# CHAPTER 17

## ZONING CODE

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# INTRODUCTION

17.01 AUTHORITY.

These regulations are adopted under the authority granted by Sections 61.35 and 62.23(7) of the Wisconsin Statutes.

17.02 PURPOSE.

It is the declared purpose of this chapter to prevent the overcrowding of land and undue concentration of population and to promote the health, safety, morals, comfort, prosperity, aesthetics and general welfare of this community.

17.03 INTENT.

It is the general intent of this chapter to regulate and restrict the use of all structures, lands and waters; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; prevent and control water pollution; protect spawning grounds, fish and aquatic life; protect against flood hazards, and preserve shore cover and natural beauty; further the appropriate use of land and conservation of natural resources, preserve and promote the beauty of the community; and implement the community's comprehensive plan or plan components. It is the specific intent of this chapter to maintain a natural appearance between the main structure and the lake as viewed from the lake. It is further intended to provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

17.04 ABROGATION AND GREATER RESTRICTIONS.

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

17.05 INTERPRETATION.

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

17.06 SEVERABILITY.

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

17.08 REPEAL.

All other ordinances or parts of ordinances of the Village inconsistent or conflicting with this Chapter, to the extent of the inconsistency only, are hereby repealed.

17.09 TITLE.

This chapter shall be known as, referred to, or cited as the "ZONING ORDINANCE, VILLAGE OF OCONOMOWOC LAKE, WAUKESHA COUNTY, WISCONSIN."

17.10 DEFINITIONS.

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

BASEMENT

That portion of any structure located partly below the average adjoining lot grade.

BOATHOUSE

Any structure designed for the purpose of protecting or storing boats used in conjunction with a residence, for noncommercial purposes, located on the same lot as the principal building and not for human habitation.

BUILDING

Any structure having a roof support by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

BUILDING AREA

The total living area bounded by the exterior walls of a building at the floor levels, but not including garages, porches, breezeways, unfinished attics and that portion of the basement not designed and finished as living area or with no outside entrance at level grade.

BUILDING HEIGHT

Height of Main Building - Residential

1) A point measured from the lowest point of the exposed structure to the highest floor line shall not exceed 27 feet.
2) A point measured from the lowest point of the exposed structure to any eave line shall not exceed 36 feet.
3) A point measured from the lowest point of the exposed structure to the highest point of any roof shall not exceed 46 feet.
4) It is the intent of this section that no more than three (3) stories of habitable space shall exist when viewed from the waterfront.

Height of Main Building – Business and/or Industrial

Building height for the Main Buildings in the Business and Industrial District shall be defined as the distance from the average discharge grade (not to exceed 5 feet) to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to a point half way between the ridge and eave line of the gambrel, hip or pitched roof.

Height of any other Building

Building height, other than for the Main Building, shall be defined as the distance from the average discharge grade (not to exceed 5 feet) to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to a point half way between the ridge and eave line of the gambrel, hip or pitched roof.

BUILDING, ACCESSORY

A building, which is on the same lot as a principal or main building or structure and the use of which is customarily incidental to the use of the principal structure in the zoning District. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory buildings include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

BUILDING, PRINCIPAL OR MAIN

A building or structure that is used or intended to be used for the principal use permitted on such lot by the regulations of the zoning District in which it is located.

BUILDING, PUBLIC AND SEMI-PUBLIC

Public and semi-public buildings in the sense of this chapter are structures principally of an institutional nature and serving a public need such as: churches, hospitals, rest-homes, libraries, museums, post offices, police and fire stations, public private utilities and other public services; but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

CLUB, PRIVATE

A building or grounds used for regular or periodic meetings or gatherings of a group of persons organized for nonprofit purpose, but not groups organized to render a customarily carried on as a business.

CHANNEL

A stream of water whether natural or man-made which runs either into or out of Oconomowoc Lake including rivers.

DISTRICT

A section of the Village of Oconomowoc Lake for which regulations governing the height, area, and the use of buildings and premises are the same.

DWELLING

A detached building designed or used exclusively as a residence- or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.

DWELLING, MULTIPLE

A building or portion thereof designed for and occupied by more than two (2) families including row houses, apartment houses and apartment hotels.

DWELLING, SINGLE FAMILY

A dwelling designed for and occupied exclusively as the residence of only one (1) family.

DWELLING, TWO FAMILY

A detached or semidetached building designed for and occupied exclusively by two (2) families.

FAMILY

Any number of persons related by blood, adoption, or marriage, or not to exceed four (4) persons not so related, living together in one (1) dwelling as a single housekeeping entity in a domestic relationship, as distinguished from a group occupying a boarding house, lodging house, club, cooperative living unit, fraternity or hotel.

FOOTPRINT

The exterior outline or impression of the foundation.

FRONTAGE, STREET

The smallest dimension of a lot abutting a public street measured along the street line.

FRONTAGE, WATER

The shortest distance between the two (2) points where the lines of a lot abutting on a lake, river, stream or other body of water or waterway intersect the water's edge at the normal water level.

GARAGE, PRIVATE

A structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises. Carports shall be considered garages within this definition.

HOME OCCUPATION

Any occupation(s) for gain or support conducted on a lot in the Village, if said occupation(s) meet(s) all of the following requirements:

1. The lot where said occupation(s) is/are conducted must be located in a residential district.

2. The principal structure on the lot must maintain a residential use occupied by the person(s) conducting said occupation(s).

3. All activities and storage relating to said occupation(s) shall be located exclusively within the principal structure or single accessory structure.

4. All said occupation(s) on any one lot must be wholly conducted in an area that is less than the lesser of: (a) twenty-five percent (25%) of the livable area of the principal structure; or (b) 650 square feet.

5. No stock in trade may be sold on the lot where said occupation(s) is/are conducted.

6. Said occupation(s) shall not change the outside appearance of the principal structure or any of the accessory structures on the lot.

7. Said occupation(s) shall not be visible from the street or lake.

8. No signs relating in any way to said occupation(s) may be located on the lot where said occupation(s) is/are conducted.
9. Not more than one full-time equivalent person other than a member of the immediate family shall be involved in or employed on any one lot.

10. Not more than one vehicle associated with said occupation(s) per person associated with said occupation(s) shall be kept on the lot at any time. Not more than a maximum of two such vehicles shall be kept on the lot at any time. Not more than one of such vehicles associated with said occupation(s) can be a truck and said truck may not be more than one ton capacity and said truck shall be kept regularly in an enclosed structure. No other vehicles or wheeled equipment associated with said occupation(s) on any lot may be stored on the lot whether or not in an enclosed structure.

11. Said occupation(s) shall not cause vehicular traffic which has/have an impact on the residential character of the neighborhood.

12. There shall be no noise, vibration, glare, fumes, odor, electrical interference, or other such condition created by said occupation(s) that has any observable impact upon any location outside the principal structure or accessory structure where said occupation(s) is/are conducted.

13. Customers, clients, students, home occupation invitees or other visitors associated with the home occupation(s) shall be on the premises only between the hours of 9:00 a.m. and 8:00 p.m.

HOSPITAL

An institution intended primarily for the medical diagnosis, treatment, and care of patients being given medical treatment. A hospital shall be distinguished from a clinic by virtue of providing for bed patient care.

LAKE FRONTAGE, MINIMUM

The minimum lake frontage allowable for any lot to be created abutting Oconomowoc Lake. Frontage shall be calculated as the shortest continuous distance between the two (2) points where the lines of a lot abutting the lake intersect the water's edge at the normal water level. A lot which meets the minimum lake frontage requirement may, in addition, have water frontage in any amount above that minimum.

LEGAL NONCONFORMING USE

Any lawfully established use of land, premises, building or structure existing at the time of the enactment of this chapter or any amendment applicable thereto that does not conform

to the use regulations described in this chapter or any amendment applicable thereto for the district in which it is located.

LEGAL NONCONFORMING STRUCTURE

Any lawfully established building or structure at the time of enactment of this chapter or any amendment applicable thereto that does not conform to the use regulations or dimensional regulations of this chapter or any amendment applicable thereto for the district in which it is located.

LOT

A parcel of contiguous land held in one (1) ownership and occupied or intended to be occupied by such buildings and uses as are permitted under this chapter together with the open spaces required hereby. The area of a lot shall not include any land occupied by or dedicated for use as a street. A lot must be land so recorded on the records of Waukesha County.

LOT AREA

The area of contiguous land bounded by lot lines, exclusive of land provided for streets. The Village Board upon recommendation of the Plan Commission may also exclude lands within long, narrow parts of lots which make their part of the lot an appendage rather than an integral part of the lot. Lake lots may include land lying between the public thoroughfare right-of-way and the normal water level of Oconomowoc Lake as lot area.

LOT, CORNER

A lot situated at the junction of and fronting on two (2) or more streets or highways.

LOT, DEPTH

The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT, INTERIOR

A lot not abutting upon a waterway or body of water.

LOT LINES

The lines bounding a lot so defined herein.

LOT, NON-CONFORMING

A lot which does not conform to the Lot Size Regulations of the district in which it is located.

LOT, WATERFRONT

A lot abutting upon a river, stream, lake, or other waterway or body of water.

LOT WIDTH, MINIMUM

The purpose of this provision is to provide for orderly and compatible land use and to allow full development of irregular parcels and discourage so-called 'hourglass' lot development.

For purposes of determining compliance with the provisions of the appropriate zoning classifications of the Zoning Ordinance the following procedure shall be employed:

A four-sided figure shall be drawn wholly within the proposed 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 in the zoning district.

2. The envelope must contain a building envelope within it which meets all requirements 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" for the zoning district;

4. If the proposed lot is to include lake frontage or is to include both lake and water frontage, then the minimum required lake frontage must form one of the sides of the figure, which side must meet the "Minimum Lake Frontage" requirement of the zoning district but said side need not encompass the entire lake frontage of the proposed lot;

5. If the proposed lot is to include water frontage but not lake frontage then the minimum required water frontage must form must form one of the sides of the figure, which side must meet the "Minimum Water Frontage" required in the zoning district but said side need not encompass the entire water frontage of the proposed lot.

6. All lines of the four-sided figure shall be straight lines, except the lake frontage or water frontage side of the figure.

OFFICE, PROFESSIONAL HOME

Residence of a doctor, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other practitioner of a recognized profession. When established in a Residence District, a professional office shall be incidental to the residential occupancy, not more than twenty-five (25) percent of the floor area of only one story of a dwelling shall be occupied by such office, and only one (1) unlighted name plate, not exceeding one (1) square foot in area and containing the name and profession of the occupants of the premises, shall be exhibited.

OFFSET

The shortest horizontal distance between any lot line, other than a street line or the water's edge at normal water level, and the nearest point of a building or any projection thereof (excluding uncovered steps located on such lot).

OUTDOOR COOKING FACILITY

An accessory structure that includes a permanently installed grill, stove or similar cooking device, and may also include features directly related to cooking and eating, such as permanently installed tables and chairs and a hardscape patio surface at grade. An outdoor cooking facility does not include a roofed structure, gazebo, pergola, arbor, screen enclosure, deck, wall, fence, lighting, amplified sound producing device, topography change, or any additional feature specifically regulated by this Code, unless such additional feature is specifically separately permitted in the proposed location by the applicable provisions of this Code; and if so permitted, such additional feature shall be included within the footprint, height and other restrictions applicable to the outdoor cooking facility.

PARKING SPACE

A designated area measuring 9 feet in width and 20 feet in depth exclusive of aisles, either enclosed in a building or in the open, for the parking of one motor vehicle having access from a street, alley, or other public way.

PARKING, OFF-STREET

An area not within a public street, highway, alley or other right-of-way for parking vehicles located on the same lot or not over 400 feet from the principal use, and having adequate access to a public right-of-way.

PARTIES IN INTEREST

Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

PLANNED UNIT DEVELOPMENT

The unified and planned development of a site in single or corporate ownership at the time of development to create a desirable utilization of land in an aesthetically pleasing environment.

PLAY EQUIPMENT

Any structure that is designed to be used by children for their entertainment that is less than 7 feet in height, 6 feet in depth, and 6 feet in width.

POLYSTRUCTURE

A structure having a frame of steel or other materials which is covered with plastic, polyurethane, vinyl, canvas, or other similar flexible sheeting material.

PORTABLE

A structure that can be easily carried.

PUBLIC STREET

Any street, highway, road or other way owned by or dedicated to the Village of Oconomowoc Lake or governmental entity and used primarily for public travel in motor vehicles.

PRIVATE ROAD

Any street, highway, road or other way that is privately owned, that is used primarily for ingress and egress to and from lots by motor vehicles, and that is not a private driveway as defined herein.

PRIVATE DRIVEWAY

Any way (1) serving not more than three lots, (2) used primarily for ingress and egress to and from said lots by motor vehicles, and (3) for which ingress and egress right is established by private easement and/or private ownership.

SETBACK

The shortest horizontal distance between the nearest point of a building or any projection thereof (excluding any uncovered steps) and the following: the water's edge at the "high water mark"; the boundary of any wetland; the closest point of any public street, private road, access easement, or other easement area that benefits or burdens the parcel; or any street, right-of-way line.

SHAPE

The outline or configuration as formed by all exterior surfaces.

SIGN

A name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include:

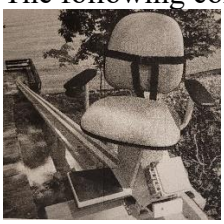
1. Any display of official court or public office notices.
2. The flag, emblem or insignia of a nation, political unit, school or religious group.
3. A sign located completely within an enclosed building, except such signs located behind window areas for the purpose of being viewed from outside the building. Each display surface of a sign shall be considered to be a sign.

SIGN, AREA

The entire area within a single continuous perimeter enclosing the extreme limits of the actual surface of a single face sign. It does not include any structural elements lying outside the limits of such sign and not forming an integral part of the display. A double face or V type sign, erected on a single supporting structure where the interior angle does not exceed 135 degrees shall be considered and measured as a single face sign, for the purpose of computing square-foot area.

SINGLE CHAIR MOBILITY DEVICE

The following constitutes a Single Chair Mobility Device:



STORY

That portion of a building included between the surface of a floor and the surface of the floor next above it; or, if there be no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.

STREET

Any highway, public street or private road as herein defined, intended for use as public or private right-of-way for vehicular traffic.

STREET LINE

The dividing line between a lot, tract or parcel of land and a contiguous street. If a lot is situated on a recorded plat or abuts on a street dedicated or reserved by grant or other instrument, the street line shall be as specified on said plat, grant or reservation. If a lot abuts on a public highway, the street line shall be the boundary line of said highway.

STREET SETBACK

The shortest horizontal distance between the nearest point of a building or any projection thereof (excluding and uncovered steps) and the following: the closest point of any public street, private road, access easement, or other easement area that benefits or burdens the parcel; or any street, right-of-way line.

STRUCTURAL ALTERATION

Any change in the supporting members of a structure such as bearing walls, foundations, columns, beams or girders or any substantial change in the roof or exterior walls of a structure.

STRUCTURE

Anything, other than natural terrain or plant growth, whether or not moveable,

1. Constructed or erected above grade,
2. Constructed or erected at grade, or
3. Attached to something constructed or erected on the ground.

Unless specifically excluded hereinafter, examples of structures shall include but are not limited to:

1. Principal structures
2. Accessory structures
3. Nonconforming structures
4. Legal Nonconforming structures

Also included in the definition of structures are buildings of all types including prefabricated or pre-built buildings.

Specific examples of structures shall include but are not limited to:

1. Gazebos
2. Screen enclosures
3. Statuary in excess of 6 feet in height or 4 feet in width
4. Fences
5. Decks
6. Handrails
7. Lean-tos
8. Silos
9. Carports
10. Towers
11. Masts
12. Booms
13. Machinery
14. Equipment
15. Walls
16. Retaining walls two (2) feet or greater above grade. (For this purpose, the vertical rise of walls with less than two (2) horizontal feet of planting area between them shall be cumulated. Notwithstanding the foregoing, a retaining wall is not a structure if it is approved pursuant to Section 17.31(4) of this Code.
17. All paths, sidewalks and/or stairways and/or any combination of the same whether permeable or impermeable located between the main building and the high-water mark more than 6 feet in width.

Structures shall not include:

1. Decks and patios more than 75 feet from the water at grade or less than 8 inches above the original grade.
2. Not more than 1 deck or patio 75 feet or less from the water at grade or less than 12 inches above the original grade and less than 300 square feet in size as long as said deck or patio does not have any railings and is screened with natural materials when viewed from the lake.
3. Statuary 6 feet or less in height or 4 feet or less in width,
4. Retaining walls less than two (2) feet above grade, for this purpose, the vertical rise of walls with less than two (2) horizontal feet of planting area between them shall be cumulated.
5. Seawalls or rip rap at the shoreline which have been approved by the Wisconsin Department of Natural Resources, and
6. More than 1 single chair mobility device and more than 1 path, sidewalk and/or stairway and/or any combination of the same whether permeable or impermeable per property located between the main building and the high-water mark not in excess of four (4) feet in width together with associated handrails and landings not

in excess of thirty-six (36) sq. feet where such path, sidewalk and/or stairway and/or any combination of the same are necessary to provide convenient access to the shoreline subject to approval of the Zoning Administrator, issuance of a permit and payment of applicable fees. Please see the individual zoning districts for additional information on regulation of paths, sidewalks and/or stairways and/or any combination of the same, and

7. All paths, sidewalks and/or stairways and/or any combination of the same whether permeable or impermeable located within 25 feet of the main building.

Whether a construction constitutes one or more than one structure shall be determined by the Zoning Inspector based upon the above-ground elements.

The rule shall be: **If there is a separation between the above-ground elements so that they appear to be separate structures, the above ground elements shall be regulated as separate structures, and such separate structures may be restricted or prohibited as regulated herein.**

This shall be true even if the above ground elements are connected below ground, or by insubstantial means that do not dispel the above ground appearance of separate structures.

Insubstantial means include, without limitation: unenclosed connections; connections that lack a roof or floor; connections that are not heated, ventilated or air conditioned in the manner of the main structure; connections that lack substantial structural elements that are present in the main structure; connections that lack a foundation or footing; connections that are significantly smaller in any dimension that the connected parts; and connections that allow for motor vehicles to drive through the connection.

Among other purposes, this distinction between a construction that constitutes one or more than one structure, is intended to require each single family residential principal structure to have a single, integrated, configuration of living area, and to prohibit the appearance of being multiple connected residential units.

STRUCTURE, ACCESSORY

A structure whose use is customarily incidental to the principal permitted use of the lot in the zoning District and located upon the same lot occupied by the principal structure.

Sport courts, whether the intended use is for basketball, pickleball, tennis, volleyball, or other similar sporting activity and whether the surface is permeable or impermeable, are accessory structures and,

Sports courts are not allowed between the main building and the Oconomowoc Lake and/or the Oconomowoc River, and

Sports courts are not allowed to be lit, and

Sports courts shall be only allowed on lots of 2 acres or more, and

Sport courts shall be subject to the landscaping requirements found in zoning code (see section 17.17 for example)

Sport courts shall be required to meet all accessory structure locational requirements including all setback, sideyard and offset requirements except as follows:

Sport courts need only be setback 25 feet from the street as defined by the code in the R-1 Zoning District and need only be setback 15 feet in the R-2 A, R-2 B and R-3 Zoning Districts from the street as defined by the code.

