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in Section 6.14 (10) (a) (iii); and

G. The maintenance, repair, replacement and reconstruction of existing streets, roads, highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(iii) Uses which are allowed upon the issuance of a zoning permit and which may include wetland alterations only to the extent specifically provided below:

A. The construction and maintenance of streets, roads and highways which are necessary for the continuity of the Village street system, the provision of essential utility and emergency services or to provide access to permitted shoreland-wetland uses, provided that:

1. The street, road or highway cannot, as a practical matter, be located outside the wetland;

2. The street, road or highway is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in Section 6.14 (10) (a) (iii);

3. The street, road or highway is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

4. Construction activities are carried out in the immediate area of the roadbed only; and

5. Any wetland alteration must be necessary for the construction or maintenance of the street, road or highway.

B. The construction and maintenance of non-residential buildings provided that:

1. 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;

2. The building cannot, as a practical matter, be located outside of the wetland;

3. The building does not exceed five hundred (500) square feet in floor area; and

4. Only limited filling and excavating necessary to provide structural support for the building is allowed.

C. The establishment and development of 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:

1. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;

2. The construction and maintenance of streets, roads or highways necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Section 6.14 (5) (a) (iii), and

3. Wetlands 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.

D. The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided that:

1. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;

2. Only limited filling or excavating necessary for such construction or maintenance is allowed; and

3. Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in Section 6.14 (10).

(6) PROHIBITED USES. Any use not listed as a permitted use in this Section is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Section in accordance with Section 6.14 (10).

(7) NONCONFORMING STRUCTURES AND USES.

(a) The lawful use of a building, structure or property which existed at the time this Section, or an applicable amendment to this Section 6.14, took effect and which is not in conformity with the provisions of this Section, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

(b) The shoreland-wetland provisions of this Section authorized by Section 61.351 Wisconsin Statutes, shall not limit the repair, modification, renovation, remodeling, expansion or reconstruction of a nonconforming structure or of any environmental control facility related to such a structure in existence on the original effective date of this Section. All other modifications to nonconforming structures are subject to Sections 62.23 (7) (hb), 62.23 (7) (h), and 61.351(5) Wisconsin Statutes.

(c) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this Section.

(d) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the original adoption or subsequent amendment of this Section may be continued although such use does not conform with the provisions of this Section 6.14; provided, however, such nonconforming use may not be extended.

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

(8) ADMINISTRATIVE PROVISIONS. The Zoning Administrator is hereby directed to administer the provisions of this Section.

(9) ZONING PERMITS. Unless another section of this Section 6.14 specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, or any change in the use of an existing building or structure is initiated. A copy of any zoning permit issued hereunder shall be mailed to the district office of the Department of Natural Resources within five (5) days of issuance.

(10) AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

(a) The Village Board may amend or repeal the shoreland-wetland district boundaries and the regulations contained in this Section 6.14 in accordance with the following:

(i) A copy of each proposed text or map amendment shall be submitted to the district office of the Department of Natural Resources within five (5) days of the submission of the proposed amendment to the Plan Commission;

(ii) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the Plan Commission for its review and report to the Village Board. No such amendments shall be made without a public hearing before the Village Board pursuant to class 2 notice as required by Section 62.23 (7) (d)2. Wisconsin Statutes has been given. The district office of the Department of Natural Resources shall be provided with written notice of the public hearing at least ten (10) days prior to such hearing.

(iii) In order to insure that this Section will remain consistent with the shoreland protection objectives of Section 281.31 (2m) Wisconsin Statutes, the Village may not rezone a wetland in a shoreland-wetland district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:

F. Storm and flood water storage capacity;

G. 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;

H. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

I. Shoreline protection against erosion;

J. Fish spawning, breeding, nursery or feeding grounds;

K. Wildlife habitat; or

L. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

(iv) Where the district office of the Department of Natural Resources determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in subsection (iii) above, the Department of Natural Resources shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.

(iv) The district office of the Department of Natural Resources shall be provided with:

A. A copy of the recommendation and report, if any, of the Plan Commission on a proposed text or map amendment, within ten (10) days after the submission of those recommendations to the Village Board; and

B. Written notice of the action on the proposed text or map amendment within ten (10) days after the action is taken.

(v) If the Department of Natural Resources notifies the Village Board in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subsection (iii) above, the proposed amendment, if approved by the Village Board, shall not become effective until more than thirty (30) days have elapsed since written notice of the Village Board approval was mailed to the Department of Natural Resources. If within the thirty (30) day period, the Department of Natural Resources notifies the Village that the Department intends to adopt a superseding shoreland-wetland zoning Section for the Village as provided by Section 61.351 (6) Wisconsin Statutes, the proposed amendment shall not become effective until the adoption procedure under Section 61.351 (6) Wisconsin Statutes, is completed or otherwise terminated.

(11) NONLIABILITY OF THE VILLAGE. The Village does not guarantee, warrant or represent that only those areas designated as parts of the shoreland-wetland district are in fact the only wetland within the Village and hereby asserts that there is no liability on the part of the Village, its officers, agents, or employees for any damages, of any nature, which may occur as a result of reliance upon this Section.

(12) VALIDITY. In the event that any provisions of this Section are found to be invalid or unconstitutional or if the application of this Section to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Section which can be given effect without the invalid or unconstitutional provisions or application.

6.15 SHORELAND ZONING REGULATIONS FOR ANNEXED AREAS.

(1) STATUTORY AUTHORIZATION

This Section is adopted pursuant to the authorization in Sections 61.35 and 61.353 Wisconsin Statutes.

(2) PURPOSE

Uncontrolled use of shorelands and pollution of the navigable waters of the Village would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The State legislature of Wisconsin has delegated responsibility to all municipalities to:

(a) Promote the public health, safety, convenience and general welfare;

(b) Limit certain land use activities detrimental to shorelands; and

(c) Preserve shore cover and natural beauty by controlling the location of structures in shoreland areas.

