

# **ZONING ORDINANCE**

**Village of Kekoskee  
Dodge County, Wisconsin  
Adopted August 30, 2022**

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## **SECTION 1.0 INTRODUCTION**

### **AN ORDINANCE PROVIDING ZONING AND BUILDING REGULATIONS FOR THE VILLAGE OF KEKOSKEE, DODGE COUNTY, WISCONSIN.**

#### **1.1 Authority**

In accordance with the authority granted by Sections 61.35, 62.23, 295.14 and Chapter 91 of the Wisconsin Statutes and for the purpose listed in Section 62.23 (7)(c) of the Wisconsin Statutes, the Village Board of Kekoskee, Dodge County, Wisconsin, does hereby ordain these zoning regulations.

#### **1.2 Title**

This Ordinance shall be known as, referred to or cited as the "Village of Kekoskee Zoning Ordinance".

#### **1.3 Purpose and Intent**

The purpose of this Ordinance is to adopt minimum requirements to promote the health, safety, morals, prosperity, aesthetics, and general welfare of the Village; to aid in implementing the Village of Kekoskee Comprehensive Plan and the Dodge County Farmland Preservation Plan.

#### **1.4 Compliance**

No future building or structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered in the Village of Kekoskee without being in full compliance with the provision of this ordinance.

#### **1.5 Abrogation and Greater Restrictions**

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

#### **1.6 Interpretation**

The provisions of this Ordinance shall be interpreted and applied as minimum requirements, shall be liberally construed in favor of the Village, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

#### **1.7 Severability**

If any section, clause, provision, or portion of this Ordinance held to be invalid or unconstitutional by a court of competent jurisdiction, or if the application of this Ordinance to any person or circumstances is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance that can be given effect without the invalid or unconstitutional provision or application.

#### **1.8 Conflicting Provision**

All other Village of Kekoskee ordinances or parts of Village of Kekoskee ordinances in conflict with the provisions of the Ordinance are hereby repealed.

**1.9 Effective Date**

The effective date of this ordinance occurs upon passage by the Village Board and publication.

## **SECTION 2.0 GENERAL PROVISIONS**

### **2.1 Jurisdiction**

To the extent permitted by law, the jurisdiction of this Ordinance shall include all lands and waters within the boundaries of the Village of Kekoskee. In-shoreland and floodplain areas under the dual jurisdiction of the Village of Kekoskee and Dodge County, this ordinance and the Dodge County regulations shall be in full effect and all requirements shall be met to the extent permitted by law. In addition, Army Corp of Engineers and Wisconsin Department of Natural Resources regulations may apply in wetland and floodplain areas. It is the responsibility of the permit applicant to secure all other necessary permits required by any federal, state, or county agency. Similarly, it is the responsibility of the permit applicant to secure any other necessary Village of Kekoskee permits. Finally, all residences are subject to the Uniform Dwelling Code, administered by the building inspector.

### **2.2 Compliance**

No future building or structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered in the Village of Kekoskee without being in full compliance with the provision of this ordinance.

### **2.3 Authority of the Village Board**

The Village Board, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this Ordinance. The Village Board, in general, performs the following functions:

1. Approves or disapproves any application for an amendment to this Ordinance, including applications for amendment to the official zoning map. Approves or disapproves proposed amendments to the Village's adopted Comprehensive Plan.
2. Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this Ordinance.

### **2.4 Duties of the Land Use Administrator and Village Clerk**

The Village Land Use Administrator is hereby designated by the Village Board as the administrative and enforcement officer for the provisions of this Ordinance. The Village Land Use Administrator is not required to reside or own land in the Village of Kekoskee. The duty of the Land Use Administrator shall be to interpret and administer this Ordinance and to issue all permits required by this Ordinance.

#### **(1) Duties**

The Land Use Administrator is responsible for performing the following duties:

- A. Provide necessary forms and applications for permits.
- B. Review and approve or deny all applications for zoning permits for permitted uses, and any other permits required by this Ordinance.
- C. Conduct pre-application conferences with petitioners for zoning amendments.
- D. Issue all certificates of compliance.
- E. Conduct inspections of buildings, structures, and uses of land to determine compliance with the terms of this Ordinance.
- F. Make investigations with respect to matters referred to in this Ordinance.
- G. Enforce all orders of the Board of Adjustment.

H. Revoke by order, any permit approved under misstatement of fact or contrary to the provisions of this Ordinance.

(2) Village Clerk Support: The Land Use Administrator shall be supported by the Village Clerk as follows:

- A. Provide necessary forms and applications for permits.
- B. Maintain records of all certificates of compliance.
- C. Receive, certify for completeness and forward to the Plan Commission all applications requiring Plan Commission review as prescribed by this Ordinance.
- D. Have possession of permanent and current records of this Ordinance, including the Village's official zoning map and amendments to the official zoning map, conditional use permits, Board of Adjustment decisions, and ordinance amendments.
- E. Review, process and report findings and recommendations and forward appeal and variance requests to the Board of Adjustment on those applications upon which the Board of Adjustment is required to act.

(3) Notice of Violation

If the Land Use Administrator finds that any of the provisions of this Ordinance are being violated, he or she shall notify, in writing by registered or certified mail, the person(s) responsible indicating the nature of the violation and ordering the action necessary to correct the violation. Whenever a person shall have been notified in writing that he or she is in violation of the provisions of this Ordinance, such person shall commence correction of all violations within ten days of notice and shall correct all violations within 45 days of notice. If such corrections are not commenced within ten days of written notice or not corrected with 45 days of written notice, each day that a violation continues shall be considered a separate offense.

## **2.5 Zoning Permit**

(1) Timeline:

A zoning permit shall be granted or denied in writing by the Land Use Administrator within 30 calendar days of a complete application. Conditional use permits shall be granted or denied in writing within 60 calendar days of a complete application. If denied, the reasons for such denial shall clearly appear upon the face of the notification of denial. Zoning Permits shall expire twelve (12) months after issuance unless substantial work has commenced or granted an extension by the Village Board. If a complete permit application is not acted upon within six (6) months of the date received, it shall be deemed to have been approved.

(2) When Required:

A zoning permit shall be required for the construction, reconstruction, location, relocation, erection, extension, enlargement, conversion, or structural alteration of any building, structure, or part thereof, unless specifically exempted by this Ordinance (See Section 2.6).

(3) Application:

An application for a zoning permit shall be submitted to the Land Use Administrator on forms furnished by the Village and shall include the following information:

- A. Name and address of the property owner.
- B. Signature of the property owner or agent.
- C. Location ID number, deed, legal description, or other identifier of the subject property.
- D. Statement concerning the proposed structure or use of the site.
- E. A clearly legible drawing, showing the following:
  1. Boundaries, dimensions, and areas of the subject site.
  2. The spatial relationship of the subject site to abutting public roads and right-of-ways, private roads, easements, wetlands, and navigable waters.
  3. The location and dimensions of any existing or proposed structures or additions and their relationship to abutting public roads and right-of-ways, street grades, private roads, property lines, proposed and existing wells (whether in use or abandoned) and sanitary waste disposal systems, ordinary high watermark of navigable waters, and any known sinkholes or depressions on the land.
  4. Location of proposed or existing road access points, parking and loading areas, and driveways.
- F. Building plans including all floor plans and at least two elevation views. The plan shall include any proposed decks or other structures necessary to exit doors or fire escapes, and any other appurtenances, structures or buildings to be located on the property during construction for which a permit is required.
- G. Satisfactory evidence of the proposed structure and/or use in compliance with Sections 5.0, 6.0, and 7.0.
- H. Additional information as may be required on the application or by the Land Use Administrator in order to determine the full compliance with the requirements of this Ordinance.
- I. Place stakes at the exterior corners of the proposed building on the proposed lot in which the applicant desires to build.

(4) Application Acceptance:

- A. No application shall be accepted by the Land Use Administrator until deemed complete as judged by the Land Use Administrator and until the application is signed and all fees established have been paid in full.
- B. Upon the Land Use Administrator's determination that the proposed use, building, or structure complies with the provisions of this Ordinance, a zoning permit shall be issued. The permit shall authorize the applicant to proceed subject to all provisions of the Ordinance.

(5) Application Denial:

- A. An application for a use, building, or structure not in conformity with the provisions of this Ordinance shall be denied a zoning permit and the reasons for denial shall be stated. In the event the permit is denied, the application fee will not be refunded. No permit shall be issued for uses, buildings, or structures involving human occupancy without

documentation that provision has been made for safe and adequate water supply and disposal of sewage.

B. The Village of Kekoskee reserves the right to withhold issuing a permit until compliance has been determined with other applicable chapters of the *Village of Kekoskee Code of Ordinances*.

(6) Permit Expiration:

If construction has commenced prior to the expiration of a zoning permit, but is not completed prior to such expiration, a 12-month renewal zoning permit may be issued by the Land Use Administrator upon submittal of a renewal application, required application items and fee. Additional renewals shall be granted by the Land Use Administrator upon a finding that progress had been made during the previous year toward completion of the structure. If a 12-month period passes without evidence of progress towards completion, the Land Use Administrator shall advise the Village Board of same, and the Village Board may hold a public hearing on the matter and may impose a completion schedule. The cost of the public hearing shall be borne by the applicant. For purposes of this Ordinance, a structure shall be deemed completed when the roof, exterior walls, doors, windows, and sub floors are in place and finished, appurtenances authorized by the permit (such as decks) are completed, and the sanitary waste disposal system and adequate water supply have been installed (if applicable).

(7) Fees:

Fees shall be set from time to time by the Village Board through the Village of Kekoskee Fee Schedule.

(8) Failure to Act:

If an application for a proposed Zoning Permit is not acted upon finally by the Land Use Administrator within six (6) months of the date upon which the Land Use Administrator determines the application complete, it shall be deemed to have been approved.

## 2.6 Uses Not Requiring a Zoning Permit

No Zoning Permit shall be required for any of the following cases:

- (1) For Building an Accessory Building 200 square feet or less in area.
- (2) For Any Improvement or Alteration to an existing building, 200 square feet or less in area, this does not affect a change in use.
- (3) For Repairs that do not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or alteration of bearing walls.
- (4) Portable Storage Facility 200 square feet or less as defined in Section 13.
- (5) Signs requiring a sign permit.
- (6) Any reconstruction, conversion, or structural alteration that does not result in any change to the existing outer walls and/or roof of an existing building unless the purpose is to convert a building not used for human habitation to one used for human habitation.

- (7) Agriculture Forage Storage Bags
- (8) Uses Permitted as Conditional Use (require a Conditional Use Permit – see Section 4.0).
- (9) However, any work that qualifies for an exemption under this section shall be required to comply with the applicable setback, yard, height, and other requirements set forth in this Ordinance.

## 2.7 Certificate of Compliance

- (1) No building or structure hereafter erected or moved shall be occupied or used until a certificate of compliance shall have been issued by the Land Use Administrator. Such certificate shall be applied for coincidental with the application for a zoning permit and shall be issued within ten days after the erection, alteration, repair, or moving of such building. Such building shall have been completed in conformity with the provisions of this Ordinance and in conformity with the statements on the application for the zoning permit.
- (2) Upon written request, the Land Use Administrator shall issue a Certificate of Compliance or a Statement of Non-Conformity for any building or premises existing at the time of the adoption of this Ordinance.

## 2.8 Site Restrictions

No land shall be used, or structure erected where the land is unsuitable for such use or structure 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 Land Use Administrator, in applying the provisions of this section, shall in writing recite the particular facts upon which he or she bases the conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he or she so desires. Thereafter the Plan Commission may affirm, modify, or withdraw the determination of unsuitability. Except as otherwise specifically required, the dimensions of a building site shall be as follows:

- (1) Dimensions of Building Sites (except as otherwise specifically required or permitted within the district):
  - A. Minimum Area and Width: The minimum lot area shall be 1.0 acre and a minimum lot width of 125 feet at the building line, 125 feet at the water's edge and 125 feet of road frontage.
  - B. Side and Rear Yards: There shall be a fifteen (15) foot minimum side yard for the principal structure. Accessory use structures shall be a minimum of 5 feet from the lot line.
  - C. Accessory Structures: Shall not be located in the front yard of any parcel (i.e., beyond the front wall of the principal structure). Accessory structures shall not exceed the height of the principal structure and should not be closer than 5 feet

from the lot line. Accessory structures shall not be closer than 10 feet from the principal structure in side yards and occupy no more than 20% of the rear yard area or 20% of the side yard area.

- (2) Height Limitations: The maximum height for all residential structures shall be forty (40) feet. The maximum height for all commercial and industrial structures shall be sixty (60) feet. The maximum height for all non-farm accessory structures shall be forty (40) feet. Height limitations are further regulated per Section 6.1 of this Ordinance.
- (3) Yard and Other Limitations: Per Sections 6.2, and 6.3 of this Ordinance.
- (4) Setbacks: All new structures shall be regulated in accordance with Section 5.0 of this Ordinance.
- (5) Street Grade: Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Land Use Administrator as being in satisfactory relationship with the existing street grade, with particular consideration for proper drainage and safe vehicular access.
- (6) Preservation of Topography: In order to protect the property owner from possible damage due to change in the existing grade of adjoining land, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1-1/2 horizontal to 1 vertical within a distance of 20 feet from the property line, except with the written consent of the abutting property owner and with the recommendation of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of material involved, and all slopes shall be protected against erosion.

## 2.9 Use Restrictions

The following use restrictions and regulations shall apply:

- (1) Principal Uses Only those uses specified for a zoning district shall be permitted in the district.
- (2) Accessory Uses: Accessory uses and structures are permitted in any district but not until the principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry except home occupations as defined in this Ordinance (Section 4.4). Accessory uses in the FP district must meet the requirements as defined in Section 14 of this ordinance.
- (3) Conditional Uses: Conditional uses and their accessory uses are those which require review, public hearing, and approval by the Village Board in accordance with Section 4.0. The only conditional uses and structures permitted by this Ordinance shall be those enumerated in the Schedule of District Regulations in Section 3.5 and 14.1.
- (4) Signs: Signs in accordance with Section 7.0.
- (5) Nonconforming Uses: Nonconforming uses in accordance with Section 8.0.