STRUCTURE, MINOR

Any small, accessory, portable erection or construction, not necessarily a "structure" as defined herein, including, but not limited to, birdhouses, moveable pet houses, play equipment, portable grills, patio furniture, basketball hoops, light fixtures, clothes poles/clothes lines, small water pump buildings, flag poles and airplane winches/hoists. Any questions as to whether any of the aforementioned structures are in fact minor structures or any question as to whether any other structure shall be deemed a minor structure, shall be referred to the Plan Commission for the Village of Oconomowoc Lake for review and determination. Any such determination by the Plan Commission for the Village of Oconomowoc Lake as to whether or not a structure is a minor structure is a final determination and the same cannot be appealed to the Zoning Board of Appeals for the Village of Oconomowoc Lake.

STRUCTURE, NONCONFORMING

A structure which does not conform to the regulations of the district in which it is located with respect to its size, construction, or location on a lot.

STRUCTURE, ORIGINAL

The original structure shall be the structure as it lawfully exists on the date of the application for a building permit or if the original structure has been removed from the property the original structure shall be the structure as it existed most recently within the last five years.

STRUCTURE, PRINCIPAL

A building or structure that is used or intended to be used for the principal use permitted on such lot by the regulations of the zoning District in which it is located.

STRUCTURE, TEMPORARY

Any structure which is located on a lot for less than (12) days a year. All polystructures, as defined in this section, shall be deemed Temporary Structures.

STYLE

Characteristic manner of design expressing a period or art form.

TIME SHARE PROPERTY

Any property that is regulated by Chapter 707, Wisconsin Statutes; and in addition, any real property that is subject to any contract, easement, instrument or other device, whereby two or more persons, corporations, firms or entities have an exclusive right to occupy said property during separate periods of time.

USE

The main or primary use of property or buildings as specified and permitted by the regulations of the district in which it is located.

USE, ACCESSORY

A use customarily incidental to the principal permitted use of a lot in the zoning District and located upon the same lot as the principal use, or a use customarily incidental to the principal permitted use of a principal structure and located in the same principal structure.

USES, CONDITIONAL

A special use, for which this code imposes a conditional use permitting requirement.

USE, NON-CONFORMING

A use which does not conform to the regulations of the district in which it is situated.

USE, PRINCIPAL

The main or primary use of land, premises, buildings or structures as specified and permitted by the regulations of the district in which such use is located.

USE, TEMPORARY

Any use which is located on a lot for less than (12) days in any 12-month period. For purposes of this definition and the restrictions herein related to temporary uses, a use is located on a lot for any one day if it is present on the lot at any time during that day, even if it is not present for 24 hours.

USE, UNCLASSIFIED OR UNSPECIFIED

A use that is not described in this code.

VISION SETBACK

An unoccupied triangular space, at the corner of a corner lot. See ss 17.23 of this chapter.

WATER FRONTAGE, MINIMUM

The minimum water frontage allowable, except as provided above, for any lot to be created abutting any river, stream, channel or other body of water or waterway, excluding Oconomowoc Lake. Frontage shall be calculated as the shortest continuous distance between two (2) points where the lines of a lot abut a river, stream, channel or other body of water or waterway intersect the water's edge at the normal water level.

WETLAND

Wetlands shall include all wetlands in the municipality which are shown on the final Wetland Inventory Map that has been adopted and made a part of the Shoreland Wetland Zoning Ordinance of the Village of Oconomowoc Lake. Wetlands shall also include all lands designated by SEWRPC as "Lowland Conservancy" in "A WATER QUALITY MANAGEMENT PLAN FOR OCONOMOWOC LAKE" dated March 1990.

YARD

An open space, on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street, waterfront and rear yards extend the width of the lot.

# GENERAL PROVISIONS

## 17.15 JURISDICTION

The jurisdiction of this chapter shall include all lands and waters within the corporate limits of the Village of Oconomowoc Lake. The jurisdiction of this chapter shall also extend to those lands and waters lying within the unincorporated area within one and one-half (1-1/2) miles of the corporate limits that are approved by a majority of the members of the appropriate Joint Extraterritorial Zoning Committee pursuant to Section 62.23 (7a) of the Wisconsin Statutes.

## 17.16 COMPLIANCE.

(1) No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered unless a building permit is issued as required by the Village Building Code for the Village of Oconomowoc Lake, and a zoning permit is issued and the work is performed in full compliance with the provisions of the Building Code for the Village of Oconomowoc Lake and the provisions of this chapter, and in compliance with all other applicable local, County and State regulations. Notwithstanding the foregoing, minor structures are excluded from the requirements of this chapter, except that minor structures shall comply with the accessory structure offset requirements for the zoning district in which they are located.

(2) Architectural Control Board Approval shall be obtained as provided in subsection 17.60.

(3) The Zoning Inspector, with the aid of the Police Department, shall investigate all complaints, give notice of violations, and enforce the provisions of this chapter. The Zoning Inspector and his duly appointed deputies may enter at any reasonable time onto any public or private lands or waters to make a zoning inspection.

(4)

(a) Building permits and zoning permits shall expire if the work authorized:

1. is not commenced within six (6) calendar months from the date of issuance of such permit, or

2. is suspended or abandoned for a period of ninety (90) days at any time after the work is commenced, or

3. is, along with all conditions imposed as part of said authorization, for construction projects 10,000 square feet in area or less, not completed within (24) months from the start of construction under such permit and for construction projects over 10,000 square feet in area, not completed within 30 months from the start of construction under the permit.

(b) In the event of such expiration, the Village Board may grant an extension of such permit for a period not to exceed six months with conditions as the Village Board deems fit and on payment of 25% of the original permit fee.

(c) In the event of the expiration of any such six-month extension the Village Board may grant one additional extension of such permit for an additional period not to exceed six months with condition as the Village Board deems fit, and on payment of 50% of the original permit fee.

(d) If such permits are expired and no such extension is granted, no work may be conducted on the work previously authorized until a new permit shall be first obtained, in accordance with the applicable building and zoning permit application procedures, including payment of all applicable fees.

(5) The Village Plan Commission and the Village Board have taken great care to ensure that every lot in the Village of Oconomowoc Lake is permitted to have a reasonable use of the property, in compliance with the requirements of this Zoning Code. The Village Plan Commission and Village Board of Trustees have studied this issue in great detail. The results of this investigation are on file in the Office of the Village Clerk. This study demonstrates that each and every improved lot in the Village of Oconomowoc Lake currently has a reasonable permitted use in compliance with the requirements of this Code and each and every vacant lot is such that a reasonable use can be conducted in compliance with the Village Code. To the fullest extent of its authority to do so, the Village Board of the Village of Oconomowoc Lake hereby declares its intent that uses of property within the Village of Oconomowoc Lake shall be limited and restricted to the uses that are described within the District Regulations of this Code.

17.17 ZONING PERMIT.

Applications for a zoning permit shall be made in duplicate to the Zoning Inspector and shall include the following where applicable:

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

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

(3) Plat of Survey prepared by a registered land surveyor, if so requested, showing the location, boundaries, dimensions, elevations, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards. In addition, the plat of survey shall show the location, elevation, and use of

any abutting lands and their structures within fifty (50) feet of the subject site.

(4) Proposed sewage disposal plan if municipal sewerage service is not available. This plan shall be approved by the Village Engineer or County Health Department who shall certify in writing that satisfactory, adequate, and safe sewage disposal is possible on the site as proposed by the plan in accordance with applicable local, county and state board of health regulations.

(5) Proposed water supply plan if municipal water service is not available. This plan shall be approved by the Village Engineer or County Health Department who shall certify in writing that an adequate and safe supply of water will be provided.

(6) Topography map showing grade contour lines measured at every two feet or less of grade, and also showing the location of trees, bushes, shrubs and other vegetation which has a trunk diameter of 6" at 4" above the ground, or a height of 8' or more, said grade contour lines and vegetation being shown both as existing and as proposed. In addition, upon completion of construction, an "as built" plan must be submitted showing the final topography of the parcel. Said pre-construction and post-construction plans must be submitted to, and are subject to the approval of, the Architectural Control Board. The requirements for a post-construction plan may be waived by the Zoning Inspector in writing, if the Zoning Inspector finds upon viewing the site that the changes are so readily apparent, and so clearly in accordance with the pre-construction plan that the post-construction plan would serve no useful purpose. Compliance with this subsection (6) is not required if: (a) the difference between the existing and both proposed and actual post-construction topography is less than 2' in height or depth, and (b) the total disturbed area is less than 400 square feet in area.

(7) Landscaping plan showing the existing landscaping and proposed landscaping. In addition, upon completion of construction, a post-construction landscaping plan must be submitted showing the final landscaping to be installed on the parcel, specifically noting any changes that may be proposed as a result of the construction. Said pre-construction and post-construction plans must be submitted to, and are subject to the approval of, the Architectural Control Board. The requirement for a post-construction plan may be waived by the Zoning Inspector in writing, if the Zoning Inspector finds upon viewing the site that the changes are so readily apparent, and so clearly in accordance with the pre-construction plan that the post-construction plan would serve no useful purpose. Compliance with this subsection (7) is not required if: (a) the only reason for the zoning permit is remodeling of an existing structure and (b) the footprint of the existing structure will not be expanded by 400 square feet or more.

(8) Additional information as may be required by the Village Plan Commission, Architectural Control Board, Village Engineer, Zoning, Building, Plumbing or Health Inspectors.

(9) Fee Receipt from the Village Treasurer in the amount specified by the Village Board. Zoning Permit shall be granted or denied in writing by the Zoning Inspector within thirty (30) days. The permit shall expire within six (6) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this chapter shall be null and void.

17.17 (10) OCCUPANCY BOND REQUIRED

(a) Deposit required. No building permit shall be issued by the Village of Oconomowoc Lake for the construction of a building or construction of an addition to or remodeling of an existing building on any land if the project is subject to Architectural Review Board approval or has a projected dollar amount greater than of $20,000.00 until a cash deposit, based on the total amount of all estimated costs of all proposed improvements to include but not limited to construction and landscaping costs in the amount of the greater of 5% or $5,000.00 and shall not be more than $100,000.00 has been deposited with the Village. The deposit shall be paid to the Village of Oconomowoc Lake at the time an application is made for issuance of the building permit.

(b) No razing permit shall be issued by the Village of Oconomowoc Lake for the demolition of a building until a cash deposit in the amount of the greater of 5% or $5,000.00 and shall not be more than $25,000.00 has been deposited with the Village. The deposit shall be paid to the Village of Oconomowoc Lake at the time an application is made for issuance of the razing permit.

(c) Deposit returned.

(1) The sums deposited shall be retained by the Village of Oconomowoc Lake until such time as the treasurer receives written notice from the Village Administrator to refund some or all of the money deposited. The Village Administrator shall not authorize any refund of the money deposited until after grading and landscaping of the premises has been completed with grass established, if required, certification that the construction or demolition of a building or construction of an addition to a remodeling of an existing building to the satisfaction of the Village Administrator has been completed, construction debris removed, all applicable ordinances have been complied with and occupancy, if applicable, has been granted. If changes to the structure, grading, or landscaping approved by the Architectural Control Board have been made without Village approval, there shall be a charge against the bond of 125% of the actual cost incurred by the Village to bring the construction into compliance along with any other remedies allowed by law. All construction as well as landscaping shall be concluded in accordance with those plans that had been originally submitted to and previously approved by the Village of Oconomowoc Lake Architectural Control Board.

(2) In the event damage is done to Village roads or to the road ditch adjacent to the property as a result of construction activities, the deposit shall be used to pay any cost incurred by the Village, to repair such damage. In the event the deposit is insufficient to cover all costs incurred by the Village, the property owner shall be liable to the Village for payment of any excess costs and no occupancy permit shall be issued for the property until such costs are paid. The balance of the deposit, after deducting such expenses incurred by the Village to repair the damage, or alternatively, the entire deposit in the event no such damage has occurred, shall be disbursed to the then-current owner of the subject property by the treasurer after receipt of written note from the building inspector as noted in subsection (b)(1) of this section.

(3) The property owner shall pay and reimburse the Village promptly upon billing for all fees, expenses, costs and disbursements which shall be incurred by the Village work contemplated by or to enforce the building permit or razing permit including without limitation by reason of enumeration, design, engineering, review, supervision, inspection and legal, administrative and fiscal work. Any such charge not paid by property owner within thirty (30) days of being invoiced may be charged against the deposit held by the Village pursuant to this agreement or assessed against the subdivision land as a special charge pursuant to 66.0627, Wis. Stats.

(4) The property owner is solely responsible to claim disbursement of the deposit from the treasurer. If the work contemplated by the building permit or razing permit is fully complete, including landscaping, removal of construction debris, compliance with ordinances and an occupancy permit has been granted, and the property owner makes no claim for recovery of the deposit within 24 months of such completion, the deposit shall be automatically and irrevocably forfeited to the Village. Upon such forfeiture, the treasurer is directed to place the deposit into the Village general fund.

(d) Time to pay. The Village shall give each property owner billed for payment of any excess costs a period of time not to exceed 30 days to pay and, thereafter, if that charge remains unpaid, the clerk shall automatically charge that delinquent bill against the deposit on file with the Village and/or charge the current or next tax roll as a delinquent tax against the property as provided by law. In the event the statement rendered to the property owner or the time given for the property owner to pay is too late in the current year for the charge, when it becomes delinquent, to be extended on that year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.

(e) Appeal. Any person who wishes to dispute the amount of refund may contact the clerk and request to appear before the Village Board at the upcoming regular Village Board meeting and may, at that time, present the matter to the Village

Board for resolution. Appeal from the decision of the Village Board shall be by writ of certiorari to circuit court.

17.18 SITE RESTRICTIONS.

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

(2) All lots shall abut upon a public street or have adequate access, as determined by the Village Board of Trustees after referring the matter to the Village Plan Commission for review and recommendation. The Village Plan Commission, in making its recommendation to the Village Board of Trustees, and the Village Board of Trustees, in making its determination as to the adequacy of access, shall give consideration to the purpose and intent of Sections 17.02 and 17.03 of this chapter. All lots shall meet all minimum requirements of the district in which it is located.

(3) All principal structures shall be located on a lot, and only one principal structure shall be located, erected, or moved onto a lot.

(4) The damming, filling, relocation, or other interference with the natural flow of surface water along any surface water drainage channel or natural water course, or the filling of areas which lie below the ordinary high water mark or which serve as natural overflow or flood control basins, shall not be permitted without public hearing, recommendation by the Village Plan Commission, and authorization of the Village Board.

(5) No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

(5) Lots abutting more restrictive district boundaries shall provide an abutting offset and setback not less than that required in the more restrictive district. The adjacent setback and offset requirements shall be the average of the two adjacent requirements.

## 17.19 USE, STRUCTURE AND SIGNAGE RESTRICTIONS.

The following use, structure and signage restrictions and regulations shall apply in all zoning Districts in the Village:

(1) USE RESTRICTIONS

(a) Compliance
Except as may be otherwise specifically provided, the use of land, premises, buildings or structures now existing or hereafter erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied, shall be in compliance with the regulations established herein for the district in which the same is located.

(b) Uses Restricted
In any district, no land, premises, buildings or structures shall be used and no buildings shall be erected, converted, relocated, enlarged, structurally altered, occupied or re-occupied except for the uses as permitted in that district and in compliance with the regulations established for that district in this chapter.

(c) Permitted Uses
The permitted uses are permitted by right, subject to the provision of this chapter.

(d) Principal Uses
Principal Uses are the main or primary uses of land, premises, buildings or structures as permitted by the regulations of the district in which such use is located.

(e) Accessory Uses
Accessory uses are permitted in any district but not until the principal structure on the lot where the use is conducted is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry other than a household occupation or a professional home office as defined in Section ss 17.10. Accessory uses include incidental repairs; storage; parking facilities; nurseries; gardening; private swimming pools; and private emergency shelters. No accessory structure shall be intended to be used or actually used for human habitation.

(f) Conditional Uses
Conditional uses and their accessory uses are special uses that are permitted to the extent allowed by the zoning District regulations, subject to the conditional use permitting procedures and standards of sections 17.50, 17.51 and 17.52 of this code.

(g) Unclassified or Unspecified Uses.
Unclassified or unspecified uses are prohibited, except that they may be

permitted by the Village Board of Trustees as conditional uses, subject to the conditional use permitting procedures and standards of sections 17.50, 17.51 and 17.52 of this code.

(h) Temporary Uses.
Temporary uses may be permitted by the Board of Zoning Appeals in accordance with § 17.61. No temporary structure shall be intended to be used or actually used for human habitation.

(i) Legal Nonconforming Uses.
Legal nonconforming uses are permitted, subject to the procedures and standards of section 17.32 of this code.

(j) Required Remediation Work.
Remediation and monitoring of environmentally contaminated land that is ordered by the State of Wisconsin or United States government or agencies thereof, and site restoration to restore the land to previously existing conditions, is subject to the following requirements and is otherwise not regulated by this Zoning Code.

1. Application. The property owner shall submit an application to the Village Administrator which includes a site plan and plan of operation, for the proposed remediation or monitoring work.

2. Fee. The application shall include payment of a fee in an amount which shall be determined by the Village Board by separate resolution from time to time.

3. Plan Commission Action. The Village Plan Commission shall review the site plan and plan of operation and may impose reasonable conditions, which may include requirements concerning: commencement, staging, and completion dates; hours of operation limitations; noise controls; highway access and loading restrictions; protection of existing roadways; or other special requirements characteristic to the proposed remediation or monitoring as may be deemed necessary to protect the property values of the adjoining properties or the Village as a whole. The decision of the Plan Commission shall be final and shall not be subject to the review powers of the Board of Zoning Appeals.

4. Compliance. All work must be conducted in compliance with all orders, conditions, rules and regulations of the United States, the State of Wisconsin, and Village of Oconomowoc Lake, and the approved site plan and plan of operation, and in the event of a conflict the more restrictive shall apply.

(2) STRUCTURE RESTRICTIONS

(a) Compliance
Except as may be otherwise specifically provided, all buildings or structures now existing or hereafter erected, converted, relocated, enlarged, structurally altered, occupied or re-occupied, shall be in compliance with the regulations established herein for the district in which the same is located.

(b) Structures Restricted
In any district, no buildings or structures shall be used and no buildings or structures shall be erected, converted, relocated, enlarged, structurally altered, occupied or re-occupied, except as permitted in compliance with the regulations established for the district in which the same is located.

(c) Main Building
The main building that is used or intended to be used for the principal use as specified for a district is allowed on a lot as permitted by the regulations of the district in which the structure is located.

(d) Accessory Structures
Accessory structures are permitted to the extent described in the zoning District regulations of the district in which the structure is located, but not until the principal structure on the lot where the accessory structure is located is present or under construction.

(e) Minor Structures
Minor structures are permitted in any district, but only if located on a lot in compliance with the offset requirements for accessory structures in the district in which the minor structure is located.

(f) Temporary Structures
Temporary structures shall be subject to all of the regulations of this code that apply to temporary uses.