(3) GENERAL PROVISIONS

(a) COMPLIANCE

The use of shorelands within the shoreland area of the Village shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

(b) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if Section 13.48(13) Wisconsin Statutes applies.

(c) ABROGATION AND GREATER RESTRICTIONS

(i) This Section supersedes all the provisions of any other applicable municipal ordinance except that where another municipal ordinance is more restrictive than this Section, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(ii) This Section 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 Section shall prevail.

(4) INTERPRETATION

In their interpretation and application, the provisions of this Section 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 powers granted by the Wisconsin Statutes or Wisconsin Constitution.

(5) SEVERABILITY

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

(6) APPLICABILITY OF SHORELAND REGULATIONS

(a) The Shoreland Zoning regulations in this Section apply only to the following shorelands:

(i) A shoreland that was annexed by the Village after May 7, 1982, and that prior to annexation was subject to a county shoreland zoning ordinance under Section 59.692 Wisconsin Statutes; and

(ii) A shoreland that before incorporation by the Village was part of a town that was subject to a county shoreland zoning ordinance under Section 59.692 Wisconsin Statutes if the date of incorporation was after April 30, 1994.

[Note: As of July 1, 2018, no shorelands within the Village met the foregoing criteria.]

(b) Determinations of the ordinary highwater mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Wisconsin Department of Natural Resources for a final determination of ordinary highwater mark.

(c) EFFECT OF EXISTING LAND DIVISION, SANITARY, ZONING AND OTHER REGULATIONS.

The lands regulated by this Section are subject to all applicable provisions of the Code. Where the provisions of this Section are more restrictive than other regulations in the Code, the provisions of this Section shall apply.

(7) SETBACKS FROM THE WATER.

(a) Building and Structure Setbacks.

(i) All buildings and structures shall be set back at least fifty (50) feet from the ordinary high-water mark.

(ii) Reduced Principal building setback: A setback less than the fifty (50) feet setback required from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:

A. Where there are existing principal buildings on each adjacent lot, the setback shall equal the average of the distances the two existing principal buildings are setback from the ordinary high water mark or thirty five (35) feet from the ordinary high water mark, whichever distance is greater.

(8) Nonconforming Structures:

(a) MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF NONCONFORMING STRUCTURES. An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than thirty five (35) feet above grade level. The Village may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

(b) B. MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF STRUCTURES THAT WERE AUTHORIZED BY VARIANCE. A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than thirty five (35) feet above grade level. The Village may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

(9) **PENALTY.** Any person, firm or corporation found guilty of a violation of any of the terms or provisions of this Section shall be subject to the same penalty as is provided for in Section 1.01 (9).

6.16 RESTRICTIONS ON LAND DIVISIONS.

(1) Any owner of land within the Village proposing: (a) to make a land division thereof into two or more parcels or lots; or (b) to sell, transfer or convey a part but not all of a parcel or lot and where the proposal is not subject to the terms and conditions of Section 6.17, shall file, prior to making any land division, sale, conveyance or transfer of any such property, a preliminary survey map with the Village Clerk showing:

(a) The external boundaries of the land to be divided, transferred, sold or conveyed;

(b) The proposed boundaries of the parcels or lots into which the same is to be divided and the lot or parcel to which any part will be added;

(c) The area of each such parcel or lot;

(d) Streets, roads, highways and easements;

(e) The average width of each parcel or lot;

(f) The height of existing structures and the location of existing structures with respect to adjoining streets, roads, highways, lot lines, and structures on other existing or proposed parcels; and

(g) Identification of each structure containing cooking or sleeping facilities.

(2) Any land division or conveyance of a part of a lot or parcel shall require:

(a) Consent of the Village Board;

(b) That each divided part conform to the lot area requirements of Section 6.5;

(c) That any existing structures on any of the divided parcels comply with the setback and height requirements of Section 6.5 after the division or conveyance, or if any existing structures are nonconforming, the nonconformity will not be increased;

(d) That no division shall create a divided part with more than one structure containing cooking or sleeping facilities, unless such divided part existed before

the division and there is sufficient acreage under Section 6.5 for each such structure; and

(e) That each divided part shall otherwise conform to all the requirements of this Chapter.

A certified survey map shall be drawn on a scale showing not more than one hundred (100) feet to an inch, and the scale used shall be indicated on the certified survey map graphically. It shall also show the location of the land by government lot, quarter-quarter section, section, township and range. In addition, all certified survey maps shall comply with Section 6.17(4).

Such certified survey map shall be prepared by a surveyor who holds a valid certificate of registration granted pursuant to the laws of Wisconsin, and the information shown on the certified survey map shall be certified by such surveyor to be correct.

The sale or exchange of parcels of land between owners of adjoining property is not subject to the requirements of subsection (2) (a) above, if such sale or exchange is permitted by Section 236.45 (2) (am) (3) Wisconsin Statutes and by all other applicable laws and this Code.

6.17 LAND DIVISIONS CONSTITUTING SUBDIVISIONS.

(1) PURPOSE. The purpose of this Section is to regulate the subdivision of land to promote public health, safety and general welfare of the Village; to further the orderly layout and use of land; to prevent the overcrowding of land; to lessen congestion in the streets, roads and highways; to provide for proper ingress and egress; and to facilitate the further resubdivision of larger tracts into smaller parcels of land. These regulations are made with reasonable consideration, among other things of the character of the Village with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation, and for encouraging the most appropriate use of land throughout the Village. Pursuant to Section 236.45 (2) Wisconsin Statutes, the Village adopts the following provisions which may be more restrictive than the provisions of Chapter 236 Wisconsin Statutes.

(2) APPLICABILITY.