- (6) Temporary Uses: Temporary uses such as real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Land Use Administrator through the issuance of a Certificate Zoning Compliance for a period not to exceed six (6) months. This temporary certificate may be renewed semi-annually, but in no case shall the effective time span of the Certificates exceed two years.
- (7) Mobile Home Regulations: No person shall locate, park, use, own or occupy a mobile home outside an approved mobile home park in the Village except as herein expressly provided. (See Section 13 for Mobile Home definition.)
- A. Mobile homes shall be permitted in the Farmland Preservation, and General Agricultural Districts only if they are located on an operating farm for use and occupancy by a person who, or a family at least one member of which, earns a majority of his or her income from farm operations on the parcel, or is a parent, child, or full-time employee of the operator of the farm In the Farmland Preservation District, a mobile home must also meet the definition of "farm residence." Only one mobile home is permitted per operating farm.
- B. A person who presently owns or occupies a mobile home in the Village located Outside of a mobile home park, and who does not meet the criteria of this ordinance, may continue to use, and occupy the mobile home for residential purposes; however, its use is a Nonconforming Use until:
1. The mobile home is not occupied nor used for residential purposes.
  2. The mobile home is not primarily or permanently occupied and used by the present occupant and his or her immediate family.
  3. The mobile home is not maintained in a sanitary condition.
  4. The mobile home does not comply with the village's building codes, the State of Wisconsin building codes and the rules and regulations of the State Department of Health and Social Services, including the state plumbing code.
  5. The mobile home constitutes a public nuisance.
  6. The present occupant transfers, leases, or conveys in any way the title to the mobile home to another person outside the immediate family.
  7. The mobile home is moved to a different premise in or outside the Village beyond the specific location where the mobile home is currently parked.
- (8) Utilities: Upon notification of the Village Board, public utility uses which have been issued a Certificate of Public Convenience and Necessity pursuant to Section 196.491(3) of the Wisconsin Statutes are exempt from the requirements of this Ordinance and shall not be required to obtain a Zoning Permit.
- (9) Unclassified or Unspecified Uses: May be permitted by the Board of Adjustment after review and recommendation by the Plan Commission and provided that such

uses are similar in character to the principal use existing in the district and that no material detriment to adjoining property will result.

**2.10 Performance Standards**

Standards listed in Section 12.0 shall be complied with by all uses in all districts.

**2.11 Violations**

It shall be unlawful to construct any structure or building or to use any structure, building, land, or water in violation of any of the provisions of this Ordinance. In case of any violation, the Village of Kekoskee, The Land Use Administrator, or any property owner who would specifically be damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Ordinance.

**2.12 Authority to Bring Action**

The Village Board may take action to enjoin, remove, or vacate any use, erection, moving, placement, or structural alteration of any building, structure or use in violation of this Ordinance after review by the Plan Commission.

**2.13 Penalties**

Any individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity who violates any provisions of the Ordinance or any other order, rule or regulations made hereunder shall, upon conviction, be subject to forfeitures of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500) for each offense, together with the cost of prosecution and attorney's fees, and in default of payment of such amounts, shall be imprisoned in the county jail until such fine and forfeitures are paid, but not to exceed thirty (30) days. Each day that a violation continues shall be considered a separate offense. In addition to the foregoing, the Village of Kekoskee may seek injunctive relief and abatement orders in the event of a violation of this ordinance.

## **SECTION 3.0 ZONING DISTRICTS**

### **3.1 Establishment**

For the purpose of this Ordinance, the following primary use districts are hereby established with the Village of Kekoskee.

#### **PRIMARY USE DISTRICTS**

- |     |     |   |  |
|-----|-----|---|--|
| (1) | FP  | - | Farmland Preservation (See Section 14) |
| (2) | AG  | - | Agricultural General                   |
| (3) | R   | - | Residential                            |
| (4) | C   | - | Commercial                             |
| (5) | IM  | - | Industrial & Manufacturing             |
| (6) | CON | - | Conservancy                            |
| (7) | REC | - | Recreational                           |
| (8) | CMU | - | Concentrated Mixed Use                 |

### **3.2 Official Zoning Map**

A certified copy of the official zoning map is adopted and approved with the text of this Ordinance. Said map and any certified amendments or changes thereto are as much a part of this Ordinance as this text and shall have full force and effect on the adoption of this Ordinance.

The boundaries of the zoning districts enumerated in Sec. 3.1 are hereby established as shown on the Official Farmland Preservation Zoning Map of the Village of Kekoskee, Dodge County, Wisconsin adopted and incorporated herewith by reference. The Official Farmland Preservation Zoning Map shall be on file and available for public inspection at the office of the Village Clerk, Village of Kekoskee. The Official Farmland Preservation Zoning Map shall be revised promptly upon the approval of any zoning map amendment requests.

### **3.3 Interpretation of District Boundaries**

When uncertainty arises concerning the boundaries of the zoning districts, the following rules shall apply:

- (1) Where district boundaries are depicted as approximately following the centerlines of streets, highways, or road right-of-way lines, or centerlines of streams or drainage ways, such center, road right-of-way lines shall be constructed to be such boundaries.
- (2) Where district boundaries are depicted as approximately following lot lines, such lot lines shall be constructed to be such boundaries.
- (3) Where district boundaries are depicted as running parallel to centerlines of streets, highways or road right-of-way lines, such parallel lines shall be constructed to be such boundaries at a distance from the centerlines that fulfills the intent of drawing such lines.
- (4) Where boundaries do not follow property lines and distances are not specified, boundaries shall be reviewed and interpreted by the Kekoskee Village Board.

### **3.4 Uses Regulated**

No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified for the district in which it is located. Uses not specified in this Ordinance may, nonetheless, be allowed by the Village Board after application, only if such uses are substantially similar in character to specific permitted or conditional uses in the applicable district.

### 3.5 District Regulations

(1) FP - Farmland Preservation Zoning District (See Section 14)

(2) AG - Agricultural General District

The purpose of this district shall be to promote an area for general agricultural, forestry and outdoor recreation use and its complimentary uses. In addition, this district will accommodate low density residential, and other open space and undeveloped land. Note that agriculture related terms are defined in Section 14.4.

A. Permitted Uses

1. Agricultural uses, except livestock facilities housing more than 500 animal units of cattle, poultry, swine, sheep, goats or any other animal confinement facilities housing other types of farm animals (with the exception of fur bearing animals). Beekeeping, grazing, field crops, forestry, green houses (home use), orchards, tree & shrub nurseries, mushrooms, wild crop harvesting and other horticultural activities.
2. Agriculture accessory uses.
3. Blacksmithing.
4. Christmas tree and wreath sales.
5. Fish hatchery.
6. Grain elevator and crop storage facilities.
7. Home occupational business - Minor. (See Section 4.4)
8. Hunting and Fishing Shelters.
9. Licensed game farms.
10. Maple syrup processing.
11. On-farm butchering for personal use.
12. One recreational vehicle intended for temporary parking.
13. Park, playground, and play fields.
14. Pond (with required agency permits if applicable).
15. Prior legal nonconforming uses that were in existence as of December 16, 2014, subject to the nonconforming use provisions of this Ordinance.
16. Portable sawmill and debarking operations not to operate in one location (1/4,1/4 section), in excess of 12 months.
17. Portable storage facility (under 60 days).
18. Single family residences associated with agricultural use.
19. Solar energy systems for primarily on-site use.
20. (Upon notification of the Village Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for those uses.
21. Undeveloped natural resource and open space areas.
22. Wind energy systems for primarily on-site use.

B. Conditional Uses

1. Agriculture related use (Section 14.4 definition).
2. Animal boarding and breeding facilities including licensed dog kennels.
3. Animal hospital and clinics.
4. Bed and breakfast establishments.

5. Campgrounds. (See Section 4.2)
6. Cemeteries.
7. Cereals preparation.
8. Cheese or dairy processing plants.
9. Commercial greenhouse, landscape, and nursery sales.
10. Contractor offices and yards.
11. Corn and soybean shelling and drying (commercial).
12. Dams (with required agency permits if applicable).
13. Duplexes.
14. Exotic animals not typically associated with Wisconsin and/or agricultural farming practices. (See Section 13 Definition)
15. Family Day Care Home.
16. Farm equipment sales and service (Implements of Husbandry).
17. Farm machinery repair and storage.
18. Farms operated for the disposal or reduction of garbage, sewage or offal.
19. Feed preparation for livestock and fowl.
20. Fertilizer production, sales, and storage.
21. Filling, drainage, and dredging (with required agency permits if applicable).
22. Flour and other grain mill preparation and blending.
23. Fruit, vegetable, and specialty foods, contract sorting, grading, packaging, canning, drying, and dehydrating, freezing and pickling.
24. Golf courses.
25. Grain elevators and storage of feed grains (commercial).
26. Grist mill services.
27. Group Day Care Center Facility.
28. Governmental, religious, or cultural uses such as Village halls, police and fire stations, libraries, churches, cemeteries, schools, and parks.
29. Hay baling and threshing services.
30. Home occupational business – Major. (See Section 4.4)
31. Horticultural services.
32. Housing for seasonal agriculture workers.
33. Indoor storage and wholesaling.
34. Landscape and nursery businesses.
35. Large (greater than 2000 gallons) on-farm fuel or agrichemical storage facilities.
36. Livestock sales facilities.
37. Manure storage systems. (Please note that permits for manure storage systems are subject to s. ATCP 50.56 and Ch. ATCP 51, Wis. Adm. Code).
38. Milling of corn (wet).
39. Non-metallic mining. (See Section 4.5)
40. Oil and gas exploration or production that is licensed by the WDNR under Subchapter II of Chapter 295, Wisconsin Statutes.
41. Outdoor Public Recreation – Active.
42. Outdoor Public Recreation – Passive.
43. Outdoor storage and wholesaling.
44. Personal Storage Facility.
45. Portable Storage Facility (over 60 days).
46. Poultry hatchery services.
47. Poultry and small game dressing and packing provided that all operations be conducted within an enclosed building.

48. Private airport or air strip.
49. Processing agricultural by-products or wastes received directly from farms, including farms in the AG & FP zoning district.
50. Quasi-public clubs and lodges.
51. Radio, TV and cell phone towers.
52. Recreational, religious and/or youth camps.
53. Residential dwelling units not to exceed one per principal use when accessory to the principal use.
54. Roadside stands for the sale of farm products.
55. Sale of bait for fishing and sporting goods and supplies.
56. Sawmill and debarking operations.
57. Seed production, processing, and sales.
58. Shooting preserves and ranges.
59. Shortening, table oils, margarine, and other edible fat and oil production.
60. Single family dwellings and accessory structures, including private garages and buildings clearly incidental to the residential use of the property.
61. Single-Family Residence Accessory to a Business Use.
62. Slaughtering of livestock from the AG and FP District.
63. Solar energy systems when the primary intent is for export and the sale of energy.
64. Transportation, communications, pipeline, electric transmission, wind energy systems, utility or other uses that is not required under state or federal law.
65. Transportation-related activities primarily serving the basic agricultural industry.
66. Trap and sporting clay shooting facilities, archery and gun shooting ranges; gun clubs.
67. Truck farming.
68. Veterinary clinics.
69. Welding and repairs.
70. Wind energy systems when the primary intent is for export and the sale of energy.
71. Wireless communication facilities.

C. Area, Height and Yard Requirements: See Section 2.8.

D. Non-Farm Residential Uses in Agricultural General District

In granting a Conditional Use Permit for nonfarm residential uses in the Agricultural General District, the Village Board, after review by the Plan Commission, shall make the following determinations:

1. The proposed residential uses will not adversely affect agricultural operations in surrounding areas or situated that future inhabitants of such residence might adversely be affected by agricultural operations in surrounding areas.
2. That the site/s of the proposed residential uses are not well suited for agricultural use by virtue of wooded areas, topography, shape of parcel, soil characteristics, and similar factors.
3. That the site/s proposed for residential use is particularly well suited for such use as indicated by rolling topography, wooded areas, soil types, vistas, proximity to lakes or streams, or other similar factors, proximity

or being adjacent to a city or village to possibly prevent the annexation of such property, proximity to school bus routes, traffic access and egress, established transportation routes and adequacy of area schools to accommodate increased enrollment that might result from such development.

4. That the proposed non-Farm residential use will be located on a parcel of not less than one (1) acre.

(3) R - Residential District

The primary purpose of this district shall be exclusive single-family residential nature.

A. Permitted Uses

1. Crop farming, forestry and open space.
2. Family Day Care out of a residential home.
3. Home occupations - Minor. (See Section 4.4)
4. Prior legal nonconforming uses that were in existence as December 16, 2014, subject to the nonconforming use provisions of this Ordinance.
5. Single family dwellings and accessory structures, including private garages and buildings clearly incidental to the residential use of the property, provided that no such accessory buildings may be used as dwelling units. Includes manufactured & modular homes as defined in Section 13.
6. (Upon notification of the Village Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for those uses.

B. Conditional Uses

1. Bed and breakfast establishments.
2. Governmental, religious, and cultural uses such as fire and police stations, schools, churches, cemeteries, and libraries.
3. Home occupation - Major. (See Section 4.4)
4. Multi-Family residential.
5. Nurseries and greenhouses.
6. Planned unit development. (See Section 4.6)
7. Transportation, utility, communication, or other uses that is not required under state or federal law.
8. Two-Family residential.

C. Area, Height, and Yard Requirements: See Section 2.8.

(4) C - Commercial District

The purpose of this district shall be to promote an area for retail and service-oriented establishments.

A. Permitted Uses

1. Crop farming, forestry, and open space.
2. Nurseries.

3. Prior legal nonconforming uses that were in existence as of December 16, 2014, subject to the nonconforming use provisions of this Ordinance.
4. (Upon notification of the Village Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for those uses.

B. Conditional Uses

1. Animal boarding and breeding (includes licensed dog kennels).
2. Any similar use subject to the approval of the Village Board.
3. Automobile and truck retail services.
4. Automobile repair services.
5. Automobile sales.
6. Automobile laundries (car washes).
7. Amusement Parks.
8. Antique dealers and sales.
9. Bars, taverns, and cocktail lounges.
10. Bed and Breakfast Establishments.
11. Building supplies sales.
12. Candy, nut, and confectionery sales.
13. Carpet and tile sales
14. Christmas tree and wreath sales.
15. Coffee shops and snack bars.
16. Commercial greenhouse, landscape, and nursery business.
17. Commercial recreation facilities such as arcades, archery ranges, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, Turkish baths, and skating rinks.
18. Contractor storage yards and/or offices.
19. Drive-in establishments serving food or beverages for consumption outside the structure.
20. Drive-in theaters.
21. Farm equipment sales and service.
22. Fairgrounds
23. Gas service station.
24. Gift, novelty, and souvenir sales
25. Golf Courses with accessory uses.
26. Governmental, institutional, religious, or nonprofit community uses.
27. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
28. Go cart tracks.
29. Group Day Care Center.
30. Hardware stores.
31. Home Occupation – Major. (See Section 4.4)
32. Hospitals, clinics, and nursing homes.
33. Hotels.
34. In vehicle sales and service.
35. Indoor commercial entertainment and service.
36. Indoor lodging facility.



37. Indoor retail sales activity - accessory to indoor storage and wholesaling.
38. Indoor sales and service.
39. Indoor storage and warehousing.
40. Light industrial (See Section 13 for definition).
41. Light industrial activity – accessory to indoor sales and service.
42. Long term outdoor display and sales.
43. Maintenance service.
44. Mobile home sales
45. Motels and tourist courts.
46. Night clubs and dance halls.
47. Outdoor public recreation - active.
48. Outdoor public recreation - passive.
49. Outdoor storage yard or wholesaling.
50. Packaged beverage store.
51. Parking lots.
52. Personal or professional sales and service establishments.
53. Portable storage facility.
54. Private airport.
55. Professional offices.
56. Public assembly uses, such as amphitheatres, arenas, field houses, gymnasiums, natatoriums, auditoriums, exhibit halls, music halls, legitimate theaters, motion picture theaters, and stadiums.
57. Public passenger transportation depots such as heliports, bus, and rail depots, except airports, airstrips, and landing fields.
58. Quasi-public clubs and lodges.
59. Racetracks.
60. Radio and television stations and/or towers
61. Recreational, religious and/or youth camps.
62. Refreshment stands.
63. Rental services.
64. Residential dwelling units not to exceed one per principal use when accessory to the principal structure.
65. Residential quarters for the owner, commercial tenant, employee or caretaker located in the same building as the business.
66. Resort establishment.
67. Restaurants.
68. Retail businesses, professional offices, personal and business sales and or service establishments.
69. Riding stables.
70. Roadside stands.
71. Sale of bait for fishing and sporting goods and supplies.
72. Single-Family Residence Accessory to a Business Use.
73. Skeet and trap ranges.
74. Ski hills and lodges.
75. Solar energy systems when the primary intent is for export and the sale of energy.
76. Sporting goods stores.
77. Supermarkets.
78. Supper clubs.
79. Taverns.