(g) Legal Nonconforming Structures.
Legal nonconforming structures are permitted, subject to the procedures and standards of section 17.32 of this code.

(3) SIGNAGE RESTRICTIONS

(a) Compliance
Except as may be otherwise specifically provided, all signs now existing or hereafter erected, converted, relocated, enlarged or structurally altered, shall be in compliance with the regulations established herein.

(b) Signs Restricted
In any district, signs are prohibited to be erected, converted, relocated, enlarged or structurally altered, except as described in this section.

(c) Signs in the Business District
Signs may be permitted in the B-1 Business District, subject to the requirements and standards described in the B-1 Business District regulations.

(d) Signs in Residence Districts
No sign of any character shall be permitted in any Residence District, except as provided in ss 17.10 (Office, Professional Home) and except for two signs for each main building not exceeding four (4) square feet in area pertaining to the lease, hire, or sale of such premises.

(e) Temporary Signs
Temporary signs advertising the general and subcontractors, architects, etc., are permitted with the permission of the Zoning Inspector during construction, provided the new construction is valued at Ten Thousand Dollars ($10,000.00) or more.

(f) Non-Commercial Signs
Notwithstanding any other provision contained herein to the contrary, non-commercial messages may be contained on any authorized sign.

(g) Government Signs
Official signs that are authorized or required by the federal government, State of Wisconsin, Waukesha County or Village, or by order of a duly authorized official thereof, for control of traffic and other regulatory purposes, are excluded from the requirements of this code.

(4) PRE-EXISTING ACCESSORY STRUCTURES
Regardless of the foregoing provisions in subsection (1) and (2) above, subject to Architectural Control Board approval, the use of an accessory structure or accessory structures that were legally established, whether legal or legal non-conforming in their location, may be continued even if the principal structure on the property is removed and the only remaining structure or structures on the property after the removal of the principal structure is the accessory structure or the accessory structures as long as the use of the accessory structure or accessory structures are only for storage by the owner of the property of the property owner's personal property. The accessory structure or accessory structures may not be used for human habitation or for any commercial use at any time including vehicle or equipment repair, for a studio, for a home occupation or for a professional office and the same may not contain a bathroom unless there is an existing operating bathroom which preexists the adoption of this ordinance on October 20, 2014 or kitchen or the equivalent of a bathroom or kitchen. No

animals may be maintained on the property other than as may be allowed by this code. There shall be no use of motor homes, houseboats, campers, or any similar vehicles on the land or in the accessory structure or accessory structures on the property for recreational purposes or human habitation. The accessory structure or accessory structures shall be considered legal non-conforming accessory structures and may be modified, rebuilt or reconstructed only as may be allowed by Section 17.32(2) of this Code. In passing upon such matters, the Architectural Control Board shall consider all of the following factors: the size of the lot; the size and location of all of the existing accessory structures on the lot; the impact, if any, that the allowing of the accessory structure to remain on the lot may have upon neighboring properties; whether the use of the accessory structure would violate the intent of the Zoning Ordinance; and such other matters as the Architectural Control Board finds to be relevant in the interests of the public health, safety, welfare, and protection of property values of the Village.

17.20 REDUCTION OR JOINT USE.

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

17.21 PERMITTED STRUCTURES IN STREET SETBACK AREAS.

The only structures permitted within the area between any street line and a street setback line shall be necessary highway and traffic signs, public utility poles and lines, fences, retaining walls, rural mail boxes and signs which are permitted in the district in which the lot is located

17.22 PROPERTY MAINTENANCE

(1) PURPOSE.
In order to protect the health, safety and welfare of the residents of the Village of Oconomowoc Lake, to maintain the desirability, amenities and property values of the residential and commercial neighborhoods of the Village, and to protect and enhance the natural beauty of Oconomowoc Lake in furtherance of the foregoing objectives, the following property maintenance requirements are hereby established for all properties in the Village of Oconomowoc Lake.

(2) GENERAL MAINTENANCE.
Every property owner in the Village of Oconomowoc Lake shall maintain the property in compliance with the following general requirements.

(a) The exterior of every structure shall be maintained generally free of broken glass, loose shingles, excessive paint peeling, crumbling stone, stucco or brick, loose boards or any other such conditions reflective of

deterioration or inadequate or deferred maintenance.

(b) Lots shall be kept clean and free from any unsightly accumulation of debris, cut brush, and refuse.

(c) All non-paved yard areas shall be maintained in grass, other vegetative groundcover, or trees and shrubs in keeping with other properties in the neighborhood. Such groundcover, trees and shrubs shall be kept maintained. Nothing in this ordinance shall be construed so as to change or require the change of natural forested areas throughout the Village.

(d) All solid waste containers stored outside shall be visually screened from view of passersby unless otherwise approved by the Village Administrator.

(e) All private driveways and parking areas shall be kept dust free.

(f) All piers and boat lifts shall be maintained to ensure structural safety. Dent's, unplumbed posts, shifted sections and other major visible damage are prohibited. When any pier and/or boat lift with a permanent underwater structure is to be permanently removed or replaced for any reason, the property owner shall notify the Village Administrator to request an inspection. The Village shall the authority to inspect the area to ensure no hazardous materials, either hidden or visible are left behind. The property owner is responsible for all pier maintenance and costs of safe removal and replacement of the pier and/or boat lift.

(3) LITTER, MUD, DIRT, STONE AND DEBRIS CONTROL.

(a) Every property owner in the Village of Oconomowoc Lake shall maintain the property in such a manner as to:

1. prevent litter, mud, dirt, stone or debris from being blown off of the property; and

2. prevent sediment or other pollutants carried by runoff or discharge from the property from discharging into lakes, streams or wetlands or otherwise passing onto neighboring properties.

(b) Every prime contractor for any construction site in the Village of Oconomowoc Lake shall maintain the site in such a manner as to:

1. prevent litter, mud, dirt, stone or debris from being blown off the site; and

2. prevent sediment or other pollutants carried by runoff or discharge from the property from discharging into lakes, streams or wetlands or otherwise passing onto neighboring properties.

(c) All such litter or debris shall be picked up at the end of each workday and placed in appropriate containers, or stockpiles, or removed from

the site, as appropriate to ensure compliance with this section.

(4) OUTDOOR STORAGE OF VEHICLES, EQUIPMENT, AND OTHER MATERIALS.

(a) Definitions. For purposes of this section, the following terms shall be defined as follows. In the event a dispute arises as to the interpretation of any of the following terms in the context of any particular matter that may be affected by this section, the property owner or the Village Administrator may submit the matter to the Village of Oconomowoc Lake Plan Commission for final determination.

CATEGORY 1:

Category 1 shall mean commercial vehicles and commercial equipment; recreational vehicles; trucks larger than one ton; trailers; manure spreaders; tractors; lawn care equipment; and other vehicles or equipment of a similar nature.

CATEGORY 2:

Category 2 shall mean automobiles and trucks one ton or lighter that are not in regular use, or are under repair; and other or equipment of a similar nature. The terms “not in regular use” and “under repair” are to be interpreted in their ordinary sense, and are not limited to a specific period of time; however, vehicles or similar equipment shall be conclusively presumed to be “not in regular use” or “under repair” for purposes of this definition if they are not driven away from the property on which they are located at least once in any 30 day period, by their own power (e.g., not towed or pushed).

CATEGORY 3:

Category 3 shall mean recreational equipment such as piers, lifts, rafts and other equipment of a similar nature not specifically set forth herein.

CATEGORY 4:

Category 4 shall mean boats and other water-related vehicles not specifically set forth herein.

CATEGORY 5:

Category 5 shall mean jet skis, motorcycles, snowmobiles, golf carts, all terrain vehicles, four-wheel drive off-the-road vehicles, and other vehicles or equipment of a similar nature.

CATEGORY 6:

Category 6 shall mean all other equipment and unsightly materials not specified in Categories 1, 2, 3, 4, or 5.

PLAINLY VISIBLE

Plainly Visible shall mean that something is readily seen at or beyond the boundaries of the property on which it is located, from a location where persons are normally or occasionally present (including, but not limited to, any point on Oconomowoc Lake or the Oconomowoc River), provided the following apply:

- it is not difficult to see; and
- it is readily noticeable to an ordinarily observant person; and
- it is obvious to the eye; and
- it tends to attract attention by reason of size, brilliance, contrast, color, or location.

RECREATIONAL VEHICLE

Recreational vehicle shall mean a vehicle or piece of equipment that can be towed, hauled, carried or driven, that is designed to be transported on a highway and used as a temporary living accommodation for recreational camping and travel use, including, but not limited to, travel trailers, truck campers, tent trailers, camping trailers, and self-propelled motor homes.

(b) No outdoor junk vehicles. The outdoor parking or outdoor storage of unlicensed, unregistered, inoperable, dismantled, wrecked or junk vehicles or equipment of any category is expressly prohibited.

(c) Outdoor parking and outdoor storage regulations by category.

Category 1. Outdoor storage or outdoor parking of Category 1 items shall be prohibited at all times.

Category 2. Outdoor storage or outdoor parking of Category 2 items shall be allowed for all or part of seven days in a calendar year, and prohibited in excess of seven days in a calendar year.

Category 3. Outdoor storage of Category 3 items shall be prohibited from June 1st to August 31st. The outdoor storage of Category 3 items is only allowed from September 1st to May 31st if all of the following conditions are met:

1. All such items shall be neatly arranged; and
2. All such items shall be placed in such a way as to minimize visual obstruction from adjacent properties.

Category 4. Outdoor storage or outdoor parking of Category 4 items shall be prohibited at all times except that outdoor storage or outdoor parking of such items is allowed at any time if all of the following conditions are met:

1. The item must be located on a waterfront property, and within 35 feet of the waterline; and

2. All such items shall be neatly arranged; and

3. All such items shall be placed in such as way as to minimize visual obstruction from adjacent properties; and

All such items shall be regularly used by the property owner during the period from May 1st to September 30th each year, or this exception does not apply.

Additionally, outdoor storage or outdoor parking of Category 4 items shall be prohibited at all times between the ordinary high water mark of Oconomowoc Lake and the pavement of West Beach Road and North Beach Road even if otherwise allowed by this section, and the exceptions stated in Sections (d)(3) and (d)(4) shall not apply to those locations.

Category 5. Outdoor storage or outdoor parking of Category 5 items shall be prohibited at all times.

Category 6. Outdoor storage or outdoor parking of Category 6 items shall be prohibited at all times.

(d) Exceptions. This Section 17.22(4) does not apply to the following issues, except as to any matter identified in subsections (a) through (c) which specifically states that these exceptions do not apply:

1. The requirements of this Section 17.22(4) are only applicable to properties in the Village that are zoned R-1 General Agricultural/Rural Residential District, R-2 A and R-2 B Suburban Residential District, and R-3 Low Density Residential District; and R-4 Low Density Residential District; all other zoning districts are excluded; (R4 effective 1/1/2005)

2. The requirements of this Section 1 7.22(4) do not apply to properties that are used in compliance with a lawfully issued conditional use permit, unless specifically stated otherwise in the conditional use permit; provided that this exception is intended to allow the matters describe in this Section 1 7.22(4) to be regulated on a case by case basis for each matter that may be allowed as a conditional use; and provided further that this exception is not to be interpreted as allowing outdoor storage, itself, as a conditional use;

3. The requirements of this Section 17.22(4) do not apply to Category 1, Category 2, Category 3, Category 4, Category 5 and Category 6 items if they are parked or stored in accordance with the following:

i. They do not conflict with any other ordinance; and

ii. Either of the following:

a. They are not parked or stored within a public or private Street setback area unless they are so thoroughly screened by lawfully located structures along with other approved vegetative cover, approved decorative fencing or a combination thereof, that they are not plainly visible;

or

b. They are at such great distance, or are so thoroughly screened by lawfully located structures, topography, vegetative cover or approved decorative fencing or combination thereof, that they are not plainly visible.

4. The requirements of this Section 17.22(4) do not apply to Category 1, Category 2, Category 3, Category 4, Category 5 and Category 6 items if they are parked or stored incident to their active use for a period of time not to exceed two consecutive days or parts thereof for a maximum of thirty days in any calendar year.

(5) YARD AREAS.
All yard areas that consist of grass lawn shall be maintained continually in a neat and groomed manner.

(6) ENFORCEMENT.
The Village Administrator shall enforce the provisions of this section and is hereby authorized and directed to make inspections in response to a complaint or when he/she has good reason to believe a violation has been or is being committed. If an issue arises as to whether or not specific material is unsightly (per Section (4)(a) Category 6), or plainly visible, or whether any item of any category is plainly visible, the matter may be referred to the Plan Commission, whereupon the Plan Commission shall review the matter without the necessity of a public hearing and make a determination. In all cases, upon finding that a violation is being committed, the Village Administrator is authorized and directed to provide the property owner with written notice of the nature of the violation. The notice shall require that the violation be corrected within fifteen (15) days of the date of the notice. The property owner may then appeal that notice of a violation upon written application to the Village Plan Commission within said fifteen (15) days, and the notice shall so indicate. If the violation continues after fifteen (15) days have passed from the date of the notice, or in the event of an appeal, if the Plan Commission affirms the determination of the Village Administrator, then the Village Administrator is authorized and directed to issue a citation to the property owner, and penalties shall apply in accordance with Section 17.81 of this Chapter.

(7) NO LEGAL NONCONFORMING RIGHTS.
Section 17.32 of this Chapter entitled "Nonconforming Uses, Structures and Lots," shall not apply to any of the obligations described in Section 17.22.

17.23 VISION SETBACKS.

(1) At an intersection of streets where grades are not separated, the vision setback line for each corner shall be the straight line connecting the points located on the intersecting setback lines of each street which are fifty (50) feet from the intersection of such setback lines.

(2) At an intersection of a street and railroad where grades are not separated, vision setback lines across each sector formed by such intersection shall be straight lines connecting the points located on the setback lines of the street and the line of the railroad right-of-way which are one-hundred (100) feet from the intersection of such setback line and railroad right-of-way.

(3) No Building or structure of any kind, in excess of three (3) feet in height, except necessary highway and traffic signs, public utility lines, mail boxes, and open fences through which there shall be clear vision, shall be constructed, erected or moved into the space between lines or railroad right-of-way and a vision setback line as herein above established.

(4) No plants or other objects or materials, whether natural or otherwise, which obscure safe vision of the approaches to any such intersection shall be permitted to grow, exist or accumulate between a street line or a railroad right-of-way and a vision setback line.

17.24 PRESERVATION OF TOPOGRAPHY.

(1) Every building hereafter erected, structurally altered or relocated shall be at a grade approved by the Architectural Control Board or Plan Commission as required by section 17.60(1) so as to be in harmony with the existing or established grade of the street and/or water frontage area of the lot on which said building is to be situated, the grade of adjoining lots, and the requirements for drainage and safe vehicular traffic.

(2) No change in existing topography of any land shall be made which will alter the existing drainage or flood control areas or adversely affect adjoining properties or increase the slope to a ratio greater than one and one-half (1-1/2) horizontally to one (1) vertically within fifteen (15) feet from the lot lines without the approval of the Zoning Inspector; and such approval may be conditioned upon a requirement that an adequate retaining wall be constructed. In addition, no change in existing topography of any land shall be made which will alter the grade of any portion of the property by two feet or more in height or depth, or which makes any alteration to the existing topography in an area of 1000 square feet or more, without approval of the Zoning Inspector. The Zoning Inspector is authorized to impose such requirements as may be necessary to ensure compliance, and to enforce compliance herewith. In considering whether to grant the approval of a topography change regulated by this section, the Zoning Inspector shall consider the following factors: whether it clearly appears that there will be no adverse impact upon other properties in the Village as to drainage, visual impact, property values, or other cause; whether it clearly appears that there will be no adverse impact upon the property where the

work is being performed in terms of drainage or property values; whether the proposed work is in compliance with other applicable laws; and whether adequate protections are made, or sufficient conditions are imposed upon the approval, to ensure that the work is performed as initially proposed and that the topography changes function as intended. The Zoning Inspector's determination shall be made in writing, and shall be provided to the property owner. The owner of the property for which such topography changes are proposed may appeal the Zoning Inspector's determination to the Plan Commission by filing a written appeal with the Village Clerk within 30 days of receipt of the Zoning Inspector's written determination. The Zoning Inspector also shall have the authority to refer requests for topography changes directly to the Plan Commission in lieu of making the determination if the Zoning Inspector concludes that the request poses significant policy or interpretation questions. If the matter comes before the Plan Commission, either upon appeal or upon the Zoning Inspector's request, (a) the Plan Commission shall cause notice to be mailed to the applicant, the Zoning Inspector, and to the parties in interest at least five (5) days prior to the Plan Commission meeting, (b) the Plan Commission shall consider the matter based upon the same factors that would apply to the Zoning Inspector, and (c) the Plan Commission's determination shall be final. The requirements of this section, and the authority granted to the Zoning Inspector by this section, are in addition to all other applicable provisions of this Zoning Code, including such review as may be required by Section 17.17(6), and 17.60(5) of this Zoning Code.

17.25 DRIVEWAYS.

All driveways installed, altered, changed, replaced or extended after the effective date of this chapter shall meet the following requirements:

(1) Islands, shrubbery, natural vegetation or grass between openings shall be provided with a minimum of twelve (12) feet between all driveways and six (6) feet to lot lines at the street line.

(2) Driveways shall be such that all vehicles parking loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

(3) Driveways openings shall not be located closer than fifty (50) feet to the intersection of street lines of intersecting streets.

17.26 WATERFRONT USE DENSITY.

No lot or tract of land within any Residence District shall be used, occupied, subdivided into lots, sold, leased, or otherwise transferred or disposed of, nor shall any easement or interest therein be created, so as to grant the use of, or access to, Oconomowoc Lake or any waterway connected therewith to more than one (1) family for the "Minimum Required Lake Frontage" or the "Minimum Required Water Frontage" of such lot or tract of land as specified above, nor shall the water frontage of any lot or tract of land within any Residence District be increased by filling or dredging.

17.27 CERTIFICATE OF OCCUPANCY AND COMPLIANCE.

1) No vacant lands shall be occupied or used for other than farming purposes and no building now or hereafter erected, altered, or moved, shall be occupied, used or changed in use, until a certificate of occupancy and compliance shall have been issued by the Zoning Inspector stating that the building or proposed use of a building or vacant land complies with the provisions of this chapter. Certificates of occupancy and compliance shall be applied for with the application for a zoning permit and shall be issued with ten (10) days after the erection, alteration or moving of such building shall have been completed in conformity with statements on the application, provided that all requirements of this Zoning Code have been satisfied, including, but not limited to, the requirements of the zoning permit as stated in Section 17.17 of this Zoning Code. Whenever a building permit and zoning permit is issued, a final inspection shall be required. If compliant with all Village of Oconomowoc Lake ordinances and the original permit application, and approved plans, a certificate of occupancy may be issued.

2) Pending issuance of a regular permit, a temporary permit may be issued, for a period not exceeding six (6) months during completion of alterations or during the partial occupancy of a building pending its permanent occupancy. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this chapter and/or the Building Code to such a degree as to render it unsafe for the occupancy proposed.