(a) Any division of land within the Village and/or within its extraterritorial plat approval jurisdiction which results in a subdivision shall also be subject to the provisions of this Section. Any division other than a subdivision within the Village and/or within its extraterritorial plat approval jurisdiction shall continue to be subject to the provisions of this Chapter.

(b) No subdivision shall be entitled to be recorded, nor any street laid out, nor any improvements made, nor any building permit shall be issued by the Village until the provisions and requirements of this Chapter have been met.

(3) PROCEDURE. The subdivider or the subdivider's agent shall comply with the general principles of design and the minimum requirements for the layout of subdivisions and other requirements and provisions set forth in this Section and, in every case, shall pursue the following procedure:

(a) Concept Approval. The subdivider or the subdivider's agent shall first file a formal application indicating intention to subdivide and submit to the Plan Commission for concept approval a concept plat and such information as may be required by the Plan Commission pursuant to Section 6.17 (6). The Plan Commission shall, within thirty (30) days of the receipt of the concept plat and all required supplemental data, approve, disapprove or approve with conditions the concept plat.

(b) Preliminary Plat. After obtaining concept approval, the subdivider shall prepare a preliminary plat of the proposed subdivision in accordance with this Section and Section 6.17 (6) and shall file copies of such plat with the Village Clerk together with the other documents required under Section 6.17 (6). The subdivider or the subdivider's agent shall provide copies of the preliminary plat to all required departments or agencies of the state, county or other governmental bodies whose approval may be required. The Plan Commission shall within sixty (60) days of the filing of the preliminary plat with the Village Clerk, unless the time is extended by mutual agreement, recommend approval, or conditional approval or rejection of such plat and shall state in writing any conditions of approval or reasons for rejection. The Village Board shall approve conditionally, or reject such plat within ninety (90) days of the filing of the preliminary plat with the Village Clerk unless the time is extended by mutual agreement, and shall state in writing any conditions of approval and reasons for rejection. Approval of the preliminary plat and the subdivision improvement plans and specifications by the Village Board shall entitle the subdivider to final plat approval if the final plat is submitted within six (6) months of the preliminary plat approval, conforms substantially to the preliminary plat and conditions placed thereon and complies with this Code and all other applicable laws, rules, regulations and ordinances.

(c) Subdivision Improvements.

(i) Following approval of the preliminary plat and prior to submittal of the final plat, the subdivider shall submit in writing to the Village Clerk, two (2) complete sets of plans and specifications for the construction of any streets or roads or other subdivision improvements within the proposed Subdivision, grading and drainage plans, and street and road, tree and landscaping plans for approval by the Village Administrator. The Village may retain at the expense of the subdivider an engineer to review said plans and specifications for conformity to the preliminary plat and compliance with the design principles and other provisions set

forth in this Section. The subdivider shall be notified in writing of any conditions of approval or the reasons for rejection. The subdivider shall obtain such approvals and permits from appropriate agencies as are required by state law.

(ii) Upon approval of both the preliminary plat and plans and specifications for the required subdivision improvements and the issuance of any permits by the Village and the State which may be required, the subdivider may either:

A. Construct and install the required subdivision improvements at the subdivider's expense; or

B. Upon obtaining the written approval of the Plan Commission, post with the Village cash, negotiable securities, or another form of security running to the Village and acceptable to the Village to assure the satisfactory installation of the improvements and survey monuments required by this Section. The bond shall equal one hundred ten (110) percent of the estimate of the cost of such improvements as determined by the engineer appointed by the Village at the expense of the subdivider, and the engineering and other fees to be paid by the subdivider hereunder.

If the subdivider posts a surety bond or other security, the approval of the Village Board shall be necessary. The subdivider shall execute a developer's agreement with the Village in a form satisfactory to the Village Attorney and the engineer appointed by the Village, reciting the obligations for which the deposit or bond shall be security. It is understood that no occupancy permit shall be issued for any structure in the proposed subdivision and the owner may not sell any parcel in the subdivision until the subdivision improvements have been installed and approved by the Village and the engineer appointed by the Village at the subdivider's expense. If a public street is a part of the subdivision improvements, then the Village must accept said street before the Village shall have any obligation for maintenance thereof.

Any public street or road installed prior to the approval of the final plat shall be considered dedicated upon the approval of the final plat. Public streets and roads completed under bond or other financial guarantee after the approval of the final plat shall be considered dedicated upon their approval and acceptance by the Village and the release by the Village of the bond or other guarantee. With respect to any public street or road, the

subdivider shall provide a guarantee bond or security running to the Village for a period of one year after completion of construction in an amount established by the Village Board.

C. Final Plat. Upon completion of all improvements, the tender of waiver of liens therefor, and the payment of all costs incurred by the Village which are to be reimbursed hereunder, or the posting of cash, negotiable securities or surety bond as required by this Section, and within six (6) months after the approval of the preliminary plat, the subdivider shall submit to the Village Clerk, the final plat and such copies thereof as shall be required. The subdivider or subdivider's agent shall provide copies of the final plat to all required departments or agencies of the State, County or other governmental bodies whose approval may be required. The Plan Commission may waive the six (6) month time limit for filing the final plat. The final plat shall be checked for compliance with the preliminary plat and all conditions thereof and of this Code, and whether all required improvements have been satisfactorily completed or satisfactory cash, negotiable securities or surety bond provided. The Plan Commission shall recommend approval or conditional approval, or denial of the final plat within thirty (30) days of its submittal unless the time is extended by written agreement with the subdivider. The Village Board shall approve or reject the final plat within sixty (60) days of its submission to the Village Clerk, unless the time is extended by written agreement with the subdivider. Reasons for rejection shall be stated in the minutes of the Village Board meeting, or a copy thereof, or a written statement of such reasons shall be supplied the subdivider. After approval by the Village Board, the final plat shall be recorded in accordance with Section 236.25 Wisconsin Statutes.