80. Transportation, utility, communication, or other uses that are not required under state or federal law.
81. Truck Farming.
82. Veterinary clinic.
83. Wholesaling establishments.
84. Wind energy systems when the primary intent is for export and the sale of energy.

C. Area, Height, and Yard Requirements: See Section 2.8.

(5) IM - Industrial and Manufacturing District

The purpose of this district shall be to promote an area for manufacturing and industrial operations.

A. Permitted Uses

1. Automobile repair facilities.
2. Blacksmithing, welding and repairs.
3. Boat storage, sale of boats, motors, fuel, marine supplies, servicing of boats and motors and the manufacture of boats or motors.
4. Contractor's shop and/or office.
5. Crop farming, forestry, and open space.
6. Farm machinery sales, service, and storage facilities.
7. Food storage warehouses.
8. Gas stations.
9. Governmental uses such as but not limited to, police or fire stations, or buildings used for the storage or repair of road maintenance equipment.
10. Indoor sales and service – accessory to light industrial
11. Light industrial (See Section 13 Definition).
12. Manufacturing establishments engaged in the fabrication, processing, assembly, or packaging of a product which is not specified as a conditional use in the Industrial District.
13. Nurseries, greenhouses, and landscaping businesses.
14. Parking lots.
15. Portable sawmill and debarking operations.
16. Prior legal nonconforming uses that were in existence as of December 16, 2014, subject to the nonconforming use provisions of this Ordinance.
17. Printing and publishing establishments.
18. Processing and packaging of food products.
19. Processing and packaging of recyclable materials.
20. Recycling collection point.
21. Retail sale of products if accessory to and in the same structure as the principal use.
22. Self-service storage facility.
23. Solar energy systems when the primary intent if for export and the sale of energy.
24. Storage for wholesaling indoor and outdoor.
25. (Upon notification of the Village Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a

specific place under a state or federal law that preempts the requirement of a conditional use permit for those uses.

26. Warehousing, except the storage of chemicals, explosives, flammables, and radioactive materials.
27. Wholesale establishments.
28. Wind energy systems when the primary intent is for export and the sale of energy.

B. Conditional Uses

1. Adult-entertainment establishments.
2. Any similar uses subject to the approval of the Village Board.
3. Energy refineries.
4. Farms operated for the disposal of sewage, rubbish, or any waste material.
5. Feed mills, granaries, and elevators.
6. Freight yards and trucking terminals.
7. Heavy industrial. (See Section 13 for definition)
8. Incinerators.
9. Manufacturing, processing, packaging or storage of chemicals, explosives, batteries, asphalt, cement, flammables, paint, poison, rubber, dyes, plastics, and radioactive materials.
10. Non-metallic mining (Must comply with Section 4.5).
11. One single-family residence per site for the owner or proprietor, caretaker, and their family, which is incidental to a permitted or conditional use.
12. Private airport.
13. Salvage & Junk yards (Must comply with Section 4.8).
14. Sanitary landfill operations. (See Section 4.7)
15. Sewage treatment facilities.
16. Solid or hazardous waste facility.
17. Transportation, utility, communication, or other uses that is not required under state or federal law.

C. Area, Height, and Yard Requirements: See Section 2.8.

(6) CON - Conservancy

The primary purpose of this district is for uses compatible with protecting, preserving, and enhancing the lakes, rivers, wetlands, and other significant natural areas within the Village, such as wooded areas of environmental importance, archaeological sites of significant importance or other areas of which the public has interest in preserving.

Uses and structures may be subject to the Flood Plain Zoning Ordinance and Shoreland Wetland Zoning Ordinance, where applicable.

A. Permitted Uses

1. General farming provided no farm buildings are constructed.
2. Harvesting of any wild crop such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds.
3. Hiking trails, bike paths and walkways, including those built on pilings.
4. Hunting and fishing preserves, duck blinds.
5. Nonresident buildings used solely in conjunction with the raising of waterfowl, minnows, and other similar lowland animals, fowl or fish.
6. Piers and docks.

7. Prior legal conforming uses that were in existence as of December 16, 2014, subject to the nonconforming use provisions of this Ordinance.
8. Publicly owned and operated parks, picnic areas, golf courses and similar uses.
9. Sustainable “managed” forestry.
10. (Upon notification of the Village Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for those uses.

B. Condition Uses

The following uses, structures, and activities are permitted upon issuance of a Conditional Use Permit as provided in Section 4.0 of this Ordinance and Issuance of a Department of Natural Resources permit, where required.

1. Boat houses.
2. Dams.
3. Filling, drainage or dredging of wetlands according to the provisions of Sections 4.9 and 6.5 of this ordinance.
4. Flowage and wildlife ponds.
5. Relocation of any watercourse.
6. Removal of topsoil or peat.
7. Transportation, utility, communication, or other uses that is not required under state or federal law.

C. Area, Height, and Yard Requirements (See Section 2.8).

(7) REC - Recreational

A. Permitted Uses

1. Boat launching areas.
2. Boat liveries, including boat storage, sale of boats, motors, fuel, marine supplies and the servicing of boats and motor but not the manufacture of boats or motors.
3. Picnic grounds.
4. Prior legal nonconforming uses that were in existence as of December 16, 2014, subject to the nonconforming use provisions of this Ordinance.
5. Public and private parks.
6. Sale of bait and sporting goods and supplies, excluding camping trailers and tents.
7. (Upon notification of the Village Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for those uses.
8. Vegetable stands.

B. Conditional Uses

1. Antique dealers and sales.
2. Bridle paths and hiking trails.

3. Campgrounds and recreational camps. (Also see Section 4.2)
4. Dog Parks.
5. Gift shops.
6. Mobile home parks and trailer courts. (Also see Section 4.3)
7. Motels, resorts, tourist courts, taverns, dance halls, skating rinks, restaurants, bowling alleys, supper clubs, cocktail lounges, drive-in restaurants, refreshment stands, coffee shops and snack bars.
8. Neighborhood groceries.
9. Residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker located in the same building as the business, single family residences in conjunction and accessory to another permitted use.
10. Riding academies.
11. Riding stables.
12. Salons, barber shops and health clubs.
13. Transportation, utility, communication, or other uses that is not required under state or federal law.

C. Area, Height, and Yard Requirements. See Section 2.8

(8) CMU – Concentrated Mixed-Use District

Because of small lot configurations and unique buildings, this district provides for a wide range of mixed uses within or accessory to existing residential homes. The intent of this district is to create compatible and creative mixed land use arrangements that are unique in comparison to other areas of the Village.

A. Permitted Uses

1. Any permitted uses within the C - Commercial District except for the following:
  - a. Crop farming, forestry, and open space.
  - b. Nurseries
2. Bed and breakfast establishments including short-term rental
3. Crop farming, forestry, and open space
4. Family day care out of a residential home
5. Home occupations – minor (See Section 4.4)
6. Prior legal nonconforming uses that were in existence as (list date) subject to the nonconforming use provisions of this Ordinance.
7. Single family dwellings and accessory structures, including private garages and buildings clearly incidental to the residential use of the property, provided that no such accessory buildings may be used as dwelling units. Includes manufactured & modular homes as defined in Section 13.
8. Two Family residential

B. Conditional Uses

1. Any conditional uses within the C – Commercial District except for the following:
  - a. Contractor Storage Yards
  - b. Drive-in establishments serving food or beverages for consumption outside the structure.
  - c. Drive-in theaters.
  - d. Fairgrounds
  - e. Go cart tracks.
  - f. Golf Courses with accessory uses.

- g. Hospitals, clinics and nursing homes.
  - h. Mobile home sales
  - i. Outdoor storage yard or wholesaling.
  - j. Private airport.
  - k. Public assembly uses, such as amphitheaters, arenas, field houses, gymnasiums, natatoriums, auditoriums, exhibit halls, music halls, legitimate theaters, motion picture theaters, and stadiums.
  - l. Public passenger transportation depots such as heliports, bus and rail depots, except airports, airstrips and landing fields.
  - m. Racetracks.
  - n. Radio and television towers
  - o. Recreational, religious and/or youth camps.
  - p. Riding stables.
  - q. Skeet and trap ranges.
  - r. Ski hills and lodges.
  - s. Solar energy systems when the primary intent is for export and the sale of energy.
  - t. Wind energy systems when the primary intent is for export and the sale of energy.
2. Any similar use subject to the approval of the Village Board
  3. Appliance stores
  4. Arts, crafts & antique dealers, and sales
  5. Athletic clubs and gyms
  6. Bakeries
  7. Barber & beauty shops
  8. Beverage stores
  9. Book and music stores
  10. Breweries
  11. Broadcasting studios
  12. Caterers
  13. Cellular phone sales and service
  14. Club houses and lodges
  15. Commercial greenhouse, landscape, and nursery business
  16. Dancing schools
  17. Electrician services
  18. Financial institutions
  19. Florist
  20. Food and Meat Lockers
  21. Furniture stores & upholstery shops
  22. Grocery stores
  23. Heating services
  24. Home occupation – major (See Section 4.4)
  25. Ice cream and soda sales stands.
  26. Laundry and dry-cleaning services
  27. Light industrial (See Section 13 for definition).
  28. Light industrial activity – accessory to indoor sales and service.
  29. Liquor stores
  30. Multi-family residential
  31. Nurseries and greenhouses (with or without on-site sales)
  32. Office supply stores
  33. Pawn shops

34. Pet shops
35. Photography services
36. Plumbing & septic services
37. Print shops
38. Publishing offices
39. Quasi-public clubs and lodges
40. Radio and television stations
41. Tattoo parlors
42. Tobacco stores
43. Variety stores
44. Wineries

C. Area, Height and Yard Requirements

1. Front/Side and Rear Yards:

- a. There shall be a 3-foot setback for any new structure (principle or accessory) or expansion of the existing structure.
- b. Any new structure, or modification to existing structures, must conform to the footprint area of the structure(s) as they existed on the date of the code amendment, August 30, 2022, if a 3-foot setback cannot be achieved.
- c. For structures which existed on the adoption date of this amendment, August 30, 2022, that are encroaching onto adjacent parcels or the Right-of-Way, no further exterior expansion of the structure shall occur on that side.

2. Minimum Area and Width:

- a. The minimum lot area shall be 5900 square feet with a minimum lot width of 54'.

3. Driveways

- a. Driveways shall be limited to one per parcel in the CMU. Exceptions shall be approved by the Village Board consistent with the standards outlined in an approved driveway permit.

4. Also see Section 2.8.

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## SECTION 4.0 CONDITIONAL USES

### 4.1 Purpose

The purpose of this Section is to provide regulations that govern the procedure and requirements for the review and approval or denial of proposed conditional uses.

In this sub-section, the following terms apply:

“Conditional Use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the Village but does not include a variance.

“Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

The Village Board may authorize the Land Use Administrator to issue a Conditional Use Permit for conditional uses after review by the Plan Commission, provided that such conditional uses or structures are in accordance with the purpose and intent of this Ordinance, and are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the area.

If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the ordinance or those imposed by the Village Board, the Village shall grant the conditional use permit. Any condition imposed must be related to the purpose of this ordinance and be based on substantial evidence.

The requirements and conditions described, must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit’s duration, transfer, or renewal. The applicant and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence.

#### (1) Approval Required

Any use listed as a conditional use in this Ordinance shall be permitted only upon successful completion of the following:

- A. Application to the Village Clerk.
- B. Public Hearing, Review and Recommendation by the Plan Commission.
- C. Approval of the Village Board
- D. Acceptance of the Conditions by the applicant
- E. Issuance of a Conditional Use Permit signed by the Village and applicant.

#### (2) Application

Application for conditional use permits shall be submitted in writing (10 copies of the application and attachments) to the Village Clerk on forms provided by the Village and shall include substantially the same information as required under Section 2.5(3). The cost of the application for a conditional use permit shall be determined by the Village’s Fee Schedule.

(3) Public Hearing

- A. Before action is taken upon an application for a conditional use permit, the Plan Commission shall hold a public hearing. A class 2 notice shall be given as provided in Wis. Stat. Ch. 985. The Plan Commission shall report its recommendation in writing and the grounds for its recommendation.
- B. As a matter of practice, an earnest effort will be made to send by regular mail a copy of the notice for public hearing to the applicant or petitioner or their agent, and to the property owners (as recorded in the Dodge County Register of Deeds Office) of all lands adjacent any part of the parcel or parcels included in the conditional use permit application. The failure to mail a notice to the above parties or the failure of such notice to reach any of the above parties does not invalidate any public hearing or any decision of the Village Board.

(4) Review

In all cases of proposed establishment of a conditional use specified in this Ordinance, the Plan Commission shall review the site, existing and proposed structures, intended use of structure, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewage and water systems, and other aspects of the proposed use.

The requirements and conditions described, must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The Village's decision to approve or deny the permit must be supported by substantial evidence. Furthermore, if an applicant for a conditional use permit agrees to meet all of the requirements and conditions specified by the Village Board, the Village shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and based on substantial evidence.

(5) Existing Conditional Uses

Any use existing on December 16, 2014, other than an existing nonfarm residence in the FP Farmland Preservation Zoning District, which is classified as a Permitted Use if constructed prior to January 1, 2014, shall be deemed to have been granted approval as a conditional use under this Ordinance, subject to maintaining the character and extent of such use or structure existing on that date. Any change in such use shall require approval according to the terms of this Ordinance.

(6) Conditions and Guarantees

- A. Prior to granting a permit for a conditional use, the Village Board, after review by the Plan Commission, may stipulate such conditions and restriction upon the establishment, maintenance, and operation of the conditional use as it may find necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards specified in (7) Standards below. Establishment, maintenance and operation shall be construed to include, but shall not be limited to such factors as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operation control, hours of operation, traffic

circulation, deed restrictions, access restrictions, yard and parking requirements, insofar as the Village Board shall find that conditions applying to these factors are necessary to fulfill the purpose and intent of this Ordinance.

The requirements and conditions described, must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The Village's decision to approve or deny the permit must be supported by substantial evidence. Furthermore, if an applicant for a conditional use permit agrees to meet all of the requirements and conditions specified by the Village Board, the Village shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and based on substantial evidence.

- B. In all cases in which a permit for conditional use is granted, the Village Board, after review by the Plan Commission, shall require such evidence and guarantees as it may deem necessary to fulfill the purpose and intent of this Ordinance and as proof that the conditions stipulated in connection therewith are being and will be complied with.
- C. The Village Board, after review by the Plan Commission, may include in the conditions a requirement that the conditional use be reviewed within a specified period of time.
- D. The Village Board has the dual responsibility of not creating an undue burden on the applicant and ensuring the applicant is responsible for any future impact on adjacent property owners.