(3) All landscaping must be installed in accordance with the approved post-construction landscaping plan within one (1) year following the issuance of the certificate of occupancy and compliance.

17.28 RECORDS OF PERMITS AND CERTIFICATES.

The Zoning Inspector shall keep an accurate record of all permits and certificates issued by him, each type of permit and certificate being numbered sequentially in the order of issuance and recorded in a separate record book which shall be the property of the Village.

17.29 FEES

No fee shall be charged for an original zoning permit applied for coincidentally with the application for a building permit. For all other zoning permits or for copies of any original permit, there shall be a charge as specified by the Village Board of Trustees.

17.30 PUBLIC NOTICE.

Any public notice of hearing required by law to be given in connection with proceedings of the Plan Commission, Board of Zoning Appeals, the Architectural Control Board or the Village Board of Trustees with respect to zoning matters shall be given by posting the same

in not less than three (3) public places in the Village at least ten (10) days before the date of such hearing and shall set forth the time, place and purpose of such hearing.

17.31 MODIFICATIONS.

(1) HEIGHT
The district height limitations stipulated elsewhere in this chapter may be exceeded, but such modification shall be in accord with the following:

(a) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this chapter.

(b) Special structures, such as radio and television receiving antennas, and flag poles are exempt from the height limitations of this chapter.

(c) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this chapter.

(d) Communication structures, such as radio and television transmission and relay towers and aerials, shall not exceed in height three (3) times their distance from the nearest lot line.

(e) Agricultural structures, such as barns, silos and windmills, shall not exceed in height twice (2) their distance from the nearest lot line.

(2) YARDS; OFFSET
The offset requirements stipulated elsewhere in this chapter may be modified as follows:

(a) Uncovered stairs, landings, and fire escapes may project into any yard but not to exceed six (6) feet and not closer than nine (9) feet to any lot line.

(b) Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required offset area, but such projections shall not exceed 2 feet.

(c) Residential fences are permitted on the property lines in residential districts but shall not in any case exceed a height of six (6) feet; and shall not be closer than two (2) feet to any public right-of-way. The finished design side must face abutting property.

(d) Essential services, utilities, electric power and communication transmission lines are exempt from the offset and distance requirements of this chapter. Landscaping and vegetation are exempt from the offset and setback

requirements of this chapter unless otherwise regulated by this chapter.

(3) ACCESSORY STRUCTURE LOCATION FOR HIGHWAY ORIENTED AND LEGAL NON-CONFORMING CONDITIONAL USES

Upon petition from a property owner, the Village Plan Commission may grant special exception(s) to the location requirements of this Chapter for accessory structure(s), subject to all of the following conditions:

(a) This subsection 17.31(3) only applies to properties that have been granted a conditional use permit pursuant to Section 17.55 (Highway Oriented Uses) or Section 17.32(5) (Legal Nonconforming Conditional Use).

(b) This subsection 17.31(3) only applies to properties that have a non-residential principal use.

(c) Special exception may be granted under this subsection 17.31(3) only with regard to the setback, street setback, offset, distance to residence on adjoining lot, waterfront setback, wetland setback and/or accessory structure location requirements of this Chapter. Special exception is prohibited if the requested location, structure, or use thereof, would conflict with any applicable federal, State of Wisconsin, or County of Waukesha codes, statutes, rules, ordinances or lawful orders, or with any Village of Oconomowoc Lake ordinances other than the matters noted in this subsection.

(d) Special exception under this subsection 17.31(3) is prohibited if the special exception would conflict with the express requirements of the conditional use permit affecting the property.

(e) Special exception can be granted under this subsection 17.31(3) for only the following types of accessory structures: fences, signs, lights, bleachers, and storage sheds that are no larger than 16 feet by 16 feet and 256 total square feet in size.

(f) The Plan Commission shall either grant or deny the special exception, or grant the special exception upon specified reasonable conditions. To grant or conditionally grant the special exception, the Plan Commission must find that the requested accessory structure will not be adverse to the public health, safety or welfare; will not be in conflict with the spirit or intent of this Chapter; and will not otherwise be detrimental to the Village of Oconomowoc Lake or the immediate neighborhood where the accessory structure would be located. The Plan Commission shall issue its decision in writing, including any conditions of approval, and shall provide a copy of the decision to the petitioner. The decision of the Plan Commission shall be final, and cannot be appealed to the Zoning Board of Appeals.

(g) A special exception granted herein shall be effective once it is recorded against the property by the property owner, and shall run with the land in perpetuity unless stated otherwise in the Plan Commission's decision, and subject to subsection (h), below.

(h) Should a structure approved by special exception be abandoned in any manner, or discontinued in use for twenty four (24) months, or continued other than in strict conformity with the conditions of the original approval, or should a change in the character of the surrounding area or of the accessory structure itself cause it to be no longer compatible with the surrounding areas, or for similar cause based upon considerations of public health, safety or welfare, the special exception may be terminated by action of the Village Board following referral to the Village of Oconomowoc Lake Plan Commission for recommendation and a public hearing thereon.

(4) RETAINING WALL NEEDED FOR A MAIN STRUCTURE

A retaining wall that is two (2) feet or greater above grade, or more than one retaining wall with less than two (2) horizontal feet of planting area between each one that has total vertical rise of two (2) feet or greater above the grade of the lowest one, may be excluded from the definition of "structure" and regulated only as ordinary landscaping, upon receiving all of the following approvals: (a) the Architectural Control Board upon consideration of the issues noted in Section 17.60(3); and (b) the Plan Commission upon consideration of the issues noted in Section 17.02 and 17.03; and (c) the Board of Zoning Appeals, as a special exception as to the limited issues described in this Section 17.31(4). The foregoing bodies shall only approve this exception upon finding that the retaining wall is necessary to stabilize the soil with appropriately designed support for the foundation of a main structure on the property. No public hearings shall be required for the Board of Zoning Appeals to consider the special exception, or for the Architectural Control Board to consider the matter, and compliance with Sections 17.61(6), 17.60(7), and other provisions of this Ordinance which otherwise might require a public hearing by such bodies shall not apply with regard to special exceptions considered under this subsection. A public hearing shall, however, be required for the Plan Commission to consider the matter. Said public hearing notice and procedural requirements shall be as set forth in Section 17.61(6), except that it shall be held by the Plan Commission. The Architectural Control Board, Plan Commission and/or Board of Zoning Appeals may each place conditions or restrictions on their approvals, including but not limited to conditions related to shoreland protection.

(5) SETBACK AND SIDE YARD ON CORNER LOTS ABUTTING OCONOMOWOC LAKE

On a corner lot that abuts Oconomowoc Lake, that has the larger portion of the lot separated from the lake by West Beach Road, the following setbacks and side yard modifications are permitted:

(a) The street setback from the public street that abuts the lake, and the waterfront setback, may be reduced to allow construction of a principal structure that has a waterfront setback that equals or exceeds the waterfront setback distance of the existing principal structure on the abutting lot.

(b) The street setback from the public street that does not abut the lake may be reduced to 30 feet, provided that the total of such distance plus the side yard distance on the opposite ide of such principle structure shall be equal or greater than 50 feet.

## 17.32 NONCONFORMING USES, STRUCTURES AND LOTS.

(1) EXISTING NONCONFORMING USES
A lawful use of a parcel which existed at the time of the adoption or amendment of this chapter may be continued as a legal non-conforming use although the use does not conform with the provisions of this chapter, (this most typically occurs when there is more than one residential use on a parcel), however;

(a) Only that use on a parcel in actual existence at the time of the adoption or amendment of this chapter may be so continued as a legal nonconforming use on the parcel but said use may not in any way be extended, enlarged, substituted, moved, added to or changed.

(b) A conforming or legal nonconforming structure located on a parcel containing a legal nonconforming use:

1. May be maintained or rebuilt in identical size, shape, location and use as the original structure, but may not be added to, extended or enlarged.

2. May, subject to Architectural Control Board approval, may be reduced in size, may have its shape modified, may have it height lowered, and may have its style modified, as long as the proposed structure is identical in all respects to the location, footprint and use of the original structure.

(c) If a legal nonconforming use on a parcel is discontinued or terminated for a period of twelve months, any future use of the structure, land or water shall conform to the provisions of this chapter.

(d) A conforming structure containing a legal conforming use, on a parcel containing any legal nonconforming use, may be extended, enlarged, totally rebuilt, substituted, moved, remodeled, modified, or added to as long as any such change conforms to all requirements of this chapter.

(e) Regardless of the foregoing provisions in this subsection (1), the footprint of a legal conforming or legal nonconforming primary residence on a parcel containing existing legal non-conforming uses on the parcel, subject to Architectural Control Board approval, may be expanded into areas of the lot where the expansion fully complies with all offset and setback requirements of the District in which it is located, provided that the expansion is otherwise in compliance with all applicable laws. In passing upon such matters, the Architectural Control Board shall consider all of the following factors: the size of the lot; the legal non-conforming use of the property, the size and location of the existing legal nonconforming structure; the size and location of any other structures on the lot; the size and location of the proposed expansion; the impact, if any, that the expansion may have upon neighboring properties; whether the proposed expansion would violate the intent of the Zoning Ordinance; and such other matters as the Architectural Control Board finds to be relevant in the interests of the public health, safety, welfare, and protection of property values of the Village.

(2) EXISTING NONCONFORMING STRUCTURES

A lawful structure on a parcel which existed at the time of the adoption or amendment of this chapter may be continued as a legal nonconforming structure although the structure's size or location does not conform to all the requirements of this chapter; however,

(a) A legal nonconforming structure on a parcel containing a single conforming use on the parcel may be totally rebuilt if, and only if, such reconstruction is identical in all respects to the size, shape, height, location, footprint, style and use of the original structure above grade, or as allowed by Wisconsin Statutes SS 62.23(7)(hc) 2. Additional below grade space may be built even though it will increase the size of the legal nonconforming structure as long as the portion of the structure below grade does not in any way exceed the existing footprint of the legal nonconforming structure, there is no change in any way to the exterior view of the legal nonconforming structure and there is no change to any exposed elevation of the legal nonconforming structure.

(b) A legal nonconforming structure on a parcel containing a single conforming use on the parcel, subject to Architectural Control Board approval, may be reduced in size, may have its shape modified, may have it height lowered, and may have its style modified, as long as the proposed structure is identical in all respects to the location, footprint and use of the original structure.

(c) A legal nonconforming structure on a parcel containing a single conforming use on the entire parcel subject to the grant of a variance from

the Zoning Board of Appeals may be increased in size, may be increased in shape, may be increased in height, and the location and footprint may be modified. A variance is not required in circumstances when expansion is permitted as set forth in (a) above.

(d) Regardless of the foregoing provisions in this subsection (2), the footprint of a legal nonconforming primary residence on a parcel containing a single conforming use, on the entire parcel subject to Architectural Control Board approval, maybe expanded into areas of the lot where the expansion fully complies with all offset and setback requirements of the District in which it is located, provided that the expansion is otherwise in compliance with all applicable laws. In passing upon such matters, the Architectural Control Board shall consider all of the following factors: the size of the lot; the size and location of the existing legal nonconforming structure; the size and location of any other structures on the lot; the size and location of the proposed expansion; the impact, if any, that the expansion may have upon neighboring properties; whether the proposed expansion would violate the intent of the Zoning Ordinance; and such other matters as the Architectural Control Board finds to be relevant in the interests of the public health, safety, welfare, and protection of property values of the Village.

(e) Notwithstanding the foregoing provisions as set forth in this subsection (2), a legal nonconforming primary residence located on a parcel containing a single conforming use on the entire parcel may, subject to Architectural Control Board approval, have a second floor space added above the first above grade floor of the nonconforming primary residence even though it will increase the size of the legal nonconforming primary residence provided that the proposed second floor addition does not in anyway: (i) extend beyond the existing footprint of the legal nonconforming structure; (ii) increase or exceed the existing maximum height of the primary residence; (iii) exceed any height restrictions set forth in Section 17.10 or elsewhere in the zoning code regardless of whether the primary residence is a legal nonconforming structure as to height; (iv) expand the total square footage of the legal nonconforming primary residence by an aggregate amount in one or more applications of more than 600 square feet or 20% of the existing square footage (which shall include the square footage of partially exposed below grade levels) of the primary residence, the lesser of; and (v) apply only to legal nonconforming structures that consist of a single above grade floor and partial second floor. For properties having water frontage, as defined in Section 17.10 of the zoning code, the proposed addition shall not be permitted to occur on the water frontage side of the legal nonconforming primary residence. Further, for legal nonconforming primary residences abutting Oconomowoc Lake, the proposed addition shall not unreasonably interfere with any existing views of Oconomowoc Lake from any property located within the District in which the legal nonconforming primary

residence is located or any District located adjacent thereto. In passing upon such matters, the Architectural Control Board shall consider all of the following factors: the size of the lot; the size and location of the existing legal nonconforming structure; the size and location of surrounding structures; the size and location of any other structures on the lot; the size and location of the proposed addition; the impact. if any, that the expansion may have upon neighboring properties; whether the proposed expansion would violate the intent of the Zoning Ordinance; and such other matters as the Architectural Control Board finds to be relevant in the interests of the public health. safety, welfare, and protection or enhancement of property values of the Village.

(3) EXISTING NONCONFORMING LOTS

A lot lawfully filed and of record in the Waukesha County Register of Deeds Office before the adoption or amendment of this chapter may be continued as a legal nonconforming lot although the lot does not conform with the provisions of this chapter, however;

(a) If a legal nonconforming lot is not in separate ownership from abutting lots, the substandard lot may be conveyed, but shall not be used as a building site unless all of the following apply:

(1) The substandard lot has never been developed with one or more of its structures placed partly upon an adjacent lot; and

(2) The substandard lot is developed to comply with all other ordinances of the Village.

This subsection is to be interpreted in compliance with Wisconsin Statute §66.10015.

(4) REVERSION

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

(5) CONDITIONAL USE STATUSES

Subject to the provisions of Section 17.50, 17.51 and 17.52, conditional use status may be granted to existing legal nonconforming uses, legal nonconforming structures, and legal nonconforming lots, upon petition of the owner where such use, structure or lot is determined to not be any of the following:

(a) adverse to any of the following:

(1) public health,
(2) safety, or
(3) welfare;

(b) in conflict with the spirit or intent of the ordinance; or

(c) otherwise, detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with approval of the Plan Commission following a public hearing and approval of the Village Board.

(6) BURDEN OF PROOF

The property owner has the burden of showing that a use, structure or lot is legal nonconforming. The determination shall be made by the Plan Commission after a majority of the Plan Commission has been satisfied by proof presented by the property owner that the use, structure and/or lot is in fact legal nonconforming. Appeals from the decision of the Plan Commission concerning the determination of legal nonconformity may be made by any person aggrieved to the Village Board of Trustees. Such appeal shall be filed with the Village Clerk within thirty (30) days after the determination by the Plan Commission.

## 17.33 FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS

(1) FINDINGS OF FACT

(a) The Board finds that Adult-Oriented Establishments, as defined and otherwise regulated by the Village in its Adult-Oriented Licensing and Regulation Ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the Village.

(b) Based its review of studies conducted in Phoenix AZ, Garden Grove CA, Los Angeles CA, Whittier CA, Indianapolis IN, Minneapolis MN, St. Paul MN, Cleveland OH, Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1 986), Coleman A. Young v. American Mini- Theaters, Inc., 427 U . S. 50 (1976), the Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.

(c) The Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and

areas.

(d) It is not the intent of the Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.

(e) In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the Village, it is the intent of the Board to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.

(f) Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Board finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.

(2) LOCATION OF FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS

(a) The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined and otherwise regulated by the Village, are entitled to certain protections, including the opportunity to locate in the Village. Therefore, if an Adult-Oriented Establishment License has been granted y the Village, and if all the requirements of this Section of the Zoning Code are met, an Adult-Oriented Establishment shall be an allowed use in the I-1 Restricted Industrial zoning district and shall be a prohibited use in any other zoning district. No other requirements of the Zoning Code need be satisfied, but for those required in order to obtain an Adult-Oriented Entertainment License from the Village.

(b) Adult-Oriented Establishments shall be located at least 600 feet from:
1. any residential district line, playground lot line, or public park lot line;

2. any structure used as a residence, place of religious worship, public or private school, or Youth Facility as defined in the Village's Adult-Oriented Establishment Licensing and Regulation Ordinance;

3. any other structure housing an Adult-Oriented Establishment;

4. any structure housing an establishment which holds an alcohol beverage license.

(c) Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the above residential district boundary lines, to the lot line of any lot used for a park, playground, or the lot line of any structure listed in 2(b) 2, 3, and 4 above.

(d) The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.

(e) For Adult-Oriented Establishments located in conjunction with other buildings and clearly separate from other establishments such as in a shopping center, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.

(f) For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency exits).

(g) A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the location subsequent to the grant or renewal of its license of any of the establishments described in 2., above, within 600 feet of the licensed premises. This provision applies only to the renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

## 17.335 TIME SHARE PROPERTY RESTRICTED

Time share property, as defined herein, shall be subject to all of the following requirements:

1) The property must be owned in such a way, and must include such uses, so as to subject the property to the regulations of Chapter 707 Wisconsin Statutes; and

2) The property must fully and strictly comply with the requirements of Chapter 707 Wisconsin Statutes at all times; and

3) If the property is located in a district which permits residential uses, the property shall be subject to approval of a legal, conforming multi-family use, in accordance with all of the rules and regulations of this code, and must fully and strictly

comply with the same at all times. If the property is located in a business district, and no residential uses are permitted, the time share instrument and time share plat shall be subject to the approval of the Village of Oconomowoc Lake Plan Commission, and must be specifically authorized in a conditional use permit issued for the property.

Time share property that does not satisfy the above-listed requirements is prohibited in all districts in the Village of Oconomowoc Lake. These regulations are intended to impose the same requirements upon property that is regulated by Chapter 707, Wisconsin Statutes, that are imposed upon physically identical property in the Village of Oconomowoc Lake that is not in time share ownership.
Time share property, as defined herein, shall be subject to all of the following requirements:

## 17.34 CONDOMINIUMS PROPERTY RESTRICTED

Condominium, as defined in Chapter 703, Wisconsin Statutes, shall be subject to all of the following requirements:

(1) The property must be owned in such a way, and must include such uses, so as to subject the property to the regulations of Chapter 703 Wisconsin Statutes; and

(2) The property must fully and strictly comply with the requirements of Chapter 703 Wisconsin Statutes at all times; and

(3) If the condominium is located in a district which permits residential uses, the condominium shall be subject to approval of a legal, conforming multi-family use, in accordance with all of the rules and regulations of this code, and must fully and strictly comply with the same at all times. If the condominium is located in a business district, and no residential uses are permitted, the Condominium Declaration and condominium plat shall be subject to the approval of the Village of Oconomowoc Lake Plan Commission, and must be specifically authorized in a conditional use permit issued for the property.

Condominium property that does not satisfy the above-listed requirements is prohibited in all districts in the Village of Oconomowoc Lake. These regulations are intended to impose the same requirements upon property that is regulated by Chapter 703, Wisconsin Statutes, that are imposed upon physically identical property in the Village of Oconomowoc Lake that is not in condominium ownership.