(4) DESIGN PRINCIPLES FOR THE LAYOUT OF A SUBDIVISION

(a) General. The proposed subdivision shall conform to:

(i) The provisions of Chapter 236 Wisconsin Statutes which are applicable or made applicable pursuant to the provisions of this Section;

(ii) All applicable provisions of this Chapter;

(iii) Any Master Plan, as amended, of the Village;

(iv) Any Official Map, as amended, of the Village;

(v) The rules of the State Department of Health relating to lot size and lot elevation if the subdivision is not served by an operating public sewer; and

(vi) The rules of the State Department of Transportation relating to the safety of access and preservation of the public interest and investment in the streets if the subdivision or any parcel contained therein abuts on a state trunk highway or connecting street.

(b) Streets and Roads.

(i) All streets and roads (whether public or private) in the subdivision must be constructed at the expense of the subdivider and shall conform to the specifications set forth herein and such specifications established from time to time by the Village and the engineer appointed by the Village (if any). All plans and specifications submitted by the subdivider shall be subject to the approval by the Village and such engineer appointed by the Village. The specifications established by the Village (if any) shall be on file with the Village Clerk.

(ii) All streets and roads in the subdivision shall be private rather than public, provided however, if the subdivider proposes a public street or road rather than a private street or road, the subdivider shall comply with the provisions herein and the approval of the Plan Commission and the Village Board shall be required. The concept plat, the preliminary plat and the final plat shall all clearly mark all roads and streets as being public or private. All parcels within the Subdivision shall have direct access to either a street or road.

(iii) The street and road lay-out shall conform with the Official Map of the Village and shall be developed and located in proper relation to existing streets and roads, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such street or road, to existing or planned utilities and to provide each lot with satisfactory access to the street or road.

(iv) New street or road names shall not duplicate the names of existing roads or streets within the Village or within the zip code area(s) containing any part of the Village.

(v) Street and road lighting shall be prohibited except at intersections, when deemed necessary by the Plan Commission and/or the engineer appointed by the Village at the subdivider's expense.

(vi) Pavement surface course shall not be installed until at least twelve (12) months after binder course installation. No paving shall be done after November 15 unless authorized by the Village.

(vii) Prior to placing the pavement surface course, the Village shall inspect the binder course to mark areas in need of repair. Such areas to be repaired shall be saw-cut and removed or milled to provide a suitable butt joint for new pavement.

(c) Easements for Private Streets or Roads. With respect to any private streets or roads, appropriate written easements providing for ingress and egress from all parcels within the subdivision and for maintenance, repair and replacement of the improvements shall be submitted to the Village Clerk for approval by the Plan Commission at the time of filing the preliminary plat. Such easement(s) shall be recorded prior to recording of the final plat.

(5) OTHER REQUIREMENTS

(a) Facilities for the distribution of electric, telephone and gas utility service within the subdivision shall be installed underground except when the Village Board, upon recommendation of the Plan Commission, finds that adverse soil conditions or problems of utility distribution make such installations prohibitively expensive. Transformers, junction boxes, meter points or similar equipment may be installed upon the ground surface if the necessity, location and landscape screening plans therefore have been approved by the Plan Commission.

(b) There shall be adequate facilities to provide surface water drainage. An engineer shall be appointed at the expense of the subdivider to review surface water drainage and erosion control.

(c) Street and road signs shall be provided at all intersections.

(d) The subdivider shall provide a landscape plan to the Plan Commission pursuant to Section 6.17 (3) (c). The purchase and planting of trees and shrubs along both sides of the streets and roads and any cul-de-sac islands shall be provided by the subdivider. All losses following planting will be replaced by the subdivider or the owner of the parcel as the case may be. Minimum size for planting material shall be: two (2) inch trunk caliper for deciduous species, six (6) foot height requirements for coniferous species, and shrubs shall be no less than one third (1/3) mature plant height. Unless waived due to existing tree cover or design of the approved landscape plan, trees shall be planted at a minimum rate of one tree per twenty five (25) feet of linear round surface. Trees may stand alone or be planted in groups and are to be planted outside of the utility right-of-way and beyond the ditchbank. All plantings will be performed after final grades and

utility installation. The Village Board may grant variances to the tree requirements but only after recommendation for said variance is received from the Village Forester.

(e) All subdivisions shall have a fire protection reservoir pursuant to the guidelines of the National Fire Protection Association. Any open reservoirs shall be fenced in.

(6) PLATS AND DATA

(a) Preliminary Consultation Data. The following information, together with such other information as may be requested by the Plan Commission, shall be provided at the time of the preliminary consultation:

(i) Information including data on existing covenants, land characteristics, available utilities, soil conditions relative to the feasibility of installation of on-site sewage disposal systems and information describing the subdivision proposal such as the number of separate developable parcels, total approximate area, the approximate area of each separate parcel including width and depth, open space, tree planting, proposed protective covenants, and proposed utilities and street and road improvements (and whether public or private);

(ii) A location map showing the relationship of the proposed subdivision to adjacent streets, roads and parcels; and

(iii) A sketch plan showing in simple sketch form the proposed layout of streets, roads and parcels and other features in relation to the existing conditions. The sketch plan may be a freehand pencil sketch made directly on a print of a topographic survey.

(b) Preliminary Plat.