(7) Standards

No permit for a conditional use shall be granted unless the Village Board, after review by the Plan Commission, shall find that the following standards are met:

- A. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- B. That the uses, values, and enjoyment of other property in the neighborhood used for purposes already permitted shall be in no foreseeable manner, substantially impaired or diminished by the establishment, maintenance, or operation of the conditional use.
- C. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- D. That adequate utility, access roads, drainage, and other necessary site improvements have been or are being provided.
- E. That adequate measure has been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and traffic hazards in the public roads.

(8) Compliance with Other Provisions

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

(9) Authorization of Permit

The Village Board may authorize the Land Use Administrator to issue a conditional use permit for conditional use specified in this Ordinance after Plan Commission review provided such uses are in accordance with the purpose and intent of this Ordinance.

The requirements and conditions described must be reasonable and, to the extent practical, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The Village's decision to approve or deny the permit must be supported by substantial evidence.

Conditional uses are granted to the property owner. Any change in ownership shall require the issuance of another permit if the activity wishes to continue.

(10) Resubmittal of Application

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

(11) Violation and Revocation

A violation of any permit restriction as set forth herein and determined by the Village Board shall be deemed a revocation of said permit and said use shall be removed immediately. Nothing in this section shall be deemed to give the owner, applicant, or occupant of said lands a vested interest in the use established in said permit. In addition, the Village Board, after review by the Plan Commission, shall revoke a Conditional Use Permit if at any time there has been a failure to comply with the conditions imposed and agreed to by the applicant or if there has been a substantial change in the development, unless such change has been approved by the Village Board.

(12) Expiration

A Conditional Use Permit shall be deemed to authorize only one particular use and shall expire if the authorized use ceases for more than twelve (12) consecutive months for any reason. Any permit issued shall expire if action has not been taken to establish the conditional use within six (6) months from the date the Village Board approved the permit. The Village Board, after review by the Plan Commission, may grant a time extension if requested by the applicant. When a parcel with a Conditional Use Permit has transferred ownership, the Conditional Use Permit is no longer valid.

## 4.2 Recreational Vehicles and Campgrounds

Prior to granting a permit for the development or improvement of a campground, the Village Board, after review by the Plan Commission, shall make the following determinations:

- (1) The maximum number of campsites shall be 15 per acre.
- (2) Minimum dimensions of a campsite shall be 25 feet wide by 40 feet long.
- (3) Each campsite must be separated from other campsites by a yard not less than 15 feet.
- (4) There shall be 1 automobile parking space for each campsite.
- (5) In addition to the requirements of Section 5.0 of this Ordinance, there shall be a minimum

yard setback of 40 feet from all exterior lot lines of the campground.

- (6) It shall conform to the requirement of the Wisconsin Administrative Code which shall apply until amended and then apply as amended.

### **4.3 Mobile Home Parks and Trailer Courts**

Mobile home parks are permitted as a conditional use in the Recreation District. (See Section 2.9 (7). In granting a permit for the development or improvement of a mobile home park, the Village Board, after review by the Plan Commission, shall make the following determinations:

- (1) The minimum size of mobile home parks and trailer courts shall be ten (10) acres.
- (2) The maximum number of mobile homes shall be ten (10) per acre.
- (3) Minimum dimensions of a mobile home site shall be fifty (50) feet wide by 85 feet long.
- (4) All drives, parking areas and walkways shall be hard surfaced.
- (5) In addition to the requirements of Section 5.0 of this Ordinance, there shall be a minimum yard setback of forty (40) feet at all exterior lot lines of the mobile home park.
- (6) It shall conform to the requirements of the Wisconsin Administrative Code which shall apply until amended and then apply as amended.
- (7) No mobile home shall be rented for a period of less than thirty (30) days.
- (8) Each mobile home site shall be separated from other mobile home spaces by a yard not less than fifteen (15) feet wide.
- (9) There shall be two (2) surfaced automobile parking spaces for each mobile home.
- (10) Unless adequately screened by existing vegetative cover, it shall be screened by a temporary planting of fast-growing material capable of reaching a height of 15 feet or more such as Hybrid Poplar, permanent evergreen plantings such as White or Norway Pine, the individual trees to be such a number and so arranged that within 10 years they will have formed a screen equivalent to opacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than 15 feet.

### **4.4 Home Occupation – Major and Minor**

- (1) Standards for a Home Occupation – Major (Also see Section 13 for Definition)

A Home Occupation – Major is a home-based business that is accessory to a principal residential use. Home Occupation – Major is a conditional use in the AG, and R Districts. The regulations for major home occupations are more flexible than for minor home occupations; as such, major home occupations require the issuance of a conditional use permit. Includes economic activities performed within any dwelling or residential accessory structure that comply with specified requirements listed below. Examples include, but are not limited to, personal and professional services, handicrafts, small beauty salons, and small machine repair. This use shall meet the following performance standards:

  - A. When the use is conducted entirely within the confines of the principal structure, it shall occupy no more than 50 percent of the gross floor area on the floor(s) where the use takes place.
  - B. The use shall be clearly incidental and secondary to the use of the property for residential purposes, and the appearance of the structures shall not be altered, or the occupation be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, or vibrations that carry beyond the premises.

- C. No more than four persons in addition to those members of the family that are permanent residents of the premises shall be employed by the home occupation.
- D. The business of selling stocks of merchandise, supplies, or products other than those produced by the major home occupation to fill orders made by customers shall not be permitted as a major home occupation. That is, the direct retail sale of products out of the residence within which the major home occupation is located is not allowed, but a person may pick up an order they have placed. Wholesale or retail sales from within the residence or accessory structure as the primary activity or function of the major home occupation is prohibited, except for sales conducted entirely via the mail, telephone, or the internet.
- E. The display, storage, or parking of materials, goods, supplies, or equipment outside of the dwelling is permitted in an enclosed accessory building, or in a yard of the subject property provided the yard area used for such display, storage, or parking is completely screened from view from all public streets and adjacent property through the use of landscaping materials or a combination of landscaping materials and a fence. However, for property zoned R Residential, display, storage, or parking is limited to a side or rear yard, provided the yard area used for such display, storage, or parking is completely screened from view from all public streets and adjacent property through the use of landscaping materials or a combination of landscaping materials and a fence. No storage, display or parking of materials, goods, supplies, or equipment shall be allowed within a minimum required yard.
- F. There shall be sufficient off-street parking to compensate for additional parking generated by the home occupation, and employees.
- G. Any home occupation involving the on-site sale, resale, painting, body repair, salvage or wrecking of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles shall be prohibited.
- H. Repair and maintenance of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles, not including body repair or painting beyond “touchups”, shall be permitted. Size of the operation shall be limited to up to three vehicle repair bays and no more than 10 vehicles total onsite at any time, not including property owner vehicles. No unlicensed vehicles shall be permitted at any time.
- I. Conditional use permits granted for major home occupations shall be assigned only to a designated person who resides at the residential address. Such permits do not run with the land, are not transferable from person to person, or from address to address.
- J. As part of the process to grant the conditional use permit for a major home occupation, the Plan Commission may restrict the number and types of machinery and equipment used on the property, limit hours of operation, or attach other conditions to the approval to meet the standards for granting a conditional use permit in this Section 4.0.

(2) Standards for a Home Occupation – Minor (Also see Section 13 for Definition)

A Home Occupation – Minor is a small home-based family or professional business that is accessory to a principal residential use. Home Occupation – Minor is a permitted use in the AG, and R Districts. Includes economic activities performed within any dwelling that comply with the specified requirements listed below. Examples include, but are not limited to, personal and professional services, home offices, handicrafts, and small machine repair. This use shall meet the following performance standards:

- A. The use shall be conducted entirely within the confines of the principal residential structure or accessory residential structure.
- B. The use shall occupy no more than 25 percent of the gross floor area on the floor(s) where the use takes place.
- C. The use shall be clearly incidental and secondary to the use of the premises for residential purposes, and the appearance of the structure(s) shall not be altered or the occupation within the structures be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, odors, dust or vibrations that carry beyond the premises.
- D. The business of selling stocks of merchandise, supplies, or products other than those produced by the minor home occupation to fill orders made by customers shall not be permitted as a minor home occupation. That is, the direct retail sale of products out of the residence within which the minor home occupation is located is not allowed, but a person may pick up an order they have placed. Wholesale or retail sales from within the residence or accessory structure as the primary activity or function of the minor home occupation is prohibited, except for sales conducted entirely via the mail, telephone, or the internet.
- E. The display, storage, or parking of materials, goods, supplies, or equipment outside of the dwelling or an accessory building is prohibited, except for truck equipment.
- F. Any minor home occupation involving the on-site sale, resale, salvage or wrecking of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles shall be prohibited.

#### 4.5 **Non-Metallic Mining**

Non-Metallic Mining is a conditional use in the AG, IM and FP Districts.

(1) **Intent**

The intent of these regulations is to promote public health, safety and general welfare; protect the demand for and economical extraction of nonmetallic minerals; permit the development and utilization of nonmetallic mineral resources in a manner compatible with neighboring land uses; preserve environmentally sensitive areas, such as the Niagara Escarpment, which is a unique geological formation; avoid the degradation of existing private and public water supplies; and, to minimize potential adverse environmental impacts of nonmetallic mining operations through the use of best management practices. These regulations are to be used in concert with the Dodge County Non-Metallic Mining Reclamation Ordinance.

(2) **Application**

- A. In addition to the submittal information required under Section 4.1(2), the application for conditional use permit shall include the following information:
  - 1. A written description of the proposed operation, including the types and quantities of the materials that would be extracted; proposed dates to begin extraction, end extraction, and complete reclamation; geologic composition and depth and thickness of the mineral deposit; existing use of the land and proposed use after reclamation; existing natural and archaeological features on and adjacent to the site; where extracted

materials would be hauled and over what roads; types, quantities, and frequency of use of equipment to extract, process, and haul; whether and how frequently blasting, drilling, mining, crushing, screening, washing, refueling, fuel storage, asphalt batching, or concrete mixing would be performed on site; whether excavation will occur below the water table and, if so, how ground water quality will be protected; description and elevations of all temporary or permanent structures; proposed hours and days of operation; any special measures that will be used for spill prevention and control, dust control, or environmental protection; and assurances that the site will be developed, operated, and reclaimed in accordance with all approved plans and all county, state, and federal regulations, including a listing of all applicable regulations.

2. A site/operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing contour lines; existing roads, driveways, and utilities; existing natural features including lakes, streams, floodplains, wetlands, and shoreland areas; all residences and private and municipal wells within 1,320 feet; location of the proposed extraction, staging areas, fueling, fuel storage, and equipment storage areas; proposed location and surfacing of roads, driveways, and site access points; proposed phasing plan, if any; proposed fencing of property and gating of access points; proposed locations of stockpiles; proposed location and types of screening berms and landscaping; and proposed temporary and permanent structures, including scales and offices.
  3. An erosion control plan, drawn to scale by a professional engineer, meeting all applicable state and county requirements.
  4. A reclamation plan prepared in accordance with the Wisconsin Administrative Code and the Dodge County Non-metallic Mining Reclamation Ordinance which are hereby incorporated by reference into this ordinance.
  5. A written description as to the potential impacts to all property owners within 1320 feet of all proposed property boundaries.
  6. Documentation that there are no existing residences within 1320 feet of all proposed property boundaries.
- B. A landscaped buffer yard shall be required in the yard where the use abuts a residential use or a residential zoning district.
- C. The Village may place limits on the amount of time the non-metallic mineral extraction use shall remain in operation.
- D. The nearest edge of all buildings, structures, and surface activity areas, including pit edges, shall be located a minimum of 200 feet from all dwellings on adjacent properties, and no less than 10 feet from any lot line.
- E. To prevent tracking of mud onto public roads, access driveways shall be paved within 100 feet of public roads, unless the adjacent road is unpaved.
- F. All public roads shall be kept free of all mud, debris, and dust by sweeping or other means as necessary, or as requested by the Village of Kekoskee.
- G. Access to the site shall only be through points designated as entrances on the site/operations plan; such access points shall be secured when the site is not in operation.
- H. Provisions for the upgrade, repair, and maintenance of Village and county roads shall depend on the intensity of the operation and the existing condition and capacity of such roads. A bond or other performance guarantee for such work may



be required provided that a clear relationship is established between the operation and the need for road upgrades, repair, and maintenance. If any Village or county road is damaged or destroyed as a result of owners' operations, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operations.

- I. Spraying of the site and driveways shall be conducted to control dust, except when the temperature is below freezing. The Village may request that water be applied in and around the excavation pit to further reduce dust.
- J. On-site bulk fuel storage areas and appropriate places for fueling of equipment (e.g., above the water table) shall be located to minimize the potential for groundwater contamination and in accordance with the Wisconsin Administrative Code and Wisconsin Statutes.
- K. Hours or days of operation may be limited as deemed appropriate by the Village.
- L. Expectations for any blasting, drilling, screening, and asphalt batching shall be clearly understood, and separate acceptable hours for these activities may be established. Blasting is also regulated under Wisconsin Statutes and Wisconsin Administrative Code. The conditional use permit may specifically restrict such activities from occurring if the conditional use permit standards cannot be met.
- M. If blasting or drilling is requested, additional standards or conditions may be applied with relation to frequency, noise and vibration levels, notice to neighbors, pre-inspection of neighboring basements and wells, and claims procedures in accordance with the Wisconsin Administrative Code.
- N. All trucks, excavation, and processing equipment shall have exhaust systems that meet or exceed current industry standards to ensure that noise levels are kept at or below allowable limits. The mine operator shall demonstrate that the level of noise generated by the facility or equipment does not exceed 65 decibels at the property line.
- O. Unless the extraction site is inaccessible, the area of extraction shall be completely enclosed by a safety fence or maintained at a slope not to exceed 3:1.
- P. The applicant shall furnish a certificate of insurance before operations commence and such certificate shall remain in good standing through the entire conditional use permit period.
- Q. Approval shall be subject to amendment or revocation if non-compliance with approved plans, this section, or approval conditions is identified.
- R. Approval shall be subject to periodic review of the operation to ensure compliance with the conditional use permit, and to specific limitations over the portion of the lot or parcel where extraction may occur.
- S. The conditional use permit shall expire 5 years from the date of approval except where the Village, in its conditional use approval, grants otherwise. In order to continue operation beyond the specified time frame, the applicant must apply for an extension to the original conditional use permit which shall follow the normal conditional use permit process every 5 years, or the timeframe granted by the Village of Kekoskee.

#### **4.6 Planned Unit Development**

Planned unit developments (PUD) are permitted as conditional uses in the Residential (R) District. PUD is intended to permit the development of planned developments containing not less than 40 contiguous acres under one ownership or control.

Within such planned communities, the location of all residential, commercial, industrial, governmental uses, school sites, parks, playgrounds, recreation areas, parking areas and other open spaces shall be controlled in such a manner as to permit a variety of housing accommodations and land uses in orderly relationship to one another.