# ZONING DISTRICTS

17.35 ESTABLISHMENT.

(1) DISTRICTS.
For the purpose of this chapter, the Village of Oconomowoc Lake, is hereby divided into the following zoning districts:

(a) R-1 General Agriculture/Rural Residential District
(b) R-2 A Suburban Residential District
(c) R-2 B Suburban Residential District
(d) R-3 Low Density Residential District
(e) R-4 Low Density Residential District
(f) B-1 Business District
(g) I-1 Restricted Industrial District
(h) U-1 Upland Conservancy Overlay District
(i) L-1 Lowland Conservancy Overlay District
(j) G-1 Government District

(2) ZONING MAP AND BOUNDARIES.

(a) Boundaries of the district are hereby established as shown on the official map entitled "Zoning Map, Village of Oconomowoc Lake, Wisconsin - 1990." Such boundaries shall be constructed to follow: corporate limits, U.S. Public Lane Survey lines; lot or property lines; center lines of streets, highways, easements, and railroad right-of-way or such lines extended; unless otherwise noted on the Zoning Map.

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

(c) Changes thereafter to the district shall not be effective until entered and attested on the certified copy.

(3) VACATION.

Vacation of public streets shall cause the land to be automatically placed in the same district as the abutting side to which the vacated land reverts.

(4) ANNEXATIONS.
Annexations to or consolidations with the Village subsequent to the effective date of this chapter shall be placed in the R-1, Single-Family Residential District, unless the annexation ordinance temporarily places the land in another district. Within one (1) year the Village Plan Commission shall evaluate and recommend a permanent district classification to the Village Board of Trustees.

## 17.36 R-1 GENERAL AGRICULTURE/RURAL RESIDENTIAL DISTRICT

(1) PRINCIPAL USE. Single-Family dwelling Agricultural Use - See ss 17.46

(2) CONDITIONAL USES.
Those uses permitted in § 17.32(5), subject to the procedures and standards as outlined in § 17.50, 17.51, 17.52 and 17.60.

(3) BUILDING, MAIN.

| | |
|---|---|
| (a) Height. | Not to exceed height described in definition of "Building Height, Height of Main Building" |
| (b) Area. | Minimum 3000 sq. ft. |
| (c) Street Setback. | Minimum 75 ft. |
| (d) Offset. | Minimum 30 ft.; Aggregate 75 ft. |
| (e) Waterfront Setback. | Minimum 75 ft. |
| (f) Wetland Setback. | Minimum 25 ft. |
| (g) Building Width | The principal structure width cannot exceed sixty percent (60%) of the lot width when measured at the waterfront if any portion of the principal structure is located with within 150 feet from the ordinary high water mark. |

(4) STRUCTURE, ACCESSORY

| | |
|---|---|
| (a) Height. | Maximum 16 ft. |
| (b) Setback for all accessory structures other than Sport Courts | Minimum 75 ft. |
| Setback for Sport Courts | Minimum 25 ft. |
| (c) Offset. | Minimum 25 ft. |
| (d) Distance to residence on adjoining lot. | Minimum 60 ft. |
| (e) Waterfront Setback. | Minimum 75 ft. |
| (f) Wetland Setback. | Minimum 25 ft. |

(g) Accessory Structure Location.

No accessory structure can be located between the main building and any highwater mark nor in the offset areas of such main building, except as follows:

(For purposes of this code: The front of the main building shall be the side facing the predominant body of water with the order as follows: Oconomowoc Lake, Oconomowoc River and channels connected to the Oconomowoc Lake and/or Oconomowoc River. Behind the main

building shall be that area other than the area in front of the main building or on any side of the main building.)

accessory structure(s) behind the main building can be located between the main building and the Oconomowoc Lake or the Oconomowoc River if the accessory structure(s) is/are at least 75 feet back from the highwater mark of the Oconomowoc Lake or the Oconomowoc River, but

accessory structure(s) behind the main building can be located between the main building and a channel connected to the Oconomowoc Lake or the Oconomowoc River if located 75 feet back from the highwater mark of the channel connected to the Oconomowoc Lake or the Oconomowoc River, and

accessory structure(s) are allowed in the side yard between the main building and the highwater mark of a channel connected to the Oconomowoc Lake or Oconomowoc River if the accessory structure(s) is/are at least 200 feet from high water mark of Oconomowoc Lake or Oconomowoc River and at least 75 feet back from the channel connected to the Oconomowoc Lake or the Oconomowoc River, and except the following.

An in-ground pool and associated fencing, and an Outdoor Cooking Facility as defined herein may be located between the main building and the high water mark or the offset areas of the main building, subject to the following restrictions.

1. In ground pools and associated fencing and Outdoor Cooking Facilities are prohibited within 75 feet of the ordinary high-water mark of Oconomowoc Lake.

2. In ground pools and associated fencing and Outdoor Cooking Facilities are only permitted in locations where a principal structure could lawfully be located in compliance with this Zoning Code.

3. The total square footage of Outdoor Cooking Facilities shall not exceed 120 square feet.

4. No part of the Outdoor Cooking Facility shall exceed 6 feet in height, except that the

chimney for the cooking device may be up to 12 feet in height.

5. The Outdoor Cooking Facility shall not be further than 50 feet from the footprint of the existing principal structure.

6. In ground pools and associated fencing and Outdoor Cooking Facilities located in a side yard cannot be located closer than 30 feet to an existing structure that is located on an adjacent lot.

7. These limitations shall not be interpreted to prohibit construction that is part of the principal structure, including construction in the area defined by the footings of the principal structure.

**Paths to the Lakeshore.**

1. Other than the 1 path, sidewalk and/or stairway and/or any combination of the same allowed under the definition of structure, not more than 1 additional path, sidewalk and/or stairway and/or any combination of the same between the main building and the high-water mark 6 feet in width or less if the same is constructed of permeable materials 50% of which has to be grass, subject to the approval of the Zoning Administrator, issuance of a permit and payment of all applicable fees.

2. In addition to the 2 paths, sidewalks and/or stairways and/or any combination of the same allowed by right, additional paths, sidewalks and/or stairways and/or any combination of the same located between the main building and the high-water mark 4 feet in width or less whether permeable or impermeable, are allowed with Plan Commission approval on lots with over 200 feet of water frontage, issuance of a permit and payment of all applicable fees. In determining whether to allow additional paths, sidewalks and/or stairways and/or any combination of the same the Plan Commission is to look to whether:

   - The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not contrary to the public interest; and

- The property has a special or unique condition; and
- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not objectionable from the lake.

(5) LOT

| | |
|---|---|
| (a) Width. | Minimum 250 ft. |
| (b) Area. | Minimum 5 acres. |
| (c) Water Frontage. | Minimum 250 ft.(if applicable) |
| (d) Lake Frontage. | Minimum 250 ft. (if applicable) |

## 17.37 R-2 A SUBURBAN RESIDENTIAL DISTRICT

(1) PRINCIPAL USE. Single-Family dwelling

(2) CONDITIONAL USES.
Those uses permitted in § 17.32(5), subject to the procedures and standards as outlined in §17.50, 17.51, 17.52 and 17.60.

(3) BUILDING, MAIN.

| | |
|---|---|
| (a) Height. | Not to exceed height described in definition of "Building Height, Height of Main Building" |
| (b) Area. | Minimum 2,250 sq. ft. |
| (c) Street Setback. | Minimum 75 ft. |
| (d) Offset. | Minimum 20 ft.; Aggregate 50 ft. |
| (e) Waterfront Setback. | Minimum 75 ft. |
| (f) Wetland Setback. | Minimum 25 ft. |
| (g) Building Width | The principal structure width cannot exceed sixty percent (60%) of the lot width when measured at the waterfront if any portion of the principal structure is located with within 150 feet from the ordinary high water mark. |

(4) STRUCTURE, ACCESSORY

| | |
|---|---|
| (a) Height. | Maximum 16 ft. |
| (b) Setback for all accessory structures other than Sport Courts | Minimum 75 ft. |
| Setback for Sport Courts | Minimum 15 ft. |
| (c) Offset. | Minimum 15 ft. |
| (d) Distance to residence on adjoining lot. | Minimum 60 ft. |
| (e) Waterfront Setback. | Minimum 75 ft. |
| (f) Wetland Setback. | Minimum 25 ft. |

(g) Accessory Structure Location.

No accessory structure can be located between the main building and any highwater mark nor in the offset areas of any such main building except as follows:

(For purposes of this code: The front of the main building shall be the side facing the predominant body of water with the order as follows: Oconomowoc Lake, Oconomowoc River and channels connected to the Oconomowoc Lake and/or Oconomowoc River. Behind the main

building shall be that area other than the area in front of the main building or on any side of the main building.)

accessory structure(s) behind the main building can be located between the main building and the Oconomowoc Lake or the Oconomowoc River if the accessory structure(s) is/are at least 75 feet back from the highwater mark of the Oconomowoc Lake or the Oconomowoc River, but

accessory structure(s) behind the main building can be located between the main building and a channel connected to the Oconomowoc Lake or the Oconomowoc River if located 75 feet back from the highwater mark of the channel connected to the Oconomowoc Lake or the Oconomowoc River, and

accessory structure(s) are allowed in the side yard between the main building and the highwater mark of a channel connected to the Oconomowoc Lake or Oconomowoc River if the accessory structure(s) is/are at least 200 feet from high water mark of Oconomowoc Lake or Oconomowoc River and at least 75 feet back from the channel connected to the Oconomowoc Lake or the Oconomowoc River, and except the following.

An in-ground pool and associated fencing, and an Outdoor Cooking Facility as defined herein may be located between the main building and the high water mark or the offset areas of the main building, subject to the following restrictions.

1. In ground pools and associated fencing and Outdoor Cooking Facilities are prohibited within 75 feet of the ordinary high-water mark of Oconomowoc Lake.

2. In ground pools and associated fencing and Outdoor Cooking Facilities are only permitted in locations where a principal structure could lawfully be located in compliance with this Zoning Code.

3. The total square footage of Outdoor Cooking Facilities shall not exceed 120 square feet.

4. No part of the Outdoor Cooking Facility shall exceed 6 feet in height, except that the

chimney for the cooking device may be up to 12 feet in height.

5. The Outdoor Cooking Facility shall not be further than 50 feet from the footprint of the existing principal structure.

6. In ground pools and associated fencing and Outdoor Cooking Facilities located in a side yard cannot be located closer than 30 feet to an existing structure that is located on an adjacent lot.

7. These limitations shall not be interpreted to prohibit construction that is part of the principal structure, including construction in the area defined by the footings of the principal structure.

Paths to the Lakeshore.

2. Other than the 1 path, sidewalk and/or stairway and/or any combination of the same allowed under the definition of structure, not more than 1 additional path, sidewalk and/or stairway and/or any combination of the same between the main building and the high-water mark 6 feet in width or less if the same is constructed of permeable materials 50% of which has to be grass, subject to the approval of the Zoning Administrator, issuance of a permit and payment of all applicable fees.

2. In addition to the 2 paths, sidewalks and/or stairways and/or any combination of the same allowed by right, additional paths, sidewalks and/or stairways and/or any combination of the same located between the main building and the high-water mark 4 feet in width or less whether permeable or impermeable, are allowed with Plan Commission approval on lots with over 200 feet of water frontage, issuance of a permit and payment of all applicable fees. In determining whether to allow additional paths, sidewalks and/or stairways and/or any combination of the same the Plan Commission is to look to whether:

- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not contrary to the public interest; and

- The property has a special or unique condition; and
- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not objectionable from the lake.

| | | |
|---|---|---|
| (5) | LOT | |
| | (a) Width. | Minimum 200 ft. |
| | (b) Area. | Minimum 2 acres. |
| | (c) Water Frontage. | Minimum 200 ft.(if applicable) |
| | (d) Lake Frontage. | Minimum 200 ft (if applicable) |

## 17.375 R-2 B SUBURBAN RESIDENTIAL DISTRICT

(1) PRINCIPAL USE. Single-Family dwelling

(2) CONDITIONAL USES.
Those uses permitted in § 17.32(5), subject to the procedures and standards as outlined in §17.50, 17.51, 17.52 and 17.60.

(3) BUILDING, MAIN.

| | |
|---|---|
| (a) Height. | Not to exceed height described in definition of "Building Height, Height of Main Building" |
| (b) Area. | Minimum 2,250 sq. ft. |
| (c) Street Setback. | Minimum 25 ft. |
| (d) Offset. | Minimum 20 ft.; Aggregate 50 ft. |
| (e) Waterfront Setback. | Minimum 75 ft. |
| (f) Wetland Setback. | Minimum 25 ft. |
| (g) Building Width | The principal structure width cannot exceed sixty percent (60%) of the lot width when measured at the waterfront if any portion of the principal structure is located with within 150 feet from the ordinary high water mark. |

(4) STRUCTURE, ACCESSORY

| | |
|---|---|
| (a) Height. | Maximum 16 ft. |
| (b) Setback for all accessory structures other than Sport Courts | Minimum 25 ft. |
| Setback for Sport Courts | Minimum 15 ft. |
| (c) Offset. | Minimum 15 ft. |
| (d) Distance to residence on adjoining lot. | Minimum 50 ft. |
| (e) Waterfront Setback. | Minimum 75 ft. |
| (f) Wetland Setback. | Minimum 25 ft. |

(g) Accessory Structure Location

No accessory structure can be located between the main building and any highwater mark nor in the offset areas of any such main building except as follows:

(For purposes of this code: The front of the main building shall be the side facing the predominant body of water with the order as follows: Oconomowoc Lake, Oconomowoc River and channels connected to the Oconomowoc Lake and/or Oconomowoc River. Behind the main building shall be that area other than the area in

front of the main building or on any side of the main building.)

accessory structure(s) behind the main building can be located between the main building and the Oconomowoc Lake or the Oconomowoc River if the accessory structure(s) is/are at least 75 feet back from the highwater mark of the Oconomowoc Lake or the Oconomowoc River, but

accessory structure(s) behind the main building can be located between the main building and a channel connected to the Oconomowoc Lake or the Oconomowoc River if located 75 feet back from the highwater mark of the channel connected to the Oconomowoc Lake or the Oconomowoc River, and accessory structure(s) are allowed in the side yard between the main building and the highwater mark of a channel connected to the Oconomowoc Lake or Oconomowoc River if the accessory structure(s) is/are at least 200 feet from high water mark of Oconomowoc Lake or Oconomowoc River and at least 75 feet back from the channel connected to the Oconomowoc Lake or the Oconomowoc River, and except the following.

1. In ground pools and associated fencing and Outdoor Cooking Facilities are prohibited within 75 feet of the ordinary high water mark of Oconomowoc Lake.

2. In ground pools and associated fencing and Outdoor Cooking Facilities are only permitted in locations where a principal structure could lawfully be located in compliance with this Zoning Code.

3. The total square footage of Outdoor Cooking Facilities shall not exceed 120 square feet.

4. No part of the Outdoor Cooking Facility shall exceed 6 feet in height, except that the chimney for the cooking device may be up to 12 feet in height.

5. The Outdoor Cooking Facility shall not be further than 50 feet from the footprint of the existing principal structure.

6. In ground pools and associated fencing and Outdoor Cooking Facilities located in a side yard cannot be located closer than 30 feet to an existing structure that is located on an adjacent lot.

7. These limitations shall not be interpreted to prohibit construction that is part of the principal structure, including construction in the area defined by the footings of the principal structure.

**Paths to the Lakeshore.**

1. Other than the 1 path, sidewalk and/or stairway and/or any combination of the same allowed under the definition of structure, not more than 1 additional path, sidewalk and/or stairway and/or any combination of the same between the main building and the high-water mark 6 feet in width or less if the same is constructed of permeable materials 50% of which has to be grass, subject to the approval of the Zoning Administrator, issuance of a permit and payment of all applicable fees.

2. In addition to the 2 paths, sidewalks and/or stairways and/or any combination of the same allowed by right, additional paths, sidewalks and/or stairways and/or any combination of the same located between the main building and the high-water mark 4 feet in width or less whether permeable or impermeable, are allowed with Plan Commission approval on lots with over 200 feet of water frontage, issuance of a permit and payment of all applicable fees. In determining whether to allow additional paths, sidewalks and/or stairways and/or any combination of the same the Plan Commission is to look to whether:

   - The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not contrary to the public interest; and
   - The property has a special or unique condition; and
   - The proposed additional path, sidewalk

| | | |
|---|---|---|
| | | and/or stairway and/or any combination of the same is not objectionable from the lake. |
| (5) | LOT | |
| | (a) Width. | Minimum 200 ft. |
| | (b) Area. | Minimum 2 acres. |
| | (c) Water Frontage. | Minimum 200 ft.(if applicable) |
| | (d) Lake Frontage. | Minimum 200 ft (if applicable) |

## 17.38 R-3 LOW DENSITY RESIDENTIAL DISTRICT

(1) PRINCIPAL USE. Single-Family dwelling

(2) CONDITIONAL USES.
Those uses permitted in §17.32(5), subject to the procedures and standards as outlined in §17.50, 17.51, 17.52 and 17.60.

(3) BUILDING, MAIN.

| | |
|---|---|
| (a) Height. | Not to exceed height described in definition of "Building Height, Height of Main Building" |
| (b) Area. | Minimum 2,000 total sq. ft. living area. A minimum first floor of 1,200 sq. ft. of living area if the main building is 2 or 3 stories and the balance of the square footage requirement must be on the 2nd or 3rd stories for a minimum of 2,000 total square feet. A 550 sq. ft. minimum attached garage is required. |
| (c)1. Street Setback. | Minimum 50 ft. |
| (c)2. Street Setback Corner Lot | Corner Lot Minimum 50 ft. on one street, 30 ft. on the other street |
| (d) Offset. | Minimum 15 ft.; Aggregate 40 ft. |
| (e) Waterfront Setback. | Minimum 75 ft. |
| (f) Wetland Setback. | Minimum 25 ft. |
| (g) Building Width | The principal structure width cannot exceed sixty percent (60%) of the lot width when measured at the waterfront if any portion of the principal structure is located with within 150 feet from the ordinary high water mark. |

(4) STRUCTURE, ACCESSORY

| | |
|---|---|
| (a) Height. | Maximum 16 ft. |
| (b)1. Setback. | Minimum 50 ft. |
| (b)2, Street Setback Corner Lot | Minimum 50 ft. on one street, 30 ft. on the other street |
| (c) Offset. | Minimum 15 ft. |
| (d) Distance to residence on adjoining lot. | Minimum 15 ft. |
| (e) Waterfront Setback. | Minimum 75 ft. |

(f) Wetland Setback. Minimum 25 ft.

(g) Accessory Structure Location

No accessory structure shall be located between the main building and the high-water mark nor in the offset areas of the main building, and the high-water mark, except the following. An in-ground pool and associated fencing, and an outdoor cooking facility as defined herein may be located between the main building and the high-water mark or the offset areas of the main building and the high-water mark, subject to the following restrictions.

1. In ground pools and associated fencing and Outdoor Cooking Facilities are prohibited within 75 feet of the ordinary high-water mark of Oconomowoc Lake.

2. In ground pools and associated fencing and Outdoor Cooking Facilities are only permitted in locations where a principal structure could lawfully be located in compliance with this Zoning Code.