(i) The preliminary plat shall be drawn with waterproof, nonfading black ink or legibly drawn with pencil on tracing cloth or tracing paper of good quality on a scale of not more than two hundred (200) feet to an inch and shall show correctly on its face the following:

A. Date, scale and north point;

B. The proposed subdivision name, which shall not duplicate the name of any plat previously recorded in Waukesha County;

C. The name and address of the owner, the subdivider and the engineer or surveyor preparing the plat;

D. Location of the subdivision by government lot, quarter-quarter section, township, range and county;

E. A small scale drawing of the section or government subdivision of the section in which the subdivision lies with the location of the subdivision indicated thereon;

F. The exact length and bearing of the exterior boundaries of the subdivision;

G. Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land;

H. Location, widths and naming of existing and platted streets, alleys or other public ways and easements, railroad and utility rights of way, parks, cemeteries, water courses, drainage ways, environmental corridors including wetland and floodland locations, permanent buildings, bridges and other pertinent data as determined by the Plan Commission within three hundred (300) feet of the proposed subdivision or on property owned or controlled by the subdivider or owner;

I. The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low water elevations of such lakes or streams;

J. If the subdivision borders a lake or stream, the distances and bearings of the meander line established not less than twenty (20) feet back from the ordinary high water mark of the lake or stream;

K. Layout, width and approximate grades of all new streets and roads with the designation of being public or private, and utilities;

L. Approximate dimensions of and areas of parcels;

M. Proposed building lines;

N. Approximate location and area of property proposed to be dedicated for public use or to be reserved by deed covenant for

use of all property owners in the subdivision with the conditions, if any, of such dedication or reservation; and

O. Contours at vertical intervals of not more than two (2) feet, or at more frequent intervals if required by the Plan Commission for land of unusual terrain characteristics.

(ii) At the time the preliminary plat is filed, the subdivider shall also file the following with the Village Clerk:

A. Copies of any declaration of restrictions and any articles of incorporation, bylaws or other association documents;

B. Copies of any easements for private roads providing ingress and egress from all parcels in the subdivision;

C. Drainage and erosion control plans;

D. Landscape plan; and

E. Such other documents and information as requested by the Plan Commission or the engineer appointed by the Village at the subdivider's expense.

(iii) The subdivider shall provide such number of copies of the preliminary plat and other documents as requested by the Plan Commission from time to time.

(c) Final Plat. A final plat of the subdivision shall comply with the requirements for a final plat under Sections 236.20 and 236.21 Wisconsin Statutes. The subdivider shall file the original final plat and such number of copies of the final plat and other documents as requested by the Plan Commission and the Village Board from time to time. A duplicate tracing on cloth of the final plat shall be filed with the Village Clerk. After approval, the subdivider shall have the final plat recorded in the office of the Register of Deeds for Waukesha County. No conveyances of any parcels within the subdivision may be made prior to the recording of the final plat.

(7) SURVEY MONUMENTS. Prior to approval of the final plat, the subdivider shall install survey monuments in accordance with the requirements of Section 236.15 Wisconsin Statutes, as amended, and as may be required by the engineer appointed by the Village at the subdivider's expense.

(8) COSTS AND FEES. Any owner or subdivider desiring to subdivide land constituting a subdivision hereunder shall be responsible to pay all costs and fees incurred by the Village in

connection with the consideration of any of the required documents hereunder, including without limitation, fees to engineers, engineering firms and attorneys. In addition, as billed by the Village, the subdivider shall pay the costs incurred by the Village for such inspections as deemed necessary by the engineer appointed by Village at the subdivider's expense to assure compliance with this Section and this Code. By resolution, the Village Board may establish such other fees applicable with respect to the consideration of subdivisions hereunder.

6.18 CLUSTER DEVELOPMENT PROVISIONS.

(1) **APPLICABILITY**. Land of twenty (20) acres or more identified in the Village Open Space Plan as suitable for cluster development shall be eligible for cluster development provided a cluster development plan is presented by the owner to the Plan Commission, the Plan Commission recommends approval thereof and the cluster development plan is also approved by the Village Board. Until a cluster development plan is approved by the Village Board, all of the provisions of this Chapter other than the cluster development provisions contained in this Section shall be applicable.

(2) **REQUIREMENTS.** The following requirements shall be applicable for any cluster development:

(a) Zoning. All of the existing provisions of this Chapter shall be applicable except the following:

(i) Minimum Lot Size. Cluster development plans may have lots of less than five (5) acres, but in no case shall any lot be less than two (2) acres.

(ii) Density. The total number of lots on which residential structures may be constructed must average out to no more than one for every five (5) acres of the subject parcel as a whole. In computing this ratio, any land that would be ineligible for development under any existing provision of this Code or State Law shall be excluded.

(b) Plat. In connection with every cluster development plan, a plat must be recorded establishing compliance with the provisions of subsections (a)(i) and (ii) above and must designate the remaining land as open space that shall not be permitted to be further divided or developed. The open space shall be conveyed in undivided interests to the owners of lots in the approved cluster development as tenants in common or to an association which shall consist of all of such owners. The undivided interest in said open space or in the association may not be transferred separately from the lot in the cluster development to which it appertains. The association documentation and restrictive covenants preserving such open space and any modifications or amendments thereof shall be subject to the approval of the Village Board. The restrictions shall be enforceable by the Village as well as the owners of lots in the cluster development.

(c) Finding. The cluster development provisions are intended to preserve open space and/or to protect and preserve scenic views along public and private streets and roads and from existing residences. Cluster development shall be permitted only if the Plan Commission and the Village Board find that the proposed cluster development plan significantly increases the amount of open space and/or significantly protects and preserves the scenic views along public and private streets and roads and from existing residences in the Village, as compared with development in accordance with the other provisions of this Chapter.

(d) Compliance with subdivision provisions. The owner shall comply with the subdivision provisions contained in Section 6.17.

(e) Costs and Fees. Any owner presenting a cluster development plan shall be responsible to pay all costs and fees incurred by the Village in connection with the consideration of such cluster development plan, including without limitation, fees to engineering firms and attorneys. By resolution, the Village Board may establish such other fees applicable with respect to the consideration of cluster development plans.

6.19 OFFICIAL MAP

(1) INTENT. It is the intent of the Village Board to establish an Official Map for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness, and general welfare of the community; to further the orderly layout and use of land; to stabilize the location of real property boundary lines; to insure proper legal descriptions and proper monumenting of land; to facilitate adequate provision for transportation, parks, playgrounds, and storm water drainage; and to facilitate the further subdivision of larger tracts into smaller parcels of land.