- (1) The procedure for obtaining a permit for the development of a PUD shall be as outlined in section 4.1 of this ordinance, except that the following requirements shall also apply:
  - A. The applicant shall provide proof that the site under consideration contains a minimum land area of not less than 40 acres under one ownership or control. Additional land area may be added to an existing PUD if it is adjacent or forms a logical addition to an existing PUD. The procedure for an addition shall be the same as if an original application was filed, and all of the requirements of this article shall apply except the minimum acreage requirement of 40 acres.
  - B. The applicant shall furnish, with an application for rezoning, 15 copies of a preliminary plan prepared or certified by a surveyor or engineer duly authorized by the State to practice as such, showing the proposed general layout, the general location of the various types of land uses, the proposed densities of population in the residential areas, a major thoroughfare plan, a public utility plan if public utilities are proposed or required, a storm drainage plan and a plan showing the location of recreation spaces, parks, schools and other public or community uses.
  - C. Following approval by the Village Board, the applicant shall furnish 15 copies of a final plan of any section of not less than 10 acres of the land shown on the preliminary plan prepared or certified by a surveyor or engineer duly authorized by the State to practice as such, showing the layout of all major and local thoroughfares and local streets, the location of all buildings, parking areas, pedestrian ways, utility easements, lot lines, open spaces, parks, recreation areas, school sites, playgrounds, the proposed use of all buildings and the metes and bounds of all dedicated areas and lots. The applicant shall also furnish a proposed deed of dedication including restrictions safeguarding the use of open spaces and preventing encroachment upon open spaces between buildings. The applicant shall furnish a deed, or deeds, to land determined by the Village to be needed for public elementary and intermediate school purposes. When the final plan and deed of dedication shall have been approved by the Village Board, after review by the Plan Commission, as being in conformity with this section and with any changes or requirements of the Village Board on the preliminary plan and it has been determined that the applicant has complied with the requirements of the Dodge County Subdivision Control Ordinance whether or not it is a subdivision, it shall be approved for recordation and recorded. Thereafter, no modification may be made in any final plan except by an amended final plan submitted as provided for the original plan.
  
- (2) In granting a permit for the development of a PUD, the Village Board, after review by the Plan Commission, shall make the following determinations:
  - A. That the overall population density shown on the PUD plan for residential and associated industrial and commercial uses shall not exceed an average density of 11 persons per acre. In computing population density, a factor of 3.7 persons shall be used per one family dwelling, 3.0 persons per garden-type apartment unit of Village house and 1.5 persons per high rise apartment unit.

- B. That a maximum of three residential density areas are shown on the PUD plan. Such density areas shall be designated low, medium, and high.
  - 1. The population within a low-density area shall not exceed 3.8 persons per acre of gross residential area.
  - 2. The population density within a medium density area shall not exceed 14 persons per acre of gross residential area.
  - 3. The population density within a high-density area shall not exceed 60 persons per acre of gross residential area.
- C. That in computing average density on any final plan or a part of a PUD which at the time of its creation was under one ownership or control, any excess in land area over that required to support an average density of 13 persons per acre of gross residential area in any final plan previously recorded may be included. In other words, as each successive final plan is submitted, the overall density of all areas shown on recorded final plans within the proposed PUD as approved by the Village Board shall be recomputed so that the average population density of the developed areas within the recorded sections of the PUD shall never at any time in the history of the development exceed a density of 13 persons per acre.
- D. That the uses shall be as shown on the preliminary plans as required by section 4.6 (1).
- E. That the location of all structures and designated building envelopes shall be as shown on the final plans as required by section 4.6 (1). Building envelopes must be protected by adequate covenants, running with the land, conveyances, or dedications.  
The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent dwellings or to the existing or prospective development of the neighborhood. Open spaces between structures shall be protected where necessary by adequate covenants, running with the land, conveyances, or dedications. There shall be no minimum lot size, no minimum setback lines, no minimum percentage of lot coverage and no minimum lot width in a PUD.
- F. That the owner and contractors have been bonded to make the required improvements within a reasonable length of time.

#### **4.7 Landfills and Solid Waste Disposal Operations**

Landfills and Solid Waste Deposal Operations are permitted as a conditional use in the Industrial and Manufacturing (IM) District.

- (1) The applicant shall submit the following information, in writing to the Plan Commission for review:
  - A. Location and description of the premises to be licensed.
  - B. Nature of the operation to be conducted.
  - C. Type of solid waste material to be disposed of and the detailed method of disposal of the material.
  - D. Construction details of any building to be used in connection with the operation.
  - E. Description of all land uses within one thousand (1,000) feet of the premises.
  - F. Location and description of all wetlands and wells within 1,000 feet of the premises.
  - G. Name and address of the owner and of all persons who will directly participate in the management of the site.

- H. Any additional information deemed necessary by the Land Use Administrator, Plan Commission or Village Board for a full evaluation of the proposed operation.
- (2) Requirements: All solid waste disposal operations shall in all respects comply with the solid waste disposal standards of the Department of Natural Resources (DNR), and the standards of any other state agency having control over the type of operation involved.
- (3) Location: No solid waste disposal operations shall be located within five hundred (500) feet of any residence, other than the owner of the premises or, any residential, business, or community district: three hundred (300) feet from a lake, river, stream, or wetland; or on hundred fifty (150) feet away from any highway right-of-way.

#### 4.8 Salvage and Junk Yards

(See Section 13 for definition.) Salvage and junk yards are permitted as a conditional use in the IM zoning district. No salvage or junk yards shall be permitted in the Village of Kekoskee unless they also comply with the following requirements within the IM district:

- (1) No salvage or junk materials shall be located within 1,000 feet of the centerline of all Federal, State, or County Trunk Highways or the boundary of a public park or within 600 feet of the centerline of all Village roads unless written permission is first obtained from the Village Board after review by the Plan Commission.
- (2) The Village Board, after review by the Plan Commission, shall not grant written permission to a salvage or junk yard unless said junkyard complies with the provisions of sub. (3) and (4) below and does not present a nuisance to public health.
- (3) All junk and salvage materials shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the highway, road, or park.
- (4) A fifteen (15) foot fire lane shall be maintained as follows: No junk or salvage materials shall be located closer than fifteen (15) feet to any object screening the salvage or junk yard: or where no such screen exists, no junk or salvage material shall be located closer than fifteen (15) feet from the owner's home.

#### 4.9 Solar Energy Systems

In all districts, solar energy systems must be in accordance with the following:

- (1) **Purpose.** The purpose of this Section is to provide a regulatory scheme through a solar energy permit application process to review the construction and operation of Solar Energy Systems in the Village of Kekoskee, Dodge County, Wisconsin. All regulations contained herein are adopted to preserve and protect the public health and safety.
- (2) **Definitions.**
  - A. **Agrivoltaics** – A solar energy system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.

- B. **Building-integrated Solar Energy Systems** – A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.
- C. **Community Solar Garden** – A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system. Also referred to as shared solar.
- D. **Grid-intertie Solar Energy System** — A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.
- E. **Ground-mount** – A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.
- F. **Large-Scale Solar Energy System** – A commercial solar energy system that converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. A large-scale solar energy system is the principal land use for a parcel(s) generating 1MW or more.
- G. **Off-grid Solar Energy System** — A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.
- H. **Passive Solar Energy System** — A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.
- I. **Photovoltaic System** – A solar energy system that converts solar energy directly into electricity.
- J. **Renewable Energy Easement, Solar Energy Easement** — An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land, consistent with Wis Statutes 700.35.
- K. **Roof-mount** – A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mount systems are accessory to the principal use.
- L. **Roof Pitch** — The final exterior slope of a roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.
- M. **Solar Access** — Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

- N. **Solar Carport** – A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.
- O. **Solar Collector** — A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.
- P. **Solar Daylighting** – Capturing and directing the visible light spectrum for use in illuminating interior building spaces in lieu of artificial lighting, usually by adding a device or design element to the building envelope.
- Q. **Solar Energy** — Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- R. **Solar Energy System** — A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating. “Solar Energy Systems” exclude the following which are permitted accessory uses in all districts:
  - 1. Solar powered light fixtures that are ground or wall mounted.
  - 2. Solar powered electric fences.
  - 3. Building-mounted solar energy systems are subject to the following: These systems require a building permit that shall be reviewed and issued by the Building Inspector.
    - a. For purposes of this exception, “building mounted solar energy system” shall refer to an accessory use that consists of the installation of equipment mounted on a building or incorporated into exterior building materials that uses sunlight to produce electricity or provide heat or water to a building.
    - b. No portion of a panel used to collect solar energy may extend beyond the roof surface or the wall surface to which it is attached.
    - c. All portions of the system shall comply with the maximum height requirements of the zoning district in which it is located.
    - d. The panels of a system that are mounted on a flat roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.
    - e. The panels of a system that are mounted on a pitched roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.

- f. A solar energy system may be mounted on the façade of a commercial building provided the installation does not project more than four feet from the face of a wall.
- g. All panels shall be certified by one of the following (or their equivalent as determined by the Village): Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation.
- h. If the Village determines that more than fifty percent of the panels (measured by total area) have not been operational for a continuous period of twelve months, the Village shall order the removal of the inoperable panels.

S. **Solar Hot Air System** — (also referred to as Solar Air Heat or Solar Furnace) – A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically mounted collector on a south-facing wall.

T. **Solar Hot Water System** — A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

U. **Solar Mounting Devices** — Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

V. **Solar Resource** — A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year and can be measured in annual watts per square meter.

(3) **Permit Required.** No Solar Energy System may be installed or maintained in the Village of Kekoskee without a building permit or Solar Energy System Permit granted pursuant to this ordinance.

(4) **Permitted Accessory Solar Uses & Standards** — Solar energy systems are a permitted accessory use in all zoning districts where structures of any sort are allowed, subject to certain requirements as set forth below. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building. Solar energy systems that do not meet the following design standards will require a Solar Energy System permit.

A. **Height** — Solar energy systems must meet the following height requirements:

- 1. Building - or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar energy systems other than building-integrated

systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.

2. Ground – or pool-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.
3. Solar carports in non-residential districts shall not exceed 20 feet in height.

**B. Setbacks** – Solar energy systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located, except as allowed below:

1. **Roof- or Building-Mounted Solar Energy Systems** — the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side -yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.
2. **Ground-mounted Solar Energy Systems** — Ground- mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems.

**C. Visibility** – Solar energy systems in residential districts shall be designed to minimize visual impacts from the public right- of-way, as described in C.1-3, to the extent that doing so does not affect the cost or efficacy of the system, consistent with WI Statute §66.0401.

1. **Building Integrated Photovoltaic Systems** — Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.
2. **Aesthetic restrictions** — Roof-mount or ground-mount solar energy systems shall not be restricted for aesthetic reasons if the system is not visible from the closest edge of any public right-of-way other than an alley, or if the system meets the following standards:
  - a. Roof-mounted systems on pitched roofs that are visible from the nearest edge of the front right-of-way shall have the same finished pitch as the roof and be no more than ten inches above the roof.





**J. Compliance with State Plumbing Code** — Solar thermal systems shall comply with applicable Wisconsin State Plumbing Code requirements.

**K. Utility Notification** — All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

(5) **Principal Use & General Standards**

Principal uses include utility scale solar energy systems (Large Scale Solar) Ground mount solar energy arrays that are the primary use on the lot designed for providing energy to off-site uses or export to the energy wholesale market.

**A. Site Design**

1. **Setbacks** – Large-scale solar arrays must meet the following setbacks:

- a. Property line setback for buildings or structures in the district in which the system is located, except as otherwise determined in A.1.e below.
- b. Roadway setback of 150 feet from the ROW centerline of State highways and County highways, 100 feet for other roads, except as otherwise determined in A.1.e below.
- c. Housing unit setback of 150 feet from any existing dwelling unit, except as otherwise determined in A.1.e below.
- d. Setback distance should be measured from the edge of the solar energy system array, excluding security fencing, screening, or berm.
- e. All setbacks can be reduced by 50% if the array is fully screened from the setback point of measurement.

2. **Screening** – Large-scale solar shall be screened from existing residential dwellings.

- a. A screening plan shall be submitted that identifies the type and extent of screening.
- b. Screening shall be consistent with Village’s screening ordinance or standards typically applied for other land uses requiring screening.
- c. Screening shall not be required along property lines within the same zoning district, except where the adjoining lot has an existing residential use.
- d. The Village may require screening where it determines there is a clear community interest in maintaining a viewshed.

3. **Ground cover and buffer areas** – the following provisions shall apply to preservation of existing vegetation and establishment of vegetated ground cover. Additional site-specific conditions may apply as required by the Village.
- a. Large-scale removal of mature trees on the site is discouraged. The Village may set additional restrictions on tree clearing or require mitigation for cleared trees.
  - b. The applicant shall submit a vegetative management plan prepared by a qualified professional or reviewed and approved by a natural resource agency or authority, such as the Wisconsin Department of Natural Resources, County Soil and Water Conservation District, Land and Water Conservation Department or Natural Resource Conservation Service. The plan shall identify:
    - i) The natural resource professionals consulted or responsible for the plan.
    - ii) The conservation, habitat, eco-system, or agricultural goals, which may include: providing habitat for pollinators such as bees and monarch butterflies, providing habitat for wildlife such as upland nesting birds and other wildlife, establishing vegetation for livestock grazing, reducing on-site soil erosion, and improving or protecting surface or ground-water quality.
    - iii) The intended mix of vegetation upon establishment.
    - iv) The management methods and schedules for how the vegetation will be managed on an annual basis, with particular attention given to the establishment period of approximately three years.
  - c. Soils shall be planted and maintained in perennial vegetation for the full operational life of the project, to prevent erosion, manage run off and build soil.
  - d. Vegetative cover should include a mix of perennial grasses and wildflowers that will preferably result in a short stature prairie with a diversity of forbs or flowering plants that bloom throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening. Perennial vegetation (grasses and forbs) is preferably native to Wisconsin, but where appropriate to the vegetative management plan goals, may also include other naturalized and non-invasive species which provide habitat for pollinators and wildlife and/or other ecosystem services (i.e., clovers).

- e. Plant material must not have been treated with systemic insecticides, particularly neonicotinoids.
  4. **Foundations** — A qualified engineer shall certify that the foundation and design of the solar panel racking, and support is within accepted professional standards, given local soil and climate conditions.
  5. **Power and communication lines** — Running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Village in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the zoning administrator.
  6. **Fencing** — Perimeter fencing for the site shall not include barbed wire or woven wire designs and shall preferably use wildlife-friendly fencing standards that include clearance at the bottom. Alternative fencing can be used if the site is incorporating Agrivoltaics.
- B. Stormwater and NPDES** – Solar farms are subject to the Village’s stormwater management and erosion and sediment control provisions and NPDES permit requirements. Solar collectors shall not be considered impervious surfaces if the project complies with ground cover standards, as described in A.1.c. of this ordinance.
- C. Other standards and codes** — All solar farms shall be in compliance with all applicable local, state and federal regulatory codes, including the State of Wisconsin Uniform Building Code, as amended; and the National Electric Code, as amended.
- D. Site Plan Required** — The applicant shall submit a detailed site plan for both existing and proposed conditions, showing locations of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by the Village. The site plan should show all zoning districts and overlay districts.
- E. Agricultural Protection** — Solar farms must comply with site assessment or soil identification standards that are intended to identify agricultural soils. The Village may require mitigation for use of prime soils for solar array placement, including the following:
1. Demonstrating co-location of agricultural uses (Agrivoltaics) on the project site.
  2. Using a Joint Development Agreement (JDA), that requires the site to be returned to agriculture at the end of life of the solar installation.
  3. Placing agricultural conservation easements on an equivalent number of prime soil acres adjacent to or surrounding the project site.