3. The total square footage of Outdoor Cooking Facilities shall not exceed 120 square feet.

4. No part of the Outdoor Cooking Facility shall exceed 6 feet in height, except that the chimney for the cooking device may be up to 12 feet in height.

5. The Outdoor Cooking Facility shall not be further than 50 feet from the footprint of the existing principal structure.

6. In ground pools and associated fencing and Outdoor Cooking Facilities located in a side yard cannot be located closer than 30 feet to an existing structure that is located on an adjacent lot.

7. These limitations shall not be interpreted to prohibit construction that is part of the principal structure, including construction in the area defined by the footings of the principal structure.

Paths to the Lakeshore.

1. Other than the 1 path, sidewalk and/or stairway and/or any combination of the same allowed

under the definition of structure, not more than 1 additional path, sidewalk and/or stairway and/or any combination of the same between the main building and the high-water mark 6 feet in width or less if the same is constructed of permeable materials 50% of which has to be grass, subject to the approval of the Zoning Administrator, issuance of a permit and payment of all applicable fees.

2. In addition to the 2 paths, sidewalks and/or stairways and/or any combination of the same allowed by right, additional paths, sidewalks and/or stairways and/or any combination of the same located between the main building and the high-water mark 4 feet in width or less whether permeable or impermeable, are allowed with Plan Commission approval on lots with over 200 feet of water frontage, issuance of a permit and payment of all applicable fees. In determining whether to allow additional paths, sidewalks and/or stairways and/or any combination of the same the Plan Commission is to look to whether:

   - The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not contrary to the public interest; and
   - The property has a special or unique condition; and
   - The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not objectionable from the lake.

(5) LOT

| | |
|---|---|
| (a) Width. | Minimum 150 ft. |
| (b) Area. | Minimum 1 acre. |

## 17.385 R-4 LOW DENSITY RESIDENTIAL DISTRICT

All lands that were annexed by the Village after May 7, 1982 and prior to annexation were subject to a county Shoreland zoning ordinance, under the authority granted by Sections 61.353 of the Wisconsin Statutes, are subject to the following:

(1) PRINCIPAL USE. Single-Family dwelling

(2) CONDITIONAL USES. Those uses permitted in §17.32(5), subject to the procedures and standards as outlined in §17.50, 17.51, 17.52 and 17.60.

(3) BUILDING, MAIN.

| | |
|---|---|
| (a) Height. | Not to exceed height described in definition of "Building Height, Height of Main Building" |
| (b) Area. | Minimum 2,000 total sq. ft. living area. A minimum first floor of 1,200 sq. ft. of living area if the main building is 2 or 3 stories and the balance of the square footage requirement must be on the 2nd or 3rd stories for a minimum of 2,000 total square feet. A 550 sq. ft. minimum attached garage is required. |
| (c) Street Setback. | From Road Right-of-Way: Minimum 25 ft. |
| (d) Offset. | Minimum 15 ft. |
| (e) Waterfront Setback. | Minimum 50 ft. |
| (f) Wetland Setback. | Minimum 25 ft. |
| (g) Maximum F. A. R. | Maximum first floor F. A. R. of 2,000 sq. ft. or 15% of that lot used for construction whichever is greater.<br>The term "floor area ratio" or F.A.R. shall be used to indicate the total floor area of all buildings allowed on a the lot, expressed as a percentage ratio to the total area of the lot (but not including the area of any outlot); i.e., an F.A.R. of one hundred percent (100%) allows a floor area equal to the total area of the lot, an F.A.R. of fifty percent (50%) allows a floor area of one-half the total area of the lot, etc. ("outlot" being defined for purposes of this provision as land that is legally bound to a lot, that is not physically contiguous to the part of the lot |

that is improved with a main building, due to separation by water, by public right of way, or by any other physical separation).

(4) BUILDING, ACCESSORY.

| | |
|---|---|
| (a) Height. | Maximum 16 ft. |
| (b) Setback. | From Road Right-of-Way: Minimum 25 ft. |
| (c) Offset. | Minimum 15 ft. |
| (d) Distance to residence on adjoining lot. | Minimum 40 ft. |
| (e) Wetland Setback. | Minimum 25 ft. |

(f) Accessory Structure Location.

Accessory Structure Location. No accessory building shall be located between the main building and the high water mark or on an outlot ("outlot" being defined for purposes of this provision as land that is legally bound to a lot, that is not physically contiguous to the part of the lot that is improved with a main building, due to separation by water, by public right of way, or by any other physical separation), except the following. An in ground pool and associated fencing, and an Outdoor Cooking Facility as defined herein may be located between the main building and the high water mark, subject to the following restrictions.

1. In ground pools and associated fencing and Outdoor Cooking Facilities are prohibited within 50 feet of the ordinary high water mark of Oconomowoc Lake.

2. In ground pools and associated fencing and Outdoor Cooking Facilities are only permitted in locations where a principal structure could lawfully be located in compliance with this Zoning Code.

3. The total square footage of Outdoor Cooking Facilities shall not exceed 120 square feet.

4. No part of the Outdoor Cooking Facility shall exceed 6 feet in height, except that the chimney for the cooking device may be up to 12 feet in height.

5. The Outdoor Cooking Facility shall not be further than 50 feet from the footprint of the existing principal structure.

6. In ground pools and associated fencing and Outdoor Cooking Facilities located in a side yard cannot be located closer than 30 feet to an existing structure that is located on an adjacent lot.

7. These limitations shall not be interpreted to prohibit construction that is part of the principal structure, including construction in the area defined by the footings of the principal structure.

Paths to the Lakeshore.

1. Other than the 1 path, sidewalk and/or stairway and/or any combination of the same allowed under the definition of structure, not more than 1 additional path, sidewalk and/or stairway and/or any combination of the same between the main building and the high-water mark 6 feet in width or less if the same is constructed of permeable materials 50% of which has to be grass, subject to the approval of the Zoning Administrator, issuance of a permit and payment of all applicable fees.

2. In addition to the 2 paths, sidewalks and/or stairways and/or any combination of the same allowed by right, additional paths, sidewalks and/or stairways and/or any combination of the same located between the main building and the high-water mark 4 feet in width or less whether permeable or impermeable, are allowed with Plan Commission approval on lots with over 200 feet of water frontage, issuance of a permit and payment of all applicable fees. In determining whether to allow additional paths, sidewalks and/or stairways and/or any combination of the same the Plan Commission is to look to whether:

- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not contrary to the public interest; and
- The property has a special or unique condition; and
- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not objectionable from the lake.

(g) Accessory Building Floor Area.

The total first floor area of accessory buildings shall not exceed 3% of the area of the lot. An attached garage shall not be included in the 3% limitation. The term "floor area ratio" or F.A.R. shall be used to indicate the total floor area of all accessory buildings allowed on a the lot, expressed as a percentage ratio to the total area of the lot (but not including the area of any outlot); i.e., an F.A.R. of one hundred percent (100%) allows a floor area equal to the total area of the lot, an F.A.R. of fifty percent (50%) allows a floor area of one-half the total area of the lot, etc. ("outlot" being defined for purposes of this provision as land that is legally bound to a lot, that is not physically contiguous to the part of the lot that is improved with a main building, due to separation by water, by public right of way, or by any other physical separation). Notwithstanding this 3% limitation, larger accessory building floor areas are permitted on lots that are subject to a conditional use permit, if specifically granted by conditional use permit, and subject to compliance with the requirements of the conditional use permit.

(h) Accessory Building Architecture.

All accessory buildings shall be constructed in a way that the exterior appearance is compatible with the design, style, architecture and appearance of the main building on the lot. This determination shall be made by the Architectural Control Board as described in Section 17.60 of this ordinance.

(j) Accessory Building Use.

In no case shall an accessory building be used for purposes not allowed in the R-4 District or used for human habitation or authorized by conditional use

(j) Accessory Building Quantity.

In no case shall more than one accessory building be allowed on a lot.

(5) LOT.

| | |
|---|---|
| (a) Width. | Minimum 120 ft. |
| (b) Area. | Minimum 30,000 sq. ft. |

(6) ADDITIONAL PROVISIONS:

(a) Any person who owns shoreland property that contains vegetation shall maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending 35 feet inland from the ordinary high-water mark of the navigable water, except as provided in (b).

(b) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove such vegetation, except that if the owner removes all of the vegetation as described herein within the vegetative buffer zone, the owner shall reestablish vegetation within the vegetative buffer zone.

(c) A person who is required to maintain or establish a vegetative buffer zone under (a) or (b) shall be allowed to remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no greater than 30 feet wide for every 100 feet of shoreline frontage and that extends no more than 35 feet inland from the ordinary high-water mark.

(d) For the purposes of this sections (a), (b), and (c), vegetative buffer zone is defined as land that extends from the ordinary high-water mark to 35 feet inland.

(e) A shoreland setback area of at least 50 feet from the ordinary high-water mark, except as provided in (f). For purposes of this section and section (f), structures shall include fences, ice fishing, shanties, accessory structures other than boathouses, minor structures, and retaining walls not approved by the Wisconsin Department of Natural Resources (DNR) and principal building means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

(f) Construction or placement of a principal building within the shoreland setback area established under (e) shall be allowed if all of the following apply:

(1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.

(2) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.

(i) For purposes of this section structures shall include fences, ice fishing shanties, accessory structures other than boathouses, minor structures, and retaining walls not approved by the Wisconsin Department of Natural Resources (DNR).

(ii) For purposes of this section, principal building means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

(g) Shoreland regulations do not apply to lands adjacent to an artificially constructed drainage ditch, pond, or storm water retention basin if the drainage ditch, pond, or retention basin is not hydrologically connected to a natural water body

## 17.39 B-1 BUSINESS DISTRICT

(1) INTENT

The regulations within the B-1 Business District are established with the intent of ensuring that the uses within this District maintain the environmental quality of Oconomowoc Lake and the tributaries and adjoining lakes which flow into Oconomowoc Lake; protecting wetlands, woodlands, and wildlife habitats; protecting against adversely affecting the adjoining residential properties; and, in

general, maintaining and enhancing the residential character, high property values, beautiful natural environment, health, safety and welfare of the Village of Oconomowoc Lake. It is, therefore, intended that there shall be no uses permitted by right in the B-1 Business District, to allow the commercial uses to be considered on a case-by-case basis pursuant to the standards and the intent described herein. All properties existing in the B-1 Business District on the date of adoption of this ordinance are allowed to continue pursuant to the conditions of existing conditional use permits or as described in Section 17.32(1) of this Chapter.

(2) CONDITIONAL USES

(a) Standards. The Village Plan Commission shall review the application and make recommendations to the Village Board concerning the following issues:

(1) Whether the proposed use is consistent with the planning objectives described in the Village of Oconomowoc Smart Growth Plan adopted March 17, 2008; and

(2) Whether the proposed use is consistent with the business uses that have existed within the Village of Oconomowoc Lake in the years immediately preceding the application, including whether the proposed use is an expansion or modification to an existing use; and

(3) Whether conditions should be imposed, which may include: commencement, staging and completion dates; types of construction; landscaping; planting or other screening; parking requirements; fencing requirements; lighting requirements; hours of operation limitations; site plan and plan of operation; highway access and loading restriction; traffic circulation requirement; sign limitation; noise controls; or other special requirements characteristic to the use as may be deemed necessary to protect the property values of adjoining properties or the Village as a whole; and

(4) Whether the use will comply with all applicable laws and regulations.

b. Permissible Uses. Those uses specified in Section 17.54, 17.55 and 17.32(5) subject to the procedure and standards as outlined in Sections 17.50, 17.51, 17.52 and 17.60.

c. Special Exceptions. If a conditional use is granted for a use in the B-1 Business District, upon petitioner's request, the Village Plan Commission

may grant a special exception to the setback requirements from public streets, private roads and easements, as described in this subsection. The special exception shall only be granted if the Plan Commission finds that the requested setback from public streets, private roads and easements will not be adverse to the public health, safety or welfare; will not be in conflict with the spirit or intent of this Chapter; and will not otherwise be detrimental to the Village of Oconomowoc Lake or the immediate neighborhood where the structure would be located. The Plan Commission shall issue a decision on such a special exception request in writing, including any conditions of approval and provide a copy of the decision to the Petitioner. The decision of the Plan Commission shall be final, and cannot be appealed to the Zoning Board of Appeals. If granted, the grant of the special exception shall be noted in the conditional use order, and the conditional use order shall be recorded against the land to run with the land in perpetuity unless stated otherwise in the conditional use order.

(3) BUILDING, MAIN

| | | |
|---|---|---|
| (a) | Height. | Maximum 25 feet |
| (b) | Area | Minimum 1500 sq. ft. |
| (c) | Street Setback | Minimum 75 ft., except minimum of 15 ft. may be utilized on the north side of Plank Road beginning with Tax Key No. OCLV 585-973-001 westward. |
| (d) | Offset. | Minimum 15 ft. aggregate 40 ft. |

(4) STRUCTURE, ACCESSORY.

| | | |
|---|---|---|
| (a) | Height. | Maximum 16 ft. |
| (b) | Setback. | Minimum 75 ft., except minimum of 15 ft. may be utilized on the north side of Plank Road beginning with Tax Key No. OCLV 585-973-001 westward. |
| (c) | Offset. | Minimum 15 ft. |

(5) ENLARGEMENTS.

No enlargements or extension to any existing building or structure shall be permitted unless the existing one is made to conform substantially with all the requirements for new construction for such building or structure. Any enlargement, alteration or extension to any existing building, structure or use shall require application for a zoning certificate and conditional use permit as if such enlargement, alteration or extension where a new building, structure or use. Any new building or structure shall be considered a conditional use and be subject to the provisions of ss 17.50.

(6) LOT.

| | | |
|---|---|---|
| (a) | Width. | Minimum 150 ft. |
| (b) | Area. | Minimum 1 acre. |

(7) SIGNS.

(a) Area and Number. Any sign shall be considered a conditional use and

be subject to the provisions of ss 17.50.

(b) Height. Free standing signs shall not exceed 20 feet in height as measured from the normal ground level beneath the sign and shall have a clearance from the ground of at least 10 feet where vehicles will travel beneath the sign.

(8) PARKING, OFF-STREET.
One space for each 200 square feet of floor area located at least 10 feet from any lot line. Parking areas shall be graded and surfaced so as to be dust free, clearly marked, and properly drained. Uniform lighting shall be hooded or beamed so as to avoid undesirable glare or illumination on adjacent property. Landscaping buffers or fencing shall be provided where required by the Village.

## 17.40 I-1 RESTRICTED INDUSTRIAL DISTRICT

The I-1 limited manufacturing business district is intended to provide for manufacturing or fabrication operations which, on the basis of physical and operational characteristics, would not be detrimental to the immediate surrounding area or to the village as a whole by reason of smoke, odor, noise, dust, flash, traffic, physical appearance or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. All manufacturing uses in this I-1 district must meet, at a minimum, the state industrial standards.

(1) PRINCIPAL USES.
The process of manufacturing synthetic wood laminate products.

(2) CONDITIONAL USES.

Those uses permitted in §17.32(5), subject to the procedures and standards as outlined in §17.50, 17.51, 17.52 and17.60.

(3) BUILDING, MAIN

| | | |
|---|---|---|
| (a) | Height. | Maximum 50 feet |
| (b) | Area. | Minimum 1000 sq. ft. |
| (c) | Setback. | Minimum 50 ft. |
| (d) | Offset. | Minimum 15 ft. aggregate 40 ft. |

(4) STRUCTURE, ACCESSORY

| | | |
|---|---|---|
| (a) | Height. | Maximum 50 ft. |
| (b) | Setback. | Minimum 50 ft. |
| (c) | Offset. | Minimum 15 ft. |

(5) LOT

| | | |
|---|---|---|
| (a) | Area | Minimum 4.9 Acres |
| (b) | Width. | Minimum 150 ft. |

(6) SIGNS
As regulated in the B-1 Business District

(7) PARKING, OFF-STREET.
One space for each two employees in the maximum working shift. Parking areas shall be graded and surfaced so as to be dust free and properly drained. Uniform lighting shall be hooded or beamed so as to avoid undesirable glare or illumination on adjacent property. Landscaping buffers or fencing shall be provided where required by the Village.

(8) PLAN COMMISSION REVIEW REQUIRED
To encourage an industrial use environment that is compatible with the community character of the village, building permits for permitted uses in I-1 district shall not be issued without review and approval of the plan commission. Said review and approval shall be concerned with, but not limited to, the proposed

plan of operation, general layout, building plans, lighting, signage, ingress, egress, parking, landscaping, and open space utilization.

17.41 *(reserved for future use)*

17.42 LOTS WHICH INCLUDE MULTIPLE ZONING DISTRICTS.

1) Should any proposed lot include land in more than one zoning district, where each district has a different requirement for minimum lot size, then the minimum lot size for such lot shall be computed by the following formula that the result must be equal to or greater than one (1.0).

X/XR + Y/YR + Z/ZR = 1 or greater

Where:
X = Lot Area located on most restrictive district (expressed in acres rounded to three decimals places)
XR = Minimum lot size in "X" district
Y = Lot Area located in the next most restrictive district (expressed in acres rounded to three decimal places)
YR = Minimum lot size in "Y" district
Z = Lot area located in least restrictive district (expressed in acres rounded to three decimal places)
ZR = Minimum lot size in "Z" district.

(2) MINIMUM LOT SIZES TO BE USED IN COMPUTATION

ZONING DISTRICT: MINIMUM LOT SIZE:

| ZONING DISTRICT | MINIMUM LOT SIZE |
|---|---|
| L-1 Lowland Conservancy Overlay | 5.0 Acres (*The fractional value allowed for wetland under the formula in 17.42(1) shall not exceed 0.6 irrespective of the amount of additional wetland which may be included within the lot.)* |
| U-1 Upland Conservancy Overlay | 5.0 Acres |
| R-1 | 5.0 Acres |
| R-2 A and R-2 B | 2.0 Acres |
| R-3 | 1.0 Acres |

(2) Lots located in multiple zoning districts must conform to all other zoning standards of the most restrictive zoning district.

## 17.43 UPLAND CONSERVANCY OVERLAY DISTRICT.

(1) The upland conservancy Overlay District is established to protect and enhance significant woodlands and related scenic areas, to preserve the rural character, and to encourage the forestation and reforestation of marginal farmlands within the Oconomowoc Lake and the Oconomowoc River drainage areas. The Upland Conservancy Overlay District shall include all lands designated by Southeastern Wisconsin Regional Planning Commission (SEWRPC) as "Primary Environmental Corridor" or "Isolated Natural Area" in "A Water Quality Management Plan for Oconomowoc Lake" dated March 1990, irrespective of the underlying zoning district in which they may lie, except those lands located within the L-1 Lowland Conservancy Overlay District.

(2) The provisions of this section shall be construed as being supplementary to the regulations being imposed on the same lands by the underlying zoning regulation. Where the Upland Zoning Regulations and the underlying zoning regulations conflict, the most restrictive regulations shall govern. The boundaries of this district shall be presumed to be as shown on the official zoning map of the Village of Oconomowoc Lake. It is the obligation of any applicant for building permit or approval of certified survey map to provide acceptable verification by survey and botanical analysis of the district boundaries utilizing the biological criteria employed by SEWRPC. Lands within the Upland Conservancy Overlay District shall be subject to all the restrictions and regulations contained in ss 17.36, of this chapter.