(2) JURISDICTION. The jurisdictional area of this Code shall include all lands within the corporate limits of the Village and those areas outside the Village within the extraterritorial plat approval jurisdiction of the Village.

(3) OFFICIAL MAP. There is hereby established, as the Official Map of the Village, the Map that is made a part of this Chapter bearing the date of August 9, 1999. This map is hereby designated as the "Official Map of the Village of Chenequa," and all notations, references, and other information shown thereon shall be as much a part of this Chapter as though the matters and information thereon were fully described herein. The Official Map shall show the location and extent of all platted and existing streets, roads and highways within the corporate limits of the Village and its extraterritorial plat approval jurisdiction as heretofore laid out, adopted and established by law.

(4) CHANGES AND ADDITIONS. The Village Board may change or add to the Official Map so as to establish the exterior lines of widen, narrow, extend or close any platted, existing, proposed, or planned public streets, roads or highways, drainageways, parkways, and parks and

playgrounds, except that drainageways shall not be included on the Official Map if outside of the Village limits.

The Village Board shall refer any change or addition to the Official Map to the Plan Commission for review and report thereon prior to adoption. The Plan Commission shall report its recommendation to the Village Board within sixty (60) days.

A Public Hearing of parties in interest and citizens before the Village Board shall be required before any changes or additions to the Official Map are effective.

The Village Board may change or add to the Official Map so as to establish the exterior lines of widen, narrow, extend or close any platted, existing, proposed, or planned roads or streets, highway, drainageways, parkways, and parks and playgrounds, except that drainageways shall not be included on the Official Map if outside of the Village limits.

The Village Board shall refer any change or addition to the Official Map to the Plan Commission for review and report thereon prior to adoption. The Plan Commission shall report its recommendation to the Village Board within sixty (60) days.

A Public Hearing of parties in interest and citizens before the Village Board shall be required before any changes or additions to the Official Map are effective. Notice of the public hearing shall be published as a class 2 notice pursuant to Chapter 985 Wisconsin Statutes.

Changes and additions made by duly approved subdivision plats shall not require the public hearing if the changes or additions do not affect any land outside the area being platted.

(5) BUILDING PERMITS AND OTHER ENFORCEMENT PROCEDURES. The Official Map includes numerous existing streets, roads and highways, and one planned highway, the latter indicated in dashed lines. The following requirements are hereby enacted by the Village to accomplish implementation of the Official Map solely as to the planned highway within said Official Map:

(a) Owners of property within the mapped planned highway route who propose to construct or enlarge a building that encroaches within the planned highway route shall apply to the Zoning Administrator for a Village building permit prior to commencement of construction of building. The Zoning Administrator shall make a determination whether the site of the proposed new building or building enlargement is within the Village extraterritorial Official Map jurisdiction based upon application of Section 66.0105 Wisconsin Statutes to resolve overlaps in extraterritorial jurisdiction between the Village and the Village of Hartland. The Zoning Administrator shall then determine whether the permit must be denied on the basis that the application shows the building or building enlargement situated within the planned highway route. Such determination shall be made within thirty (30) days of receipt of application by the Zoning Administrator. A

notification of denial of permit shall inform the applicant of appeal rights to the Board of Appeals pursuant to Section 62.23 (6) (e) Wisconsin Statutes.

(b) Pursuant to Sections 236.101(b) 2, 236.13 (1) (c) and 236.45 Wisconsin Statutes, the planned highway route as shown on the Official Map within the Village extraterritorial Official Map jurisdiction shall be a review standard for Village review of land subdivision matters within the Village extraterritorial subdivision review jurisdiction.

(6) MUNICIPAL IMPROVEMENTS. No public sewer or other municipal street utility or improvement shall be constructed in any street, road, highway, or parkway within the jurisdictional area of the Chapter until such street, highway, or parkway is duly placed on the Official Map.

(7) LAND SUBDIVISION REVIEW. The official Map shall also be a review standard for Village review of land divisions.

(8) APPEALS. The Board of Appeals shall have the power to review any administrative decision of the Village Building Inspector to grant or deny a permit for the erection of a structure under this Chapter and to grant relief from the requirements of this Chapter under the provisions of Sections 62.23 (6) (e), (f), and (g) Wisconsin Statutes.

(9) CERTIFIED COPY OF MAP. There shall be a certified copy of the Official Map. The certified copy shall be kept in the office of the Village Clerk, and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this Code and shall be signed by the Village President and countersigned by the Village Clerk. Thereafter no change or addition to such Official Map shall become effective until it shall have been indicated by the appropriate convention on the aforesaid certified copy of the Official Map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Village President and countersigned by the Village Clerk.

(10) MAP TO BE FILED WITH REGISTER OF DEEDS. The Village Clerk shall be responsible immediately upon adoption of the Official Map or any amendment thereto for recording a true copy of the Official Map, as amended, with the Register of Deeds of the County of Waukesha, Wisconsin, pursuant to and solely for the purposes specified in Section 62.23 (6) (b) Wisconsin Statutes.

(11) ENFORCEMENT. It shall be the duty of the Village Building Inspector and the Village Administrator to enforce the provisions of this Section.

(12) PENALTIES. Any person, firm, or corporation who fails to comply with the provisions of this Section shall, upon conviction thereof, forfeit an amount calculated pursuant to Section 6.10(1).

No damages shall be allowed for the taking by any governmental agency, for street, road, highway, drainageway, and parkway purposes, any building erected in violation of this Section.

(13) SEVERABILITY AND CONFLICT. If any provision or part of this Section is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby. All other ordinances or parts of ordinances of the Village inconsistent with this Section to the extent of the inconsistency only are hereby repealed.

(14) EFFECTIVE DATE. This Section shall be effective after adoption by the Village Board and publication or posting as provided by law.