4. Locating the project in a wellhead protection area for the purpose or removing agricultural uses from high-risk recharge areas.

**F. Decommissioning** — A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life.

1. Decommissioning of the system must occur in the event the project is not in use for 12 consecutive months.
2. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and assurances that financial resources will be available to fully decommission the site.
3. Disposal of structures and/or foundations shall meet the provisions of the Village Solid Waste Ordinance.
4. The Village may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

(6) **Application.** Every application for a Solar Energy System Permit shall be made in writing and shall include the following information:

- A.** Name and address of the applicant and the name and contact information for a designated representative of the applicant.
- B.** Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
- C.** Scaled drawing of the Solar Energy System and its dimensions, its location, its height above ground level, orientation, and slope from the horizontal.
- D.** Site plan showing lot lines and dimensions of the Solar Energy System user's lot for accessory solar systems and neighboring lots within 1000 feet of Large-Scale Solar Energy Systems.
- E.** A landscape plan that includes proposed topography, grubbing and clearing along with plantings and final vegetation.
- F.** Solar Energy Systems which are not an accessory use but still generating less than 1 MW, shall be reviewed as an accessory use under this ordinance.
- G.** Such additional information as may be reasonably requested by the Village.
- H.** Any of the information required by this section may be waived by the Village at its discretion.

(7) **Applicant Fees.** Application fees shall be paid consistent with the Village's Annual Fee Schedule. For Principal Use Large Scale Energy Systems, all costs incurred by the Village relating to the review and processing of the application, including the cost of notices, the cost of meeting per diems, the cost of services necessary to review an application that are provided by Village officials, outside engineers, attorneys, planners, environmental specialists, and other consultants or experts shall be billed against the deposit regardless of the final outcome of the application. The applicant shall maintain

a minimum of ten thousand dollars (\$10,000) in the account until the review process and construction (if approved) is completed. If the balance in the account drops below ten thousand dollars (\$10,000), the applicant shall deposit additional money to bring the account balance to twenty-five thousand dollars (\$25,000) within five (5) business days of receipt of written notice from the Village. The Village will refund any remaining balance in the account within sixty (60) days after the final inspection and Village approval of the constructed solar energy system or within sixty (60) days after denial of the application. The Village reserves the right to refuse continued review of an application in the event an applicant fails to comply with this subsection.

- (8) **Review of Solar Energy System Permit Application.** The Village will consider each Solar Energy System on a case-by-case basis following the procedures in Section 4.9 of this Ordinance except as modified in this Section. In addition to the notice requirements set forth in elsewhere in this Ordinance. For large scale solar energy systems, the applicant shall provide written notice of its application to the owners and occupants of all properties located with 1,000 feet of any parcel upon which any portion of the proposed solar energy system will be located. Any Large-Scale Solar Energy System permit must be approved by the Village Board. The Village Board may deny a permit for a Solar Energy System or may impose restrictions on a Solar Energy System if the Village finds that the denial or restrictions satisfy one of the following conditions:
- A. The denial or restriction serves to preserve or protect the public health or safety.
  - B. The denial or restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
  - C. The denial or restriction allows for an alternative system of comparable cost efficiency.
- (9) **Solar Energy System Restrictions.** The Village may impose restrictions on a Solar Energy System relating to any of the following:
- A. Location of the Solar Energy System.
  - B. Setbacks from inhabited structures, property lines, public roads, communication and electrical lines, and other sensitive structures and locations.
  - C. Wiring and electrical controls of the Solar Energy System.
  - D. Reimbursement for emergency services required as a result of the Solar Energy System.
  - E. Solar Energy System ground clearance.
  - F. Solar Energy System height.
  - G. Shared revenue, payments in lieu of taxes and other financial matters. All financial matters shall be approved as part of a Joint Development Agreement (JDA).
  - H. Financial security, such as bonds, cash deposits, or letters of credit.

- I. Decommissioning.
  - J. Compensation to affected property owners.
  - K. Any other matters that are measurable and based on substantial evidence the Village finds appropriate.
- (10) **Revocation.** Any permit granted for the installation or maintenance of a Solar Energy System may be revoked by the Village if the permit holder, its heirs, or assigns, violates the provisions of this ordinance or the provisions of a permit granted pursuant to this ordinance.

All other provisions of the Village of Kekoskee Zoning Ordinance remain in full force and effect.

#### **4.10 Failure to Act**

If an application for a proposed Conditional Use is not acted upon finally by the Village Board within six (6) months of the date upon which the Land Use Administrator determines the application complete, it shall be deemed to have been approved.

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## SECTION 5.0 SETBACKS, ACCESS, AND OFF-STREET PARKING

### 5.1 Highway and Road Setbacks

For the purpose of determining the distance structures shall be setback from highways and roads, the following setbacks shall apply unless the yard regulations or modifications allow a lesser yard or setback requirement.

This section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery, or trees; provided, however, that no building or structure, trees or shrubbery shall be so located, maintained, or permitted to obstruct a 90-degree straight line vision triangle established at the center of the intersection so that the view across the triangle is not obstructed.

Highway and Road Setback Distances Highway, street and road setbacks are measured from the centerline of the highway, street, or road and/or from the highway, street and road right-of-ways whichever is greater. Minimum setback distances shall be as follows:

Type of Abutting Roadway	Minimum Setback Distances (feet)	
	From Centerline	From Right-of-Way
Streets and Village Roads (designated)	60	27
Streets and Village Roads (undesignated)	75	42
Federal, State, and County Trunk Highways	100	67
Expressways and Freeways		
- Residential Uses	---	200
- Nonresidential Uses	---	67

Please note that should Dodge County amend the above referenced setbacks; the newly adopted county setbacks shall apply.

Exceptions:

- (1) In no case shall a building be set back less than 25 feet from the nearest State or U.S. Highway right-of-way line.
- (2) Where each of the two adjoining lots on either side of a lot contains at least one pre-existing principal building, the minimum required front yard setback on the lot may be reduced to a number equal the average setback of the closest principal buildings to the public street on the adjoining lots, except where such setback would be in violation of exception (1).

### 5.2 Reserved

### 5.3 Loading Requirements

Adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading do not project into traffic lanes.

### 5.4 Off-Street Parking

Each business or home occupation must provide off-street parking to meet its needs. The number of parking spaces shall be determined by the Land Use Administrator based on historic performance information subject to appeal to the BOA.

## 5.5 **Driveways**

All driveways installed, altered, changed, replaced, or extended after the effective date of this ordinance shall meet the provisions of the Village of Kekoskee Driveway Ordinance including permit requirements.

## 5.6 **Private Access Limitations**

No direct public or private access shall be permitted, to existing or proposed rights-of-way for the following:

- (1) **Highways**, and their interchanges or turning lanes nor to intersections or interchanging roads within five hundred (500) feet of the most remote end of the taper of the turning lanes.
- (2) **Arterial Streets and Roads**, intersecting another arterial street or road within one hundred (100) feet of the intersection of the right-of-way lines.
- (3) **Streets and Roads**, intersecting an arterial street or road within fifty (50) feet of the intersection of the right-of-way lines.
- (4) **Access Barriers**, such as curbing, fencing, ditching, landscaping, or other topographic barriers may be erected to prevent unauthorized vehicular ingress or egress to the above specified streets, roads, or highways.

## SECTION 6.0 MODIFICATIONS

### 6.1 Height

The district height limitations elsewhere in this Ordinance (Sections 2.8 and 14.1) may be exceeded, but such modification shall be in accord with the following:

- (1) Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues, and chimneys, are exempt from the height limitations of this Ordinance.
- (2) Special Structures, such as elevator leg, gas tanks, grain elevators, scenery lots, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, smokestacks, and flag poles, are exempt from the height limitations of this Ordinance.
- (3) Essential Services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.
- (4) Public or Semi-Public Facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices, and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirements.
- (5) Agricultural Structures, such as barns and silos shall not exceed in height twice their distance from the nearest lot line or public road.

### 6.2 Yards

The yard requirements elsewhere in this Ordinance may be modified as follows:

- (1) Uncovered Stairs, Landings, and Fire Escapes may, project into any yard but not to exceed six (6) feet and not closer than three (3) feet to any lot line.
- (2) Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard; but such projection shall not exceed two (2) feet.
- (3) Residential Fences are permitted on property lines but shall not in any case exceed a height of six (6) feet; shall not exceed a height of four (4) feet in the street yard and shall not be closer than two (2) feet to any public right-of-way.
- (4) Security Fences for uses other than residential are permitted on the property lines but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (5) Essential Services, utilities, electric power and communication transmission lines are exempt from setback requirements.
- (6) Landscaping and Vegetation are exempt from the yard requirements of this Ordinance.
- (7) Accessory Structures see Section 2.8(1) C.

**6.3 Average Street Yards**

The required street yards may be decreased to the average of the existing street yards of the abutting structures on each side within 200 feet of the proposed building site, but in no case less than thirty (30) feet.

**6.4 Additions**

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

## SECTION 7.0 SIGNS

### 7.1 Permit Required

Except those specified in Sections 7.2, no signs shall hereafter be located erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a Sign Permit and without being in conformity with the provisions of this Ordinance. The Sign Permit shall be submitted to the Land Use Administrator on forms provided by the Village. The cost of the application for a sign permit shall be determined by the Village's Fee Schedule.

### 7.2 Signs Allowed in all Zoning Districts without a Sign Permit

The following signs are allowed in all zoning districts without a Sign and Zoning Permit, but are subject to the following regulations:

- (1) Over Show Windows or Doors of a business establishment announcing without a display or elaboration only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.
- (2) Real Estate signs not to exceed eight (8) square feet in area on any one side nor sixteen (16) square feet in display area on all sides which advertise the sale, rental, or lease of the premises upon which the signs are temporarily located and limited to one such sign for each premise.
- (3) Name, Occupation, and Warning Signs not to exceed four (4) square feet on any one side nor eight (8) square feet in display area on all sides and limited to one such sign for each premise.
- (4) Bulletin Boards for public, charitable, or religious institutions not to exceed twelve (12) square feet in area on all sides and limited to one such sign for each premise.
- (5) Memorial Signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.
- (6) Official Signs, such as traffic control, parking, restrictions, information, and notices.
- (7) Temporary Signs, the Land Use Administrator may permit the temporary use of a portable sign for advertising purposes in any district provided that the portable sign will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Portable sign permits shall not be granted for a period of more than 90 days in any 365-day period.
- (8) Home Occupation and Home Office Signs, not to exceed six (6) square feet in area.
- (9) Agricultural Signs, pertaining to the sale of agricultural products on a farm or to membership in agricultural or agricultural-related organizations, not to exceed thirty-two (32) square feet in display area on all sides for any one farm.
- (10) Election Campaign Signs, provided that permission shall be obtained from the property owner, renter, or lessee; and provided that such sign shall not be erected prior to the first

day of the "election campaign period" as defined in Section 12.04 of the Wisconsin Statutes and shall be removed within four (4) days following the election.

- (11) Rummage Sale and Garage Sale signs, provided that no such signs shall be erected or placed within a public right-of-way and further provided that such signs are removed within 24 hours following the sale.

No such Sign mentioned in Section 7.2 shall be located closer than two (2) feet from any public road right-of-way or exceed ten (10) feet in height. These requirements shall not apply to Official Signs.

### **7.3 Signs Permitted within a Commercial, Industrial or Concentrated Mixed Use Zoning District with a Sign Permit**

The following signs are permitted in the Commercial, Industrial or Concentrated Mixed Use zoning districts with a Sign Permit and are subject to the following regulations:

- (1) Wall Signs placed against the exterior walls of buildings shall not extend more than six (6) inches outside of a building's wall surface, shall not exceed three hundred (300) square feet in area for any one premise.
- (2) Projecting Signs fastened to, suspended from, or supported by structures shall not exceed one hundred (100) square feet in area for any one premise; shall not extend more than six (6) feet into any required yard; shall not extend more than three (3) feet into any public right-of-way; shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.
- (3) Ground Signs limited to one sign for each premise, shall not exceed twenty (20) feet in height above the mean centerline street grade; shall not be located closer to the road right-of-way than 27 feet, and shall not exceed one hundred (100) square feet in area on any one side nor 200 square feet in display area on all sides.
- (4) Pole Signs limited to one sign for each premise, shall not exceed 100 square feet on one side more 200 square feet on all sides for any one premises; shall not extend more than three (3) feet into any public right-of-way; shall not be less than 10 feet from all side lot lines; shall not exceed 35 feet in height above the mean centerline street grade; and shall be not less than 10 feet above the lot grade or sidewalk grade and not less than 15 feet above a parking lot, driveway, or other area used by motor vehicles.
- (5) Window Signs shall be placed only on the inside of commercial buildings and shall not exceed twenty-five (25) percent of the glass area of the pane upon which the sign is displayed.
- (6) Roof Signs shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which they are located, and shall not exceed three hundred (300) square feet on all sides for any one (1) premises.
- (7) Combinations of any of the above signs shall meet all the requirements for the individual sign.

#### **7.4 Signs Permitted in all Zoning Districts with a Sign Permit**

The following signs are permitted in all zoning districts with a Sign Permit. Once the permit has been issued, it shall be located a minimum of two (2) feet from the road right-of-way:

- (1) Off-Premises Directional Signs which contain only the name of the establishment, logo, or directional information useful to the traveler in locating the site, such as mileage, route numbers or exit numbers providing that:
  - A. No more than two such signs relating to any one establishment shall be located in the approaching direction along any one road or highway.
  - B. No two directional signs facing the same direction of travel shall be spaced less than one mile apart. However, more than one sign may be placed on the same support provided the total square footage does not exceed the allowable area.
  - C. No such sign shall be located within three hundred (300) feet of a highway interchange, intersection at grade, rest area or wayside.
  - D. No such sign shall exceed ten (10) feet in height.
  - E. No such sign or signs in aggregate if facing the same direction of travel shall exceed thirty-two (32) square feet in display area.
- (2) On-Premises Identification Signs for farms, residential subdivisions, parks, multi-family dwelling units, mobile home parks, industrial parks, schools, Village halls, hospitals and for community identification not to exceed twenty-four (24) square feet in display area on all sides; limited to one such sign for each premises; and shall indicate only the name and/or address of the premises, logo, slogan, motto or other information pertinent to identifying the premises. Community identification signs may include service club organization symbols as part of the sign.

#### **7.5 Off-Premises Advertising Signs (Including Billboards)**

- (1) Permitted locations:
  - A. Zoning District C
  - B. Shall not be located within 800 feet of an existing residence, park, school, church, hospital, cemetery, government building or within 2,000 feet of an intersection right of way, or interchange right of way (measured along the highway from the nearest point of beginning or ending of pavement widening at the exit from or entrance to the main traveled way), or 1,500 feet from another off-premises advertising sign.
- (2) Maximum Height: 35 feet.
- (3) Minimum Height: 8 feet.
- (4) Maximum number allowed: 1 per parcel, except 2 will be allowed if combined on the same structure.
- (5) Minimum lot width: 50 feet frontage along a highway listed in subsection (a) above.