(3) Upland Conservancy District Overlay lands may be included in a conditional use .

(4) UPLAND CONSERVANCY REGULATED.
All property lying within the Upland Conservancy Overlay District as established by the Village under this chapter shall remain so zoned irrespective of any activities or occurrences accidental or otherwise that might result in a change in the character of the land. The Upland Conservancy District is established to protect significant woodlands and related scenic areas and no land owner shall be permitted to avoid that purpose by accidental or intentional destruction of the vegetation or the character of the land.

## 17.45 L-1 LOWLAND CONSERVANCY OVERLAY DISTRICT.

(1) Consistent with the water resources management objectives announced by SEWRPC, the Lowland Conservancy Overlay District is established to preserve, protect and enhance the wetlands areas of the Oconomowoc Lake and Oconomowoc River drainage areas. The provisions of this section are in addition to the provisions of the Shoreland-Wetlands Zoning Ordinance adopted November 21, 1988.

(2) The Lowland Conservancy Overlay District includes all wetlands as defined in ss 17.10 hereof.

(3) Residential, commercial and industrial development is not permitted in this zoning district, although Lowland Conservancy District lands may be included in a conditional use.

(4) The boundaries of this district shall be as shown on the official zoning map of the Village of Oconomowoc Lake. It is the obligation of any applicant for building permit or approval of certified survey map to provide acceptable verification by survey and botanical analysis of the district boundaries utilizing the biological criteria employed by SEWRPC.

(5) Wherever a conflict arises between the Shoreland - Wetland Zoning Ordinance and the Lowland Conservancy Overlay District, the Shoreland/Wetland Ordinance shall apply.

(6) LOWLAND CONSERVANCY REGULATED.
All property lying within the Lowland Conservancy Overlay District as established by the Village under this chapter shall remain so zoned irrespective of any activities or occurrences accidental or otherwise that might result in a change in the character of the land. The Lowland Conservancy District is established to protect the wetlands areas and district as defined in this chapter and no land owner shall be permitted to avoid that purpose by accidental, intentional, and/or permitted modification, destruction or filling of the wetlands area.

17.46 AGRICULTURAL USE.

Agricultural use shall be limited to those lands currently used or intended to be used as farmland. Agricultural use is only available to lots of 5 acres or more. Agricultural use shall not include farms operated for the disposal or reduction of garbage, sewage, rubbish or offal, for the raising of commercial poultry, hogs, goats, for the raising or breeding of animals for their fur, or as slaughtering or rendering plants. Riding Stables shall be allowed only as Conditional Uses.

## 17.47 G-1 GOVERNMENT DISTRICT

(1) Intent. The G-1 Government District is intended to include areas that are under Village ownership and used for government or public purposes, where such use is anticipated to be permanent.

(2) Permitted Uses. Permitted uses in the G-1 Government District are as follows:
- a. Village owned public administrative offices and public service buildings, including police stations and fire stations;
- b. Village owned public boat launch lands and facilities;
- c. Village-owned lands maintained in a natural state;
- d. Shooting range;
- e. Village owned recycling facility to include tub grinding;
- f. Village owned municipal training facilities.

(3) Permitted accessory uses.
- a. Garages fir storage if vehicles used in conjunction with the operation of a permitted use.
- b. Service buildings and facilities accessory to permitted uses.

(4) Conditional Uses. The following uses may be conditionally permitted in the G-1 Government District pursuant to Sections 17.50, 17.51, and 17.52:
- a. Communication towers and related facilities.
- b. Multi-governmental uses

# CONDITIONAL USES

17.50 PERMIT.

The Village Board of Trustees may authorize the Zoning Inspector to issue a conditional use permit for conditional uses after review, public hearing upon notice as required by Wisconsin Statutes §62.23(7)(de)3, and a recommendation by the Village Plan Commission, subject to the requirements of this Chapter. The determination of such conditional use by the Village Board shall be based on whether or not the proposed use will violate the spirit or intent of the chapter; be contrary to the public health, safety or general welfare; be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factor; or for any other reason cause an adverse effect on the property values and general desirability of the neighborhood. Except as may be specifically otherwise provided, any such use shall conform to the building location, height, area, yards, parking, loading, traffic and highway access regulations of the district in which it is located and the approving body may require compliance with such other conditions as may be deemed necessary in the specific situation in addition to any which may be herein stated. The location, building plan, site plan, and plan of operation shall be in sufficient detail to enable the Village to make its determination as to the appropriateness of the proposed grant of conditional use. The Village may take into consideration architectural and landscape treatments. Satisfactory provision shall be made for parking and circulation needs, for drainage and sewage disposal, for adequate planting screen where necessary, for operational control devices where necessary to eliminate noise, dust, odor or smoke; and such other factors as would be pertinent to such determination.

(1) The recommendations of the Village Plan Commission may only be overruled by a vote of five (5) members of the Village Board.

17.51 APPLICATION.

Applications for conditional use permits shall be made in duplicate to the Zoning Inspector on forms furnished by the Zoning Inspector and shall include the following:

(1) All of the information required under Section 17.17 for a Zoning Permit.

(2) The names and addresses of the parties of interest.

(3) The plat of survey required by Section 17.17(3) shall include the mean and historic high-water lines, on land and within one-hundred (100) feet of the subject lot.

(4) The plat of survey required by Section 17.17(3) shall include all existing and proposed landscaping.

(5) Fee Receipt from the Village Treasurer in the amount specified by the Village Board of Trustees.

17.52 REVIEW AND APPROVAL.

(1) The Village Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation, including but not limited to consideration of the following as applicable: noise, odor, lighting, signage, hours of operation, number of employees, etc.

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

(3) Compliance with all other provisions of this chapter, such as lot width and area, setback and offsets and height, including such provisions as may be established in § 17.56, shall be required of all conditional uses, except as follows:

(a) Variances may be granted as provided in § 17.61.

(b) Modifications and special exceptions may be allowed, as provided in § 17.31.

(c) Height of structure requirements of this chapter may be modified by the Village Board within the conditional use order, in the following limited circumstances:

(1) The proposed structure is located on property in the B-1 Business District and the reason for the height modification is:
(i) to install or shield equipment or facilities which serve the structure, such as an air conditioning unit or heating unit; or
(ii) to allow for the orderly redevelopment of the property, if the Village Board finds that the increased height of the redeveloped property will not be contrary to the public health, safety or general welfare of the Village, will not cause a substantial adverse effect on the property values and general desirability of the neighborhood, and will be consistent with the planning objectives of the Village.

(2) The conditional use is for the keeping of horse(s), poultry or domestic livestock and the sole reason for the modification is to construct one or more accessory structure(s) needed to house and maintain the horse(s), poultry or domestic livestock.

(4) Standard Conditional Use Conditions. Any conditional use granted by the Village shall automatically be deemed to include all of the following conditions unless stated otherwise in the conditional use order:

(a) Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Village Plan Commission for determination.

(b) No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.

(c) This conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Village Plan Commission as being in compliance with all pertinent ordinances.

(d) Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to Village, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Village Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order, and all applicable ordinances.

(e) Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the subject property), structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.

(f) Unless this conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the

prior approval of the Village Plan Commission if the Village Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Village Plan Commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.

(g) Petitioner and Owner Agreement. As a condition precedent to the issuance of the conditional use permit, the owner of the Subject Property shall approve the issuance of this conditional use permit upon the terms and conditions described herein in writing, and the Petitioner is required to accept the terms and conditions of the same in its entirety in writing.

(h) Professional fees. Petitioner shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this application, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.

(i) Payment of charges. Any unpaid bills owed to the Village by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of billing by the Village, pursuant to section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval, that is subject to all remedies available to the Village, including possible cause for termination of this approval.

(j) Current Address. The Petitioner is obligated to file with the Village Clerk a current mailing address and current phone number at which the Petitioner can be reached, which must be continually updated by the Petitioner if such contact information should change, for the duration of this conditional use. If the Petitioner fails to maintain such current contact information, the Petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.

(k) Conditions Shown in Minutes Incorporated. All conditions of approval imposed by duly adopted motion of the Village Board in its consideration of the Petitioner's application, as noted in the Minutes of the Village Board meeting at which approval was granted, are specifically incorporated herein by reference.

(l) Should any paragraph or phrase of this conditional use permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use and the remainder shall continue in full force and effect.

(m) If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Village Plan Commission.

(5) PERFORMANCE STANDARDS:

(1) Intent and Compliance. It is the intent of this Section to describe performance standards for the regulation of conditional uses and to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. These performance standards are in addition to, and not in lieu of, the performance standards described elsewhere in this Code. All structures, lands, air and water regulated by conditional use shall hereafter comply with the following performance standards.

(2) Control of Hazardous Air Pollutants and Emissions. Operations or activities which emit into the ambient air from any direct or portable source any matter that will affect air quality shall perform in accord with the limitations and procedures established by applicable laws, including but not limited to Ch. NR 400 through NR 449, Wis. Adm. Code. Hazardous pollutants are specifically controlled in accord with NR 445.

(3) Control of Particulate Emissions and Dust.
(a) Operations or activities which emit into the ambient air from any direct or portable source any particulate emissions shall perform in accord with the limitations and procedures established by applicable laws, including but not limited to Ch. NR 415, Wis. Adm. Code, or in other applicable Chapters which regulate particulate emission.

(b) Fugitive dust and other types of emissions and air pollution from sources such as storage areas, outdoor operation yards, and roads or parking lots with any lot shall be kept to a minimum by appropriate paving, spraying/watering, application of suitable chemicals, landscaping, or other acceptable and environmentally safe methods in accord with applicable laws, including but not limited to Ch. NR 415.04, Wis. Adm. Code.

(4) Control of Odors. No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Ch. NR 429, Wis. Adm. Code.

(5) Control of Fire and Explosive Hazards.

(a) All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices as may be required by the Village Code.

(b) All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.

(c) The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the Village Fire Department and in accord with their requirements to minimize fire and explosive hazards

(6) Glare, Heat and External Lighting.

(a) No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line. Operations producing intense light, glare, or heat shall be conducted within an enclosed building.

(b) External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

(7) Water Quality Standards.

(a) No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.

(b) No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in applicable laws.

(8) Noise. No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.

(9) Vibration.

(a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

(b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

17.54 PUBLIC AND SEMIPUBLIC USES.

The following shall be conditional uses:

(1) PUBLIC UTILITY BUILDINGS, subject to the following required standards:

(a) All of the following plans shall be submitted and shall be subject to the review and approval of the Village Plan Commission: building plan, security plan; landscaping plan; lighting plan; ingress/egress traffic and paving plan; stormwater management plan; plan of operation, including hours of operation; and site plan.

(b) An, architectural plan shall be submitted and shall be subject to the review and approval of the Architectural Control Board.

(2) CHURCHES, subject to the following required standards:

(a) All of the following plans shall be submitted and shall be subject to the review and approval of the Village Plan Commission: building plan, security plan; landscaping plan; lighting plan; ingress/egress traffic and paving plan; stormwater management plan; plan of operation, including hours of operation; and site plan.

(b) An, architectural plan shall be submitted and shall be subject to the review and approval of the Architectural Control Board.

(c) The structure shall conform to double the offset requirements of the district in which it is located.

(d) The height limitation of the district in which the use is located shall not exceed 50’ provided the minimum required setback and offsets shall be increased 2’ for every additional foot of height in excess of the permitted maximum in that district. The aforesaid height regulation shall not apply to the spire or belfry of a church except where airport safety zone regulations specifically limit the maximum height.

(e) The open space for the facility shall be a minimum of 50%.

(f) Site shall meet Village parking requirements.

(g) Access locations shall meet site distance requirements.

(h) Traffic study shall be provided to determine additional improvements to adjacent streets and impact on adjacent development.

(i) The buildings and grounds shall be maintained in a neat, attractive and orderly way.

(j) The property shall comply with all rules and regulations of the Village and the local Fire Department, including submission to routine inspections of the Village and the Fire Department.

(3) SCHOOLS, subject to the following required standards:

(a) All of the following plans shall be submitted and shall be subject to the review and approval of the Village Plan Commission: building plan, security plan; landscaping plan; lighting plan; ingress/egress traffic and paving plan; stormwater management plan; plan of operation, including hours of operation; and site plan.

(b) An, architectural plan shall be submitted and shall be subject to the review and approval of the Architectural Control Board.

(c) The structure shall conform to double the offset requirements of the district in which it is located.

(d) The height limitation of the district in which the use is located shall not exceed 50’ provided the minimum required setback and offsets shall be increased 2’ for every additional foot of height in excess of the permitted maximum in that district.

(e) The open space for the facility shall be a minimum of 50%.

(f) Site shall meet Village parking requirements.

(g) Access locations shall meet site distance requirements.

(h) Traffic study shall be provided to determine additional improvements to adjacent streets and impact on adjacent development.

(i) The buildings and grounds shall be maintained in a neat, attractive and orderly way.

(j) The property shall comply with all rules and regulations of the Village and the local Fire Department, including submission to routine inspections of the Village and the Fire Department.

(4) CLUBS, not conducted for profit, subject to the following required standards:

(a) All of the following plans shall be submitted and shall be subject to the review and approval of the Village Plan Commission: building plan, security plan; landscaping plan; lighting plan; ingress/egress traffic and paving plan; stormwater management plan; plan of operation, including hours of operation; and site plan.

(b) An, architectural plan shall be submitted and shall be subject to the review and approval of the Architectural Control Board.

(c) The structure shall conform to double the offset requirements of the district in which it is located.

(d) The height limitation of the district in which the use is located shall not exceed 50’ provided the minimum required setback and offsets shall be increased 2’ for every additional foot of height in excess of the permitted maximum in that district.

(e) The open space for the facility shall be a minimum of 50%.

(f) Site shall meet Village parking requirements.

(g) Access locations shall meet site distance requirements.

(h) Traffic study shall be provided to determine additional improvements to adjacent streets and impact on adjacent development.

(i) The buildings and grounds shall be maintained in a neat, attractive and orderly way.

(j) The property shall comply with all rules and regulations of the Village and the local Fire Department, including submission to routine inspections of the Village and the Fire Department.

## 17.55 HIGHWAY ORIENTED USES.

The following commercial uses shall be conditional uses and may be permitted within five hundred (500) feet of the existing or proposed rights-of-way of controlled access traffic ways, but not closer than one hundred (100) feet to existing residential property:

(1) Drive-in banks

(a) All of the following plans shall be submitted and shall be subject to the review and approval of the Village Plan Commission: building plan, security plan; landscaping plan; lighting plan; ingress/egress traffic and paving plan; stormwater management plan; plan of operation, including hours of operation; and site plan.

(b) An, architectural plan shall be submitted and shall be subject to the review and approval of the Architectural Control Board.

(c) The open space for the facility shall be a minimum of 50%.

(d) Site shall meet Village parking requirements.

(e) Access locations shall meet site distance requirements.

(f) Traffic study shall be provided to determine additional improvements to adjacent streets and impact on adjacent development.

(g) The buildings and grounds shall be maintained in a neat, attractive and orderly way.

(h) The property shall comply with all rules and regulations of the Village and the local Fire Department, including submission to routine inspections of the Village and the Fire Department.

(2) Vehicle sales, service, washing and repair stations.

(a) All of the following plans shall be submitted and shall be subject to the review and approval of the Village Plan Commission: building plan, security plan; landscaping plan; lighting plan; ingress/egress traffic and paving plan; stormwater management plan; plan of operation, including hours of operation; and site plan.

(b) An, architectural plan shall be submitted and shall be subject to the review and approval of the Architectural Control Board, Plan Commission and Village Board.

(c) The open space for the facility shall be a minimum of 50%.

(d) Site shall meet Village parking requirements.

(e) Access locations shall meet site distance requirements.

(f) Traffic study shall be provided to determine additional improvements to adjacent streets and impact on adjacent development.

(g) The buildings and grounds shall be maintained in a neat, attractive and orderly way.

(h) The property shall comply with all rules and regulations of the Village and the local Fire Department, including submission to routine inspections of the Village and the Fire Department.

(3) Bowling alleys.

(a) All of the following plans shall be submitted and shall be subject to the review and approval of the Village Plan Commission: building plan, security plan; landscaping plan; lighting plan; ingress/egress traffic and paving plan; stormwater management plan; plan of operation, including hours of operation; and site plan.

(b) An, architectural plan shall be submitted and shall be subject to the review and approval of the Architectural Control Board.

(c) The open space for the facility shall be a minimum of 50%.

(d) Site shall meet Village parking requirements.

(e) Access locations shall meet site distance requirements.

(f) Traffic study shall be provided to determine additional improvements to adjacent streets and impact on adjacent development.

(g) The buildings and grounds shall be maintained in a neat, attractive and orderly way.

(h) The property shall comply with all rules and regulations of the Village and the local Fire Department, including submission to routine inspections of the Village and the Fire Department.

(4) Retail establishments selling and storing only new merchandise, including bakeries, barber shops, bars, beauty shops, business offices, clinics, clothing stores, clubs, drug stores, florists, gift stores, grocery stores, hardware stores, hobby shops, optical stores, beverage stores, professional offices, self-service and pickup laundry and dry cleaning establishments, supermarkets, and sporting goods.

(a) All of the following plans shall be submitted and shall be subject to the review and approval of the Village Plan Commission: building plan, security plan; landscaping plan; lighting plan; ingress/egress traffic and paving plan; stormwater management plan; plan of operation, including hours of operation; and site plan.

(b) An, architectural plan shall be submitted and shall be subject to the review and approval of the Architectural Control Board.

(c) The open space for the facility shall be a minimum of 50%.

(d) Site shall meet Village parking requirements.

(e) Access locations shall meet site distance requirements.

(f) Traffic study shall be provided to determine additional improvements to adjacent streets and impact on adjacent development.

(g) The buildings and grounds shall be maintained in a neat, attractive and orderly way.

(h) The property shall comply with all rules and regulations of the Village and the local Fire Department, including submission to routine inspections of the Village and the Fire Department.

(5) Mini warehousing and small cubical storage, which shall include but not be limited to all of the following conditions:

(a) All of the following plans shall be submitted and shall be subject to the review and approval of the Village Plan Commission: building plan, security plan; landscaping plan; lighting plan; ingress/egress traffic and paving plan; stormwater management plan; plan of operation, including hours of operation; and site plan.

(b) An, architectural plan shall be submitted and shall be subject to the review and approval of the Architectural Control Board.

(c) No illegal or hazardous substance or product may be stored on site.

(d) There shall be no outside storage on site.

(e) There shall be no outdoor parking except temporary parking by tenants only while they are present at the site, parking by employees of the property only while they are working at the site, and parking by individuals hired to service the property while servicing the property.

(f) There shall be no flammable or explosive materials stored on the site

other than fuel contained in a motorized vehicle or piece of equipment that is being stored indoors on the site.

(g) There shall be no live animals stored on site.

(h) There shall be no sale of merchandise from the site.

(i) There shall be no perishable products stored on site.

(j) There shall be no individual electrical, gas, plumbing or telephone service provided to any of the individual units on site.