(15) REPEAL OF PRIOR USE. A prior Official Map adopted on January 12, 1998, has been repealed as to all mapped street or road rights-of-way beyond the municipal limits of the Village.

(16) EXTRATERRITORIAL JURISDICTION OF OTHER INCORPORATED MUNICIPALITIES. Section 66.0105 Wisconsin Statutes shall govern the extraterritorial jurisdiction of this Section.

6.20 CONDITIONAL USES

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

The following types of structures may be constructed and used within the Village; provided, however, that the person seeking to employ such a conditional use shall fully comply with and meet all requirements of this Section:

(a) Church or Temple.

(b) Private, public and parochial primary and secondary schools including accessory buildings, playgrounds, athletic fields, and gymnasiums, provided that such schools have a full time academic curriculum as required by Wisconsin Statutes.

(c) Country Club.

(d) Private Storage and Maintenance Facility, when located south of Highway 16.

(e) Telecommunication Facilities.

(f) Windmills and related structures.

(2) AUTHORITY OF THE VILLAGE BOARD; REQUIREMENTS.

(a) The Village Board hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearings, and approval from the Village Board, provided that such conditional use and involved structures are found to be in accordance with the purpose and intent of this Chapter and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. The Village Board in its findings shall further specify the delimiting reasons or factors which resulted in approving a conditional use. Such Village Board action, and the resulting conditional use permit, shall specify the period of time for which it is effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Village Board shall make findings based upon the evidence presented that the standards herein prescribed are to be complied with.

(b) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board upon the finding that such conditions are necessary to fulfill the purpose and intent of this Chapter.

Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, street, road and highway access and performance standards shall be required of all conditional uses.

(3) RESTRICTIONS APPLYING ONLY TO CONDITIONAL USES

(a) Setback Restrictions

(i) Lot Abutting a Lake – Lake Frontage Setback.

No conditional use structure shall be located so that the distance measured over the contour of the ground between the lake frontage and the nearest point of the structure or any projections thereof shall be less than two hundred (200) feet.

(ii) Structure Line Setback.

No conditional use structure shall be located on any lot where a street wall is nearer than one hundred fifty (150) feet to the right-of-way or boundary line of any street, road or highway and in no event nearer than seventy five (75) feet to a front or rear lot line.

(b) Lot Area and Visibility Requirements.

(i) The total area of the footprint for all conditional use structures, together with streets, roads, driveways, parking areas, and other impervious surfaces shall not exceed the following limits, of the total area of the lot on which they are located:

30% for the first 20 acres;
10% for every acre above 20 up to 30; and
5% for every acre above 30.

(ii) Visibility of conditional use structures shall be screened by landscape planting and/or contours of the ground so that not more than fifty (50) percent of the structure is visible at any time from streets, roads, highways, lakes, or neighboring properties.

(c) Conditional Use Structures. Conditional use structures which comply with the side setback requirements of Section 6.5 (4), for all side yards, may be erected, modified or altered to a height not exceeding thirty five (35) feet. The height may further be increased to a maximum of forty five (45) feet, provided each side yard setback of such structure is increased by one and one half (1½) feet for each additional one (1) foot of height over and above thirty five (35) feet. However, no conditional use structure shall exceed three (3) stories in height.

- 20’ in height requires a 10’ side yard setback
- 30’ in height requires a 15’ side yard setback
- 35’ in height requires a 17.5’ side yard setback
- 40’ in height requires a 27.5’ side yard setback
- 45’ in height requires a 37.5’ side yard setback

(4) INITIATION OF CONDITIONAL USE. Any person, firm, corporation or organization having a freehold interest or a contractual interest which may become a freehold interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for a conditional use provided for in this Section in the zoning district in which such land is located.

(5) APPLICATION FOR CONDITIONAL USE. An application for a conditional use shall be filed on a form prescribed by the Village. The application shall be accompanied by a plan

showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in subsection 8 hereinafter. The Village Board may require such other information as may be necessary to determine and provide for enforcement of this Chapter, including a plan showing contours and soil types; highwater marks and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations. The application shall be accompanied by payment of the fee in the amount set by the Village Board.

(6) **HEARING ON APPLICATION**. All requests for conditional uses shall be to the Village Board. Upon receipt of the application and statement referred to in subsection 4 above, the Village Board shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Village Board. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Village Board shall, by rule, prescribe from time to time.

(7) **NOTICE OF HEARING ON APPLICATION.** Notices of the time, place and purpose of such hearing shall be given by publication of a class 2 Notice under the Wisconsin Statutes. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent to at least ten (10) days prior to the date of such public hearing. The Village Board shall, within forty five (45) days after a matter has been referred to it, take formal action.

(8) **STANDARDS – CONDITIONAL USES.**

(a) Standards. No application for a conditional use shall be granted by the Village Board, unless the Village Board shall find all of the following conditions are present:

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

(ii) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land;

(iii) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for permitted uses;

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

(v) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the streets, roads and highways;

(vi) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located;

(vii) That the proposed use does not violate flood plain regulations governing the site;

(viii) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff; and

(ix) That when applying the above standards to any new construction of a building or an addition to an existing building, the Village Board shall consider the purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objectives of the zoning district.

(b) Additional Considerations. In addition, in passing upon a conditional use, the Village Board shall also evaluate the effect of the proposed use upon:

(i) The maintenance of safe and healthful conditions;

(ii) The prevention and control of water pollution, including sedimentation;

(iii) Existing topographic and drainage features and vegetative cover on the site;

(iv) The location of the site with respect to floodplains and floodways of rivers and streams;

(v) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover;

(vi) The location of the site with respect to existing or future access streets, roads and highways;

(vii) The uses on adjacent parcels; and

(viii) The amount of liquid waste to be generated and the adequacy of the proposed disposal systems.