- (6) Setback regulations:
  - A. Minimum front or street yard setback: 25 feet from highway right-of-way.
  - B. Maximum front or street yard setback: 300 feet from highway right-of-way.
  - C. Minimum interior side yard setback: Height of the sign.
  - D. Minimum rear yard setback: Height of the sign.
- (7) Maximum Area: 4 lane highway, 672 sq. feet per side; 2 lane highway, 288 sq. feet per side. The maximum area for off-premises advertising signs shall be per structure, exclusive of border and trim, apron, base supports, or other structural members. No copy or advertising shall be allowed on the border, apron, or trim.
- (8) Off-premises advertising signs which are back-to-back, side-by-side, bottom-on-top, and V-shaped shall be considered as one structure if they are physically contiguous and which share a common structure in whole or in part.
- (9) Off-premises advertising signs may be illuminated, subject to the following:
  - A. Off-premises advertising signs shall meet the lighting standards or obtain a waiver from these standards from the Plan Commission.
  - B. Off-premises advertising signs which contain, include, or are illuminated by any flashing, intermittent or moving lights are prohibited, except for the purpose of giving public service information, such as time and temperature.
  - C. Off-premises advertising signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled portion of a highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle are prohibited.
  - D. No off-premises advertising sign shall be illuminated so that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal.
  - E. Off-premises advertising signs which are not effectively shielded as to prevent beams or rays of light from being directed at or towards a residence are prohibited.
- (10) Off-premises advertising signs shall not contain moving parts; copy which simulates any traffic control sign; devices which emit audible sound, odor or particulate matter; or statements, words or pictures of obscene, pornographic, immoral character or containing advertising matter which is untruthful.

**7.6 Traffic**

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

**7.7 Existing Signs**

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform to the provisions of this Ordinance. However, it shall be deemed a nonconforming use or structure, and the provisions of Section 8.0 shall apply.



**7.8 Moving or Flashing Signs**

No sign shall be erected which has any flashing, moving, scrolling, rotating or brilliant intermittent parts or lights or bare reflecting type bulbs, except those giving public service information, such as time, date, temperature, weather, or similar information, or where allowed by conditional use permit. No signs, billboards or other advertising media which create a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.

**7.9 Sign Illumination**

No exterior lighting, whether freestanding or mounted on a building or structure, shall be reflected, or produce unreasonable glare beyond the parcel boundaries. All exterior lighting fixtures, either wall mounted or freestanding, shall be identified on photometric plan and shall state the light dispersion pattern, intensity of light, and cut-off shielding that reflects light downward and in which the light source is not visible from adjacent properties. There shall be zero light dispersion at the lot line.

**7.10 Signs Not In Use**

Signs which advertise or identify a business or similar activity must be removed within sixty (60) days of the date said business or similar activity ceases operation or vacates the premises. The removal of the sign shall be the responsibility of the owner of the property on which the sign is located.

**7.11 Sign Location**

No sign mentioned in Section 7.0 shall be located in, on or above a public road right-of-way or navigable body of water, except for Official Signs.

**7.12 Determining Area of Signs**

In calculating the area of a sign to determine whether it meets the requirement of this Ordinance, the Land Use Administrator shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the area calculation. Area of irregular shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.

**7.13 Failure to Act**

If an application for a sign permit is not acted upon finally by the Land Use Administrator within six (6) months of the date upon which the Land Use Administrator determines the application complete, it shall be deemed to have been approved.

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## **SECTION 8.0 NONCONFORMING USES, STRUCTURES, AND LOTS**

### **8.1 Existing Nonconforming Uses**

The lawful nonconforming use of structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; however, only the portion of the land and water in actual use may be so continued and the structure housing the non-conforming use may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered if it extends or enlarges the non-conforming use except when required to do so by law or order or so as to comply with the provisions of this Ordinance.

### **8.2 Existing Nonconforming Structures**

The lawful nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking, and loading, and access provisions of this Ordinance; however, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so to comply with the provisions of this Ordinance, and except in the following situations:

- (1) Additions and Enlargements to existing nonconforming structures are permitted so long as they do not increase the extent of nonconformity and shall conform with the required buildings setback lines along roads, water and highways and the yard, height, parking, loading and access provisions of this Ordinance.
- (2) If such structure is destroyed or damaged due to violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity, the structure may be restored to the size and use that it had immediately before the damage or destruction occurred or to a larger size if necessary for the structure to comply with applicable state or federal requirements.

### **8.3 Changes and Substitutions**

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

### **8.4 Vacant Substandard Lots**

A vacant legal lot or parcel of record which does not contain sufficient area to conform to the dimensional requirements of this Ordinance, but which is at least 50 feet wide and 6,000 square feet in area may be used as a building site for a single-family dwelling and its accessory structures upon issuance of a Zoning Permit subject to the following conditions.

- (1) Such use is permitted in the zoning district.
- (2) The lot is on record in the Dodge County Register of Deeds office prior to the effective date of this ordinance.
- (3) All the dimensional requirements of the Ordinance are complied with insofar as practical.

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## **SECTION 9.0 BOARD OF ADJUSTMENT**

### **9.1 General Governing Rules.**

The Zoning Board of Adjustment shall be governed by the State zoning enabling law as contained in Wis. Stats. §60.65 and the zoning code of the Village and by these rules of procedure. Whenever any conflict exists between these rules and the laws of the State or ordinances of the Village, the State laws and local ordinances shall prevail. All references are to the current Wisconsin Statutes. When used in these rules, zoning code is synonymous with zoning ordinance.

### **9.2 Meetings**

- (1) **OPEN TO THE PUBLIC.** All meetings and hearings of the Board shall be open to the public, except that the Board may go into executive session to deliberate after a hearing or an appeal and arrive at its decision. The final vote on an appeal shall be taken by roll call vote, recorded and open for public inspection in the Secretary's office. Public notice of all regular and special meetings shall be given to the public and news media as required by the Wisconsin Open Meetings Law.
- (2) **REGULAR MEETINGS.** Regular meetings shall be held at the call of the Chairperson at the Village Hall.
- (3) **SPECIAL MEETINGS.** Special meetings may be called by the Chairperson or by the Secretary at the request of 2 members. Notice of a special meeting shall be mailed to each member at least 48 hours prior to the time set for the meeting, or announcement of the meeting shall be made at any meeting at which all members are present.
- (4) **HEARINGS.** Hearings may be held at any regular or special meetings at the time set by the Chairperson.
- (5) **QUORUM.** A quorum for any meeting or hearing shall consist of 3 members.
- (6) **ORDER OF BUSINESS.** The order of business at regular meetings shall be substantially as follows:
  - A. Roll call.
  - B. Reading of minutes of previous meeting.
  - C. Unfinished business.
  - D. Hearing of cases.
  - E. New Business.
  - F. Communications and miscellaneous business.
  - G. Executive session to deliberate on cases heard by the Board.
- (7) **VOTING.**
  - D. **Personal Interest.** No Board member shall participate in the decision of or vote upon any case in which the member is financially interested, directly or indirectly, but the Chairperson shall direct an alternate member to act instead. Disqualification of a member for interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.
  - E. **Record of Vote.** The Secretary shall record the vote of each member on every question in the minutes or, if the member is absent or fails to vote, shall indicate such fact in the record of the proceedings.

### **9.3 Board Duties and Powers**

- (1) The Board of Adjustment shall have the following powers:
  - A. To hear and decide appeals where it is alleged there is error in any order, requirement,

decision, or determination made by an administrative official in the enforcement of the zoning code or any ordinance adopted under Wis. Stats. §62.23.

- B. To hear and decide special exceptions to the terms of the zoning ordinance.
  - C. To authorize upon appeal in specific cases such variance from the terms of the zoning ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done.
  - D. To permit in appropriate cases, and subject to appropriate conditions and safeguards consistent with the general purpose and intent of the zoning ordinance, a building, or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
- (2) In exercising the powers under (1), such Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issue of a permit.
  - (3) The Board shall not grant use variances.

#### **9.4 Appeals and Applications**

- (1) **TIME OF APPEAL.** Appeals from decision or orders of the Land Use Administrator shall be filed within 30 days after the date of receipt of the written decision or order from which the appeal is taken. The date of receipt of the decision shall not be counted in determining the time for filing of the appeal; Sundays and holidays shall be counted, except if the last day falls on a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next secular day. Applications for exception or public utility variances may be made directly to the Board.
- (2) **WHO MAY APPEAL.** Appeals or applications to the Board may be made by:
  - A. The owner, mortgagee, or purchaser under a land contract of the property which relief is sought.
  - B. Any municipal officer, department, board, or bureau affected by a decision or order of the Land Use Administrator other than the Land Use Administrator.
  - C. Any person aggrieved by a decision or order of the Building and Zoning Inspector.
- (3) **APPEAL AND APPLICATION FORMS.** Every appeal or application shall be made upon forms furnished by the Village Clerk which have been approved by the Board. A scale drawing shall accompany each form showing the location and size of the property, existing improvements, all abutting properties, and improvements thereon and change or addition requested. The applicant or appellant shall provide all information requested on the form and any additional information requested in writing by the Chairperson or Secretary which is necessary to inform the Board of the facts of the appeal. Failure to supply such information shall be grounds for dismissal of the appeal or application.
- (4) **FILING APPEAL OR APPLICATION.** The appellant or applicant shall file the required appeal form with 10 copies to the Village Clerk
- (5) **ELECTION TO HAVE APPEAL OR APPLICATION HANDLED AS A CONTESTED CASE.** The applicant or appellant may elect to have his or her appeal or application handled as a contested case. The appeal or application form shall explain that a contested case includes the right of all parties to cross-examine witnesses, to object to improper evidence and to have a record of the proceedings made by a court reporter or qualified stenographer. Election to have the matter treated as a contested case must be made in writing at the time of filing of the application.

- (6) FEE. All appeals and applications filed with the Village Clerk shall be accompanied by a receipt from the Treasurer showing payment of the fee required by the zoning ordinance; except that if the appellant or applicant elects the contested case method, he or she shall accompany the appeal or application with the amount determined by the Board to cover the additional administrative costs involved.
- (7) INSUFFICIENT NOTICE. No appeal or application shall be considered by the Board unless it is made on the required form. Upon receipt of any communication purporting to be an appeal or application, the Village Clerk shall supply the applicant with the proper forms which must be filed within 10 days, in addition to the 30 days specified in Rule 4(1), in order to be considered by the Board.

**9.5 Hearings.**

- (1) NOTICE OF HEARING. Notice of the time, date, and place of the hearing of an appeal or application shall be given in the following manner:
  - A. By mail or personal service, to the appellant or applicant and to the Land Use Administrator and Secretary of the Plan Commission not less than 10 days prior to the date of the hearing.
  - B. In every case involving a variance, conditional use, exception, PUD or public utility exception, the Secretary shall mail notice to the owners of record of all land within 100 feet of any part of the proposed building or premises not less than 10 days prior to the hearing. Names and last known addresses of such owners shall be furnished by the applicant at the time of filing the appeal or application.
  - C. A notice of the hearing shall be published as required by law.
  - D. Notice of an application for construction of a building in the bed of a future street, highway or parkway shall be published in a newspaper in general circulation in the community not less than 15 days prior to the hearing.
- (2) TIME OF HEARING, DOCKETING. Each appeal or application properly filed shall be numbered serially, docketed in a special book provided therefore and placed upon the calendar by the Secretary. Cases docketed more than 15 days preceding a regular meeting shall be set for hearing at such meeting. Cases docketed 7 days or less prior to a regular meeting may be set for hearing on the second regular meeting day thereafter unless otherwise directed by the Chairperson.
- (3) APPEARANCES. The appellant or applicant may appear in person or by his agent or attorney. In the absence of an appearance for or against an appeal or application, the Board may dismiss the appeal or application or may dispose of the matter on the record before it.
- (4) OATH. Unless waived by the appellant or applicant and the Chairperson, all witnesses shall be sworn by the Chairperson or Presiding Officer before testifying.
- (5) COMPELLING ATTENDANCE OF WITNESSES. The Chairperson, and in his absence the Presiding Officer, may compel the attendance of witnesses by subpoena. Written request for subpoenas shall be filed with the Secretary not less than 2 days prior to the hearing except by special permission of the Chairperson.
- (6) ORDER OF HEARING, Appeals and applications shall be heard in numerical order except for good cause shown.
- (7) ORDER OF BUSINESS.
  - A. General Hearing. At the hearing, the order of business shall be as follows:
    - 1. Statement of the nature of the case by the Chairperson.
    - 2. Appellant's side of the case.
    - 3. Questions by Board members.
    - 4. Land Use Administrator's side of the case.

5. Questions by Board members.
  6. Statements by interested parties.
  7. Questions by Board members.
  8. Appellant's or applicant's rebuttal
- B. Contested Cases. If the applicant or appellant elects to have his or her appeal or application treated as a contested case, the order of business shall be as follows:
1. Call to order by the Chairperson.
  2. Appellant or applicant's opening statement.
  3. Land Use Administrator's opening statement.
  4. Opening statement of persons aggrieved and other interested parties. The right to make an opening statement is limited to persons who will present evidence.
  5. Applicant's or appellant's case-in-chief.
  6. Questions by Board members.
  7. Cross-examination. No more than one person for each party shall cross-examine witnesses. The Chairperson may limit the number of parties who may cross-examine.
  8. Land Use Administrator's case-in-chief.
  9. Questions by Board members.
  10. Cross-examination as under 7.
  11. Case-in-chief of other parties.
  12. Questions by Board members.
  13. Cross-examination as under 7.
  14. Rebuttal by appellant or applicant. Rebuttal is limited to matters raised by the adverse parties by way of evidence or argument.
  15. Statements of opinion of neighbors or abutting landowners—not subject to cross-examination.
  16. Closing statements of those who made or waived opening statements.
- (8) EVIDENCE AND OFFICIAL NOTICE. See Wis. Stats. §227.08.
- (9) ADJOURNMENTS. When all appeals or applications cannot be disposed of on the day set, the Board may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board.
- (10) WITHDRAWAL. An appellant or applicant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or dismiss the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant or applicant to remission of the filing fee.

## **9.6 Decision and Disposition of Cases.**

- (1) TIME OF DECISION. The Board shall render its decision either at the termination of the hearing or within 30 days thereafter and shall notify the parties in interest and the Land Use Administrator in writing of its decision.
- (2) FORM OF DECISION. The final disposition of an appeal or application shall be in the form of a written decision or order signed by the Chairperson and Secretary. Such decision shall state the reasons for the Board's determination and its findings of fact and shall either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal or grant or deny the application.
- (3) BASIS OF DECISION, FINDINGS. See Conduct of Hearings, below.
- (4) VOTE REQUIRED. All orders or decisions of the Board granting a variance or reversing any action or order of the Land Use Administrator require the affirmative vote of 3 members.