(k) There shall be no residential use on the property.

(l) The Village Plan Commission reserves the right to require fencing, an office, and bathroom facilities if the Village Plan Commission, at its sole discretion, deems any or all of the same are needed.

(m) The individual units cannot be sold or owned separately.

(n) From May 1st until September 1st, no motorized water craft may be stored on the property other than those motorized water craft titled to Village of Oconomowoc Lake residents.

(o) Persons renting units within the facility must be placed on notice on all of the foregoing conditions, and violations of any one of these conditions by any person on the property shall be a violation of the Conditional Use Permit and subject the property owner to revocation of the Conditional Use Permit and other such remedies as may apply.

## ADMINISTRATION AND ENFORCEMENT

17.60 ARCHITECTURAL CONTROL.

(1) PURPOSE AND INTENT

(a) For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure without first obtaining the approval of detailed site and architectural plans as set forth in this section.

(b) The Architectural Control Board shall review the site, existing and proposed structures, architectural plans, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, utilization of landscaping and open space, topography alterations, and the proposed operation in the R-1 through R-4 Residential Districts.

Additionally, the Architectural Control Board shall review the architectural plans of all structures in all districts in the Village other than the R-1 through R-4 in those instances where either a building permit is required or where there is a proposed change in the topography upon referral of the same from the Plan Commission under Section 17.60(1)(c) and the Architectural Control Board shall make a recommendation to the Plan Commission regarding the same. A copy of said recommendation shall be filed with the Village Board.

(c) The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, utilization of landscaping and open space, topography alterations and the proposed operation in all districts in the Village other than the R-1 through R-4 Residential Districts after referral to the Architectural Control Board by the Plan Commission of the architectural plans of all structures in all districts in the Village other than the R-1 through R-4 in those instances where either a building permit is required or where there is a proposed change in the topography for a recommendation and review of the Architectural Control Board's recommendation by the Plan Commission upon filing of the same by the Architectural Control Board with the Village Board and Plan Commission. Review by the Plan Commission shall be conducted in conjunction with its review proceedings under Section 17.52 of this Code.

(2) ARCHITECTURAL BOARD

(a) ESTABLISHMENT.

There is hereby established an Architectural Control Board for the Village of Oconomowoc Lake, Waukesha County, for the purpose of promoting compatible development, aesthetics, stability of property values, and to prevent impairment or depreciation of existing developments.

(b) MEMBERSHIP.

1. The Architectural Control Board shall consist of seven (7) residents of the Village appointed by the Village President subject to confirmation by the Village Board of Trustees. At least one (1) citizen plan commissioner, and one (1) real estate broker, real estate appraiser, registered architect or registered professional engineer shall be appointed to such Architectural Control Board.

2. Terms shall be for staggered three-year periods.

3. Chairman shall be appointed by the Village President.

4. Secretary shall be selected by the members.

5. Official oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointments.

6. Vacancies shall be filled for the unexpired term in the same manner as appointment for the full term.

7. Two alternate members may be appointed by the Village President for staggered terms of (3) years, in addition to the seven (7) members above provided. Annually, the Village President shall designate one of the alternate members 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent.

(c) ORGANIZATION.

1. The Architectural Control Board shall organize and adopt rules for its own government in accordance with the provisions of this Section.

2. Meetings shall be held at the call of the Chairman or when requested by the Zoning Inspector and shall be open to the public.

3. Minutes shall be kept showing all actions taken and shall be a public record. The grounds for every decision shall be stated.

4. Quorum shall be four (4) members, and all actions shall require the concurring vote of at least four (4) members.

(d) POWERS.

The Architectural Control Board shall have the following power:

1. Hear and decide applications for permission to erect, move, reconstruct, extend, alter or change the exterior of all structures within any residential district. In considering such applications, the Architectural Control Board's authority is not limited to the structure(s), but also includes neighboring uses and exterior areas of the affected lot (including, but not limited to, review of the existing and proposed topography), proposed landscaping, review of the site, existing and proposed structures, architectural plans, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, utilization of landscaping and open space, and the proposed operation in the all residential districts

2. Approve, deny, or conditionally approve the application and may request such modifications as they may deem necessary to carry out the purpose of this Section.

3. May request assistance from the other municipal officers, departments, boards, and other commissions.

4. Request applicant to furnish additional information.

(e) HEARINGS.

The Architectural Control Board shall schedule a reasonable time and place for the hearing and cause notice to be mailed to the applicant, the Zoning Inspector, and to the parties of interest at least five (5) days prior to the hearing. The applicant may appear in person, by agent, or by attorney.

(f) FINDINGS.

1. The Architectural Control Board shall not approve any application unless they find beyond a reasonable doubt after viewing the site and application materials provided that all applicable Standards set forth in Section 3 below will be met.
2. The Architectural Control Board shall decide all applications within ten (10) days after the final hearing and shall transmit a signed copy of their decision to the applicant and file a copy with the Zoning Inspector.

(3) STANDARDS.

To implement and define criteria for the purposes set forth in Section 17.60(1), the following standards are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

(a) No building shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.

(b) No building shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.

(c) No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.

(d) The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street.

(e) Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.

(f) Building Rooflines and Roof Shapes. The visual continuity of roofs and their contributing elements (parapet walls, coping, and cornices) shall be maintained in building development and redevelopment.

(g) Colors. Since the selection of building colors has a significant impact upon the public and neighboring properties, color shall be selected in general harmony with existing neighboring buildings.

(h) Siting of Structures. No building or sign shall be permitted to be sited on the property in a manner which would unreasonably destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties. A 10-foot offset to paving shall be provided in all non-residential areas.

(i) Health and Safety. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village.

(j) Outdoor Storage. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or equipment shall be exposed to public view or exposed to view from adjacent buildings and property. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display in essential to a business .

(k) Topography and Drainage. Buildings and uses shall maintain existing topography insofar as is practical. The Architectural Control Board and Plan Commission may require that drainage easements be executed. Buildings and uses shall conform to any adopted storm water management plan.

(l) Erosion Control. Appropriate erosion control measures shall be utilized in all construction projects.

(m) Traffic Circulation. Buildings and uses shall provide for safe traffic circulation and safe driveway locations.

(n) Parking and Loading. Buildings and uses shall provide adequate parking and loading areas and shall be in compliance with the zoning code regulations.

(o) Loading Docks and Overhead Doors. No loading dock or overhead door in the B-1 Business District or I-1 Restricted Industrial District shall face upon a street right-of-way unless a determination is made by the Village Plan Commission to allow the same, as described herein. The Village Plan Commission shall not allow the same unless the Village Plan Commission first finds:

1. That adequate vehicle turn-around areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of- way in order to access the loading dock or overhead door.
2. If the Village Plan Commission finds (o)(1), above, then the Village Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration:
   a. Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door;
   b. Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact;
   c. Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and
   d. Whether the loading dock or overhead door will be appropriately screened by berms or other landscaping.

(p) Utilities. Buildings and uses shall be provided with adequate public services as approved by the appropriate utility.

(q) Open Spaces. Buildings and uses shall make appropriate use of open spaces and the Village Plan Commission may require appropriate landscaping and planting screens.

(r) Landscaping. Development in all business and industrial districts shall provide adequate open space and landscaping. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.

(s) Lighting. Lighting shall be installed and maintained in accordance with the standards set forth herein. No exterior lighting used for parking lots, recreational facilities, product display, or security shall be permitted to spillover on operators of motor vehicles, pedestrians, and uses of land in the vicinity of the light source. These requirements shall not apply to lighting placed in a public right-of-way for public safety. The requirements are:

1. Type. Shielded luminaries, or luminaries with cutoff optics, and careful fixture placement shall be required so as to facilitate compliance with this section.
2. Orientation. Exterior lighting fixture shall be orientated so that the lighting element (or a transparent shield) does not throw rays onto neighboring properties. No lighting source shall be visible from outside its premises. Light rays shall not be directed into street rights-of-way or upward into the atmosphere. No horizontal throw via outward projecting lenses or optics shall be permitted contributing as a point glare source.
3. Minimum Lighting Standards. All areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 foot-candles, exclusive of approved anti-vandal lighting. This standard shall not apply to properties in agricultural and single-family residential districts.
4. Intensity of Illumination. The intensity of illumination, measured at the property line, shall not exceed 0.2 foot candles.
5. Location. Light fixtures shall not be permitted within required buffer yards.
6. Flashing, Flickering, and Other Distracting Lighting which may distract motorists is prohibited.
7. Nuisances. Lighting which creates or becomes a public nuisance is not permitted.

8. Accent Lighting and low voltage lighting (12 volts or less) is exempt from these requirements.
9. Nonconforming Lighting. All lighting fixtures approved prior to the adoption of this Ordinance shall be treated as and regulated as legal nonconforming uses.

(t) Heating, Ventilating, and Air Conditioning Equipment. Heating, Ventilating, and Air Conditioning Equipment shall be located in such manner as to be unobtrusive or screened from view.

(4) APPLICATIONS.

(a) Applications for approval by the Architectural Control Board shall be made to the Zoning Inspector and shall be accompanied by the Zoning Permit application required under ss 17.17 and, in addition, shall be accompanied by all information provided for in subsection (c), below.

(b) Approval by the Plan Commission shall be considered as part of the Conditional Use Permit review under Sections 17.50 *et seq. In* addition to the application information required under Section 17.51, applications for conditional uses in the B-1 Business District or I-1 Restricted Industrial District shall also include all information provided for in subsection (c), below.

(c) Plan data to be submitted with all plan review applications shall include the following:

1. Site plan drawn to a recognized engineering scale.
2. Name of project noted.
3. Owners and/or developer's name and address noted.
4. Architect and/or developer's name and address noted.
5. Date of plan submittal.
6. Scale of drawing noted on plan.
7. Existing and proposed topography shown at a contour interval of two (2) feet or less.
8. The characteristics of soils related to contemplated specific uses.
9. Total number of parking spaces noted.
10. The type, size, and location of all structures with all building dimensions shown.
11. Indicate height of building(s) as defined in the zoning ordinance under the definition of building height.
12. Existing and proposed street names indicated.
13. Indicate existing and proposed public rights-of-way and widths.
14. North arrow shown.
15. Locate existing and general location of proposed sanitary sewers, storm sewers, and water mains.

16. Locate any proposed storm water management facilities, including detention/retention areas.
17. Locate existing trees that are at least three inches and greater in diameter measured three feet above ground.
18. Note location, extent, size, diameter, height and type of proposed plantings.
19. Note location of pedestrian sidewalks and walkways.
20. A graphic outline of any development staging which is planned is required to be shown on the site plan.
21. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.

(5) APPEALS.

Any person or persons aggrieved by any decisions of the Architectural Control Board may appeal the decision to the Board of Zoning Appeals. Such appeal shall be filed with the Secretary of the Board of Zoning Appeals within thirty (30) days after the date of written notice of the decision of the Architectural Control Board.

17.61 BOARD OF ZONING APPEALS.

(1) ESTABLISHMENT.

There is hereby established a Board of Zoning Appeals for the Village of Oconomowoc Lake, Waukesha County, for the purpose of hearing appeals and applications, and granting variances and exceptions to the provisions of this chapter in harmony with the purpose and intent of the chapter.

(2) MEMBERSHIP.

(a) The Board of Zoning Appeals shall consist of five (5) members appointed by the Village President and confirmed by the Village Board of Trustees.

(b) Terms shall be for staggered three-year periods.

(c) Chairman shall be designated by the Village President.

(d) Two alternate members may be appointed by the Village President for staggered terms of (3) years, in addition to the five (5) members above provided. Annually, the Village President shall designate one of the alternate members 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent.

(e) One member shall be a Village Plan Commissioner.

(f) Secretary shall be selected by the members.

(g) Zoning Inspector shall attend all meetings for the purpose of providing technical assistance when requested by the Board.

(h) Official oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointments.

(i) Vacancies shall be filled for the unexpired term in the same manner as appointment for a full term.

(3) ORGANIZATION.

(a) The Board of Zoning Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

(b) Meetings shall be held at the call of the Chairman and shall be open to the public.

(c) Minutes of the proceedings and a record of all actions shall be kept by a recording secretary, showing the vote of each member upon each question, the reason for the Board's determination, and its finding of facts. These

records shall be immediately filed in the office of the Board and shall be a public record.

(d) If a quorum is present, the Board may act to correct an error; grant a variance; grant a special exception; make an interpretation; and permit a temporary use by a majority vote of the members present.

(4) POWERS.
The Board of Zoning Appeals shall have the following powers:

(a) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Inspector or Architectural Control Board.

(b) 1. Use Variances
Zoning Board of Appeals does not have the power to grant use variances. As to use variances also see Section 17.16(5) of this code.

1. Dimensional variances
The Board of Appeals does have the power and/or authority to grant dimensional variances upon the finding that:
- The proposed variances is not contrary to the public interest; and
- The property has a special or unique condition; and
- The special condition of the property creates an unnecessary hardship.

a. Setback variances
Setback variances shall not be granted without a public hearing, and shall be conditioned upon the approval of the Plan Commission, upon its consideration of the issues noted in Section 17.02 and Section 17.03, and the approval of the Architectural Control Board, upon its consideration of the issues noted in Section 17.60, herein. The Architectural Control Board, Plan Commission and/or Board of Zoning Appeals may each place reasonable conditions or restrictions on their approvals when granting any setback variance.

b. Lot variance
Lot area variances shall not be granted if the purpose of the variance is to allow the lot to be divided into more parcels than would be allowed absent the variance.

(c) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Village Plan Commission has made a review and recommendation.

(d) Temporary Uses. 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 a substantial structure, and are compatible with the neighboring uses and the Village Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Board of Zoning Appeals, and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this chapter shall be required.

(e) Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issue of a permit.

(f) Assistance. The Board may request assistance from other Village officers, departments, commissions and boards.

(g) Oaths. The Chairman may administer oaths and compel the attendance of witness.

(h) Special exceptions. Notwithstanding the provisions of Section 17.61(4)(b) regarding the granting of setback variances, the Board may, without public hearing, grant a special exception on a case by case basis regarding setbacks and offsets for property located in the R-4 Low Density Residential District in the limited circumstances described in Section 17.385(5), with the approval of the Plan Commission, upon its consideration of the issues noted in Section 17.02 and 17.03, and the approval of the Architectural Control Board, upon its consideration of the issues noted in Section 17.60(8), all as more fully described in Section 17.385(5).

(5) APPEALS AND APPLICATIONS.

Appeals from the decision of the Zoning Inspector or the Architectural Control Board concerning the literal enforcement of this chapter may be made by any person aggrieved or by any officer, department, board, or commission of the Village. Such appeals shall be filed with the Secretary within thirty (30) days after the date of written notice of the decision or order of the Zoning Inspector or Architectural Control Board. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary. Such appeals and applications shall include the following:

(a) All of the information required under ss 17.17 for a Zoning Permit.

(b) The names and addresses of the parties of interest.

(c) Additional information required by the Village Plan Commission , Village Engineer, Board of Zoning Appeals, or the Zoning Inspector.

(d) Fee Receipt from the Village Treasurer in the amount specified by the Village Board of Trustees.

(6) HEARINGS.
The Board of Zoning Appeals shall fix a reasonable time and place for the hearing, give public notice thereof at least ten (10) days prior, and shall give due notice to the parties of interest, the Zoning Inspector, and the Village Plan Commission. At the hearing the appellant or applicant may appear in person, by agent, or by attorney.

(7) FINDINGS.
No variance to the provisions of this chapter shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

(a) Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that does not apply generally to the other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.

(b) Preservation of Property Rights. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

(c) Absence of Detriment. That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

(8) DECISION.
(a) The Board of Zoning Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, the Zoning Inspector, and the Village Plan Commission.

(b) Conditions may be placed upon any zoning permit ordered or authorized by this Board.

(d) Variances or temporary use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

(9) REVIEW BY COURT OF RECORD.
Any person or persons aggrieved by any decision of the Board of Zoning Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board of Zoning Appeals.

## 17.62 CHANGES AND AMENDMENTS.

(1) AUTHORITY.

(a) Whenever the public necessity, convenience, general welfare or good zoning practice require, the Village Board of Trustees may, by ordinance change the district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto.

(b) Such change or amendment shall be subject to the review and recommendation of the Village Plan Commission and the appropriate Joint Extra-territorial Zoning Committee.

(2) INITIATION.

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

(3) PETITIONS.

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

(a) Plot plan drawn to a scale of one (1) inch equals one-hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within two-hundred (200) feet of the area proposed to be rezoned.

(b) Owner's names and addresses of all properties lying within two-hundred (200) feet of the area proposed to be rezoned.

(c) Additional information required by the Village Plan Commission, Joint Extra-territorial Zoning Committee, or the Village Board of Trustees.

(d) Fee receipt from the Village Treasurer in the amount specified by the Village Board of Trustees.

(4) RECOMMENDATIONS.

(a) The Village Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified, or denied. The recommendation shall be made at a meeting subsequent to the meeting at which the petition is first submitted and shall be made in writing to the Village Board of Trustees.

(b) The appropriate Joint Extra-Territorial Zoning Committee and the Village Plan Commission shall review all proposed changes and the amendments within the extra-territorial zoning jurisdiction, but only the members of the appropriate Joint Committee shall vote on matters relating to their zoning jurisdiction.

(5) HEARINGS.

(a) The Village Board of Trustees shall hold a public hearing upon each recommendation, giving at least ten (10) days prior notice by posting in at least three (3) public places, listing the time, place, and the changes or amendments proposed. The Village Board of Trustees shall also give at least ten (10) days prior written notice to the Clerk of any municipality within one thousand (1000) feet of any land to be affected by the proposed change or amendment.

(b) Prior to the hearings of the Village Board, the appropriate Joint Extra-territorial Zoning Committee shall hold a public hearing upon each proposed change or amendment within their zoning jurisdiction, giving at least ten (10) days prior notice by publication at least three (3) times during the preceding thirty (30) days, listing the time, place, and the changes or amendments proposed. The Joint Committee shall mail notice to the affected municipality.

(6) ACTION OF THE VILLAGE BOARD OF TRUSTEES.

(a) Following such hearing and after careful consideration and recommendation of the Village Plan Commission and appropriate Joint Extra-Territorial Zoning Committee, the Village Board of Trustees shall vote on the passage of the proposed change or amendment.

(b) The recommendations of the Village Plan Commission may only be overruled by a vote of five (5) member of the Village Board of Trustees.

(7) PROTEST.

In the event of a protest against such district changes or amendments to the regulations of this chapter, duly signed and acknowledged by the owners of twenty (20) percent or more either of the areas of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one-hundred (100) feet there from, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one-hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full membership of the Village Board of Trustees.

# VIOLATIONS AND PENALTIES

17.80 VIOLATIONS.

No person shall construct or use any structure, land or water in violation of any of the provisions of this chapter. In case of any violation, the Village Board, the Plan Commission, the Zoning Inspector or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this chapter.

17.81 PENALTIES.

Any person, firm or corporation who fails to comply with the provisions of this chapter shall upon conviction thereof, forfeit not less than Five Hundred Dollars ($500.00) nor more than Two-Thousand Dollars ($2,000.00) and costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.