(9) DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT. When a conditional use application is denied by the Village Board, the Village Board shall issue a written decision setting forth those standards that are not met and enumerate reasons the Village Board has used in determining that each standard was not met.

(10) CONDITIONS AND GUARANTEES. The following conditions shall apply to all conditional uses:

(a) Conditions. Prior to granting a conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 6.19 (7). In all cases in which conditional uses are granted, the Village Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions shall be addressed in a plan of operation and may include specifications for, without limitation because of specific enumeration:

(i) Landscaping;

(ii) Type of construction;

(iii) Construction commencement and completion dates;

(iv) Sureties;

(v) Lighting;

(vi) Fencing;

(vii) Operational control;

(viii) Hours of operation;

(ix) Traffic circulation;

(x) Deed restrictions;

(xi) Access restrictions;

(xii) Setbacks and yards;

(xiii) Specified sewage disposal and water supply systems;

(xiv) Planting screens;

(xv) Increased parking; or

(xvi) Any other requirements necessary to fulfill the purpose and intent of this Chapter.

(b) Site Review. In making its decision, the Village Board shall evaluate each application and may request assistance from any source which can provide technical assistance. The Village Board may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, street, road and highway access locations, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.

(c) Alteration of Conditional Use. No alteration of a conditional use shall be permitted unless approved by the Village Board.

(d) Architectural Treatment. Proposed architectural treatment will be in general harmony with the surrounding area and uses. To this end, the Village Board may require the use of certain general types of exterior construction materials.

(e) Sloped Sites; Unsuitable Soils. Where slopes exceed six (6) percent and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special constructions techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

(f) Conditional Uses to Comply with Other Requirements. Conditional uses shall comply with all other provisions of this Chapter except as noted herein.

(11) VALIDITY OF CONDITIONAL USE PERMIT. Where a conditional use application has been approved or conditionally approved, such approval shall become null and void unless within one hundred eighty (180) days of the date of the approval the use is commenced, construction is underway or the current owner possesses a valid building contract under which construction is commenced within three (3) months of the date of issuance and is being diligently prosecuted. Approximately forty five (45) days prior to the automatic revocation of such permit the

Zoning Administrator shall notify the holder by certified mail of such revocation. The Village Board may extend such permit for a period of sixty (60) days for justifiable cause, if application is made to the Village Board at least thirty (30) days before the expiration of said permit.

(12) COMPLAINTS REGARDING CONDITIONAL USES. The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use; the elimination, removal or discontinuance of any violation of a condition imposed upon approval; or the violation of any other provision of this Chapter. Upon written complaint by any person, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in above or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that standards set forth in Section (7) above will be met, the Village Board may revoke the subject conditional use approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the parcel subject to the conditional use in writing and stating the reasons therefor.

(13) TELECOMMUNICATION FACILITIES RESTRICTIONS. The following requirements shall apply to Telecommunication Facilities:

(a) All new towers must be certified by a qualified and licensed professional engineer to be:

(i) Designed in conformance with the latest structural and wind loading standards for the Electronics Industry Association or the Telecommunication Industry Association;

(ii) Designed in all respects to accommodate both a tower owner's antenna and comparable antenna for collocation;

(iii) Designed to allow for future rearrangement of antenna upon a tower, and to accept antenna mounted at varying heights; and

(iv) Designed to conform to all FCC and FAA requirements.

6.21 THE ADOPTION OF THE VILLAGE OF CHENEQUA COMPREHENSIVE PLAN PURSUANT TO WIS. STAT. §66.1001

WHEREAS, §§62.23(2) and (3) and §§66.1001(1)(a) and (2) of the Wisconsin Statutes, authorizes municipalities to prepare and adopt a Comprehensive Plan (a/k/a Smart Growth Plan) as defined in §66.1001 of Wisconsin Statutes;

WHEREAS, the Village of Chenequa has worked closely with Waukesha County to update the Waukesha County Development Plan, which was originally adopted by the Waukesha County Board of Supervisors in November 1996. The Updated Waukesha County Development Plan includes amendments to the 1996 Plan in order to bring the Waukesha County Development Plan into conformance with Wisconsin's Comprehensive Planning ("Smart Growth") Law, Wis. Stat. §66.1001, as adopted by the Wisconsin Legislature in 1999. The amendment and update process has evolved since the year 2004, when a Comprehensive Plan Advisory Committee was formed; consisting of individuals representing the various communities who agreed to participate in the planning effort to formulate a revised and updated plan. Twenty nine (29) communities, including the Village of Chenequa, plus the County participated in that planning effort and each community was individually presented on the Advisory Committee;

WHEREAS, the Village of Chenequa, as part of this planning process, has developed a new Comprehensive Plan, in conformity with the requirements of Wis. Stat. §66.1001. The Village of Chenequa's Comprehensive Plan, while patterned after the County's Updated Development Plan, is unique to the Village and addresses concerns specific to the Village;

WHEREAS, the Village of Chenequa Plan Commission and Village Board of Trustees have adopted written procedures designed to foster public participation during the preparation of the Comprehensive Plan as required by §66.1001 (4) (a) of the Wisconsin Statutes;

WHEREAS, a public hearing on the proposed Comprehensive Plan pursuant to Wis. Stat. §66.1001 was held on May 11, 2009; and

WHEREAS, the Village of Chenequa Plan Commission has passed a resolution recommending the adoption of the Comprehensive Plan, containing all the required elements specified in §66.1001(2) of Wisconsin Statutes.

NOW THEREFORE, the Village Board of Trustees of the Village of Chenequa, Wisconsin do ordain as follows: that the Village of Chenequa Comprehensive Plan, pursuant to §66.1001 of Wisconsin Statutes, is hereby adopted.

SECTION 2. This ordinance shall take effect upon passage and publication as provided by Wisconsin Statutes.

020446-0032\25792897.v2