- (5) **CONDITIONS** Variances or conditions imposed in any permit shall be stated in the decision or order embodying the Board's decision and shall also be set forth in the building, conditional use or occupancy permit issued under that order by the Land Use Administrator. A permit shall be valid only as long as the conditions upon which it is granted are observed. Whenever the Board grants an application or appeal affecting the use of any premises, such authorization shall be deemed revoked unless the owner, occupant or his agent shall upon request file with the Board Secretary a written report certifying that all conditions or limitations imposed by the Board have been conformed to and maintained. Variances, substitutions or use permits approved by the Board shall expire 6 months after issuance if the performance of work is required and substantial work has not commenced.
- (6) **FILING OF DECISION.** Every order or decision of the Board shall be immediately filed with the Village Clerk and shall be a public record.

### **9.7 Reconsideration.**

- (1) **RESUBMISSION** - No appeal or application which has been dismissed or denied shall be considered again without material alteration or revision within one year of the Board's decision except by motion to reconsider made by a member voting with the majority or as provided in sub. (2).
- (2) **REHEARING** - No rehearing shall be held except upon the affirmative vote of 4 or more members of the Board upon finding that substantial, new evidence is submitted which could not reasonably have been presented at the previous hearing. Requests for rehearing shall be in writing and shall state the reasons for the request and be accompanied by necessary data and diagrams Rehearing's shall be subject to the same notice requirements as original hearings.

### **9.8 Amendments or Suspension of Rules**

These rules may be amended or revoked by a majority vote of the Board at any meeting provided written notice of the proposed amendment or change is given to each member at least 10 days before such meeting. Suspension of the rules may be ordered at any meeting by a vote of not less than 4 members.

### **9.9 Conduct of Hearings**

1. **BASIS OF DETERMINATIONS.** The Zoning Board of Adjustment is a quasi-judicial body and is required to make its determination on the basis of facts presented to it at the public hearing where the applicant has an opportunity to be represented by counsel and to question the Land Use Administrator regarding the basis of a decision or any other matter that might be within the Administrator's knowledge or records.
2. **FINDINGS AND CONCLUSIONS.** At the conclusion of a hearing, the Board should reduce to writing its findings of fact and conclusions regarding the proper interpretation and application of the zoning code. A sample form is provided, attached.
3. **ACTIONS TO BE TAKEN.** When granting special exception or conditional use permits, the Board should carefully define the scope of the permit and list any imposed conditions. It may exercise its powers by reversing or affirming in whole or in part or modifying the order, requirement, decision or determination of the Land Use Administrator and may make such order, requirement, decision or determination as in its collective judgment ought to be made, including taking any action which the Administrator might take.

4. VOTE REQUIREMENT. The concurring vote of 3 members is required to reverse an order or determination of the Land Use Administrator or to grant a variance or special exception permit. The concurring vote of a majority of a quorum is required whenever the decision of the Board is advisory only.
5. APPEALS TO COURT. Decisions of the Board may be appealed by writ of certiorari (bring up the record) to a court of record. Upon such appeal, the court will review the Board's decision to determine.
  - A. Whether the Board kept within its authority.
  - B. Whether it proceeded on a correct theory of law.
  - C. Whether its action was arbitrary, oppressive, or unreasonable, and represented its will and not its judgment.
  - D. Whether the evidence was such that might reasonably place the order or determination in question.

In other words, except in cases of clear abuse of discretion or where the Board does not follow the proper procedures, its decision will seldom be overturned by the courts. You should note, however, that the Board has no authority to determine the validity or constitutionality of a local zoning ordinance.

## **SECTION 10.0 CHANGES AND AMENDMENTS**

### **10.1 Authority**

Whenever the public necessity, convenience, health, safety, or general welfare require, the Village Board may by Ordinance, change the district boundaries or amend, change, or supplement the regulations established by this Ordinance or amendments hereto in accordance with Section 62.23(7) of the Wisconsin Statutes.

### **10.2 Initiation of an Amendment**

The regulations imposed and the zoning districts created under authority of this Ordinance may be amended from time to time. An amendment to the text of the Ordinance and/or to the Zoning Ordinance Map may be initiated by any resident or owner of property or by the Village Board or Plan Commission by filling out the appropriate Village amendment form and paying the required fee. If the amendment is initiated by the Village Board or Plan Commission, the fee may be waived.

### **10.3 Application for Amendment**

Applications for any change to the district boundaries or amendments to the regulations shall be filed with the Village Clerk, who shall immediately refer them to the Plan Commission. A reporting of all applications referred shall be made to the Village Board at its next succeeding meeting. Such applications shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the application, specify the proposed use and have attached the following:

- (1) Map drawn to a scale 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.
- (2) Owners Names and Addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.
- (3) Additional Information required by the Plan Commission or the Village Board.
- (4) Fee to be consistent with the Village's annual fee schedule.

### **10.4 Plan Commission Public Hearing, Review and Recommendation**

- (1) The Plan Commission shall hold a public hearing giving at least ten (10) days prior notice by publication of a Class 2 notice that lists the time, place and proposed amendment.
- (2) As a matter of practice, an earnest effort will be made by the Village to send by regular mail a copy of the notice for public hearing to the applicant or petitioner or their agent, and to the property owners (as recorded in the Dodge County Register of Deeds Office) of all lands located adjacent any part of the parcel or parcels included in the amendment petition. The failure to mail a notice to the above parties or the failure of such notice to reach any of the above parties does not invalidate any public hearing or any action of the Village Board.
- (3) The Plan Commission shall review all proposed amendments to the Zoning Ordinance.
- (4) The Plan Commission shall submit a written recommendation to the Village Board prior to the Village Board's regularly scheduled meeting. The Plan Commission shall include findings of fact in their recommendation.

**10.5 Village Board Action**

- (1) Following the public hearing and after careful consideration of the Plan Commission's recommendations and findings of fact, the Village Board shall take action to approve, amend, or deny the proposed amendment or to refer it back to the Plan Commission for reconsideration. In taking action, the Village Board shall include findings of fact.
- (2) If the Village Board approves a zoning amendment, it is forwarded to the County and shall only become effective upon approval by the County Board of Supervisors.

**10.6 County Board Action**

If the Village Board approves an amendment, the Village Board will forward the amendment to the Dodge County Board of Supervisors, who must also approve the amendment in order for it to take effect.

**10.7 Protest**

In case a protest against a proposed amendment is filed with the Village Clerk at least 24 hours prior to the date of the meeting of the Village Board at which the report of the Plan Commission is to be considered duly signed and acknowledged by the owners of thirty-three (33) percent or more of the area proposed to be altered, or by abutting owners of over fifty (50) percent of the total perimeter of the area proposed to be altered included within three hundred (300) feet of the parcels proposed to be rezoned, action on such Ordinance may be deferred until the Plan Commission has had reasonable opportunity to ascertain and report to the Village Board as to the authenticity of such ownership statements. Each signer shall state the amount of areas or frontage that they own. If such statements are found to be true, such ordinance shall not be adopted except by the affirmative vote of two-thirds (2/3) of the members of the Village Board present and voting. If such statements are found to be untrue to the extent that the required frontage or areas ownership is not present such protest may be disregarded.

**10.8 Farmland Preservation**

Any amendments to the Farmland Preservation Zoning District text or map shall be in compliance with Section 14 of this ordinance.

**10.9 Failure to Act**

If an application for a proposed amendment is not acted upon finally by the Village Board within six (6) months of the date upon which the findings and recommendations of the Plan Commission are filed with the Board, it shall be deemed to have been approved. In this situation, the Village Board is deemed to be giving permission for applicant to forward the amendment to the Dodge County Board of Supervisors and further Village approval is unnecessary. In this situation, the Village will supply the applicant with the necessary information required by the Dodge County Board of Supervisors.

## **SECTION 11.0 PLAN COMMISSION**

### **11.1 Composition**

The Plan Commission shall consist of five members, all of whom shall be appointed by the Village Board Chairperson, who shall also choose the Plan Commission chairperson. The Village Board Chairperson may appoint himself or herself to the Commission and may appoint other Village elected or appointed officials to the Commission, except that the Commission shall always have at least one citizen member who is not a Village official. All other provisions of State Statutes 61.35 and 62.23 shall apply.

Members of the Commission shall be appointed to hold office for a period of three years. Appointments shall be made by the Village Board Chairperson during the month of April or at any other time if a vacancy occurs during the middle of a term.

Members need to reside in the village.

### **11.2 Rules and Organization**

The Plan Commission may adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations. Such record shall be a public record. Meetings of the Commission shall be held at the call of the Plan Commission chairperson and at such other times as the Commission may determine. The Plan Commission shall have the power and authority to employ experts and a staff.

### **11.3 Functions**

The Plan Commission shall have the following functions and duties:

- (1) To make a recommendation to the Village Board on a comprehensive plan for the physical development of the Village.
- (2) To make a recommendation to the Village Board on the issuance of a conditional use permit in accordance with Section 4.0 of this Ordinance.
- (3) To make a recommendation to the Village Board on any petition to amend this Ordinance or change the district boundaries.
- (4) To make a recommendation to the Village Board on any application for a land division under the Village of Kekoskee Land Division Ordinance.
- (5) Any other duties assigned by the Village Board.

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## **SECTION 12.0 PERFORMANCE STANDARDS**

### **12.1 Prohibited Activities**

All activities involving the production, processing, cleaning, servicing, testing, or repair of materials, goods, or products shall be conducted in such a manner whereby there shall be no danger of fire or explosion, no offensive noise, vibration, smoke, dust, odor, glare, or heat, and objectionable influences detrimental to the public health, safety, comfort, or general welfare of the immediate neighborhood or community.

(1) Noise: Sirens, whistles and bells which are maintained and utilized solely to serve a public purpose are not to be enjoined under these performance standards.

### **12.2 Compliance**

A violation of this Section which is so flagrant as to constitute a potential nuisance shall be the subject of a nuisance action brought by the Village.

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## **SECTION 13.0 DEFINITIONS (See Section 14.4 for Additional Farm-Related Definitions)**

For the purposes of this Ordinance, 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 words "shall", "will", and "must" are always mandatory. The words "may" and "should" are discretionary terms. The masculine shall include the feminine. Terms not defined in this Section, shall be interpreted based on common usage.

Accessory Use or Structure: A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal structure. See Section 2.8 (1) C for accessory use dimensions and standards.

Adult Oriented Establishments: Land uses that include any facility involving the display of sexually oriented materials such as videos, movies, slides, photos, books, or magazines; or actual persons displaying and/or touching sexually specified areas.

Animal Boarding or Breeding Facility: Land uses where five (5) or more animals six (6) months of age or older are bred by a person providing facilities for breeding and the offspring are sold, or where such animals are received for care, training, and boarding for compensation, not including a small animal hospital, clinic, or pet shop. These uses include exercise yards, fields, training areas, and trails.

Bed and Breakfast Establishment: Land uses which provide lodging facilities that are operator-occupied residences providing accommodations for a charge to the public with no more than five guest rooms for rent, in operation for more than 10 nights in a 12-month period, provide meals only to renters of the place, and are clearly residential structures in design, scale, and appearance. Such land uses may provide indoor/outdoor recreational facilities for the exclusive use of their customers.

Conditional Uses: Uses of a special nature as to make impractical their predetermination as a permitted use in a district. Conditional uses as used in the FP Farmland Preservation Zoning District must meet the requirements of Wis. Stats. 91.46.

Duplex: A dwelling containing two dwelling units.

Dwelling: A building designed or used as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins.

Dwelling, Multifamily: A dwelling containing three or more units.

Dwelling, Single Family: A dwelling containing one dwelling unit.

Dwelling Unit: One or more rooms that are arranged, designed, or used as living quarters for one family only.

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

Exotic Animals: Exotic means not indigenous to Wisconsin farming. Exotic does not include domestic bovine animals, bison, cervids, alpacas, llamas, goats, sheep, game birds, poultry, or fish.

Family Day Care Home: A dwelling unit where supervision and care is licensed by the Wisconsin Department of Children and Families.

Floor Area: Area in square feet of all floors in a building including elevators and stairways, measured by perimeter of outside walls multiplied by the number of floors, including basements which are used in the primary function of the building.

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

Governmental, Institutional, Religious, or Nonprofit Community Uses: Service and support facilities such as churches, private schools, clinics, post offices, Village Hall, fire stations, funeral homes, and recreational or fraternal facilities such as clubs and lodges, meeting halls, and community centers.

Group Day Care Center Facility: Group Day Care Center Facilities are permitted as a conditional use in the Agriculture General (AG) and Commercial (C) zoning districts. Land uses in which qualified persons provide child care services for nine or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization. In such instances, group day care centers are not considered as accessory uses and therefore require review as a separate land use.

Heavy Industrial: Land uses which meet one or more of the following criteria: 1) are not conducted entirely within an enclosed building; 2) are potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and 3) pose a significant safety hazard (such as danger of explosion). Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers) including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials.

Home Occupation: See Section 4.4 for Definition.

Indoor Lodging Facility: Land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurant, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.

Indoor Sales and Service: Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building. This includes general merchandise stores, grocery stores, bike repair facility, bait shops, sporting goods stores, antique stores, gift shops, laundromats, artisan and artist studios, bakeries, and the like. Artisan craft production such as consumer ceramics, custom woodworking, or other production activities directly

associated with retail sales are regulated as "light industrial activities as an accessory to retail sales or service."

Interchange: A grade-separated intersection with one or more turning lanes for travel between intersection legs.

Indoor Commercial Entertainment and Service: Land uses which provide entertainment services entirely within the premises. Such activities often have operating hours that extend significantly later than most other business land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls. Such land uses do not include adult oriented establishments.

In Vehicle Sales and Service: Land uses which perform sales and/or services to persons in vehicles, or to vehicles which may be occupied at the time of such activity. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through facilities, vehicular fuel stations, and all forms of car washes.

Kennel: The use of land, with related buildings or structures, for the commercial breeding, rearing, or boarding of more than four (4) dogs.

Land Use Administrator: The Land Use Administrator for the Village of Kekoskee or such person or firm designated to perform the duties of the Land Use Administrator.

Light Industrial: Land uses which operations (with the exception of loading operations):

- (1) are conducted entirely within an enclosed building.
- (2) are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line.
- (3) do not pose a significant safety hazard (such as danger of explosion) and
- (4) comply with all of the applicable performance standards.

Light industrial land uses may conduct retail sales activity as an accessory use.

Light Industrial Activity as an Accessory to Indoor Sales and Service: Lands uses that include any light industrial activity conducted exclusively indoors that is clearly incidental to an indoor sales and service facility on the same site.

Livestock Facilities with More Than 500 Animal Units: Means facilities covered by Wis. Adm. Code Ch. ATCP 51.

Loading Area: A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public road or alley.

Long Term Outdoor Display and Sale: Land uses which conduct sales or display merchandise or equipment on a long-term basis outside of an enclosed building as a principal accessory use of the lot. Examples of such land uses would include vehicle and equipment sales and rental, manufactured housing sales, monument sales, and garden centers. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junk or salvage yard, or other permanent outdoor land uses specifically defined by this Ordinance.

Lot: A contiguous and continuous quantity of land in possession of, owned by, or recorded as property of the same claimant, person, persons, or company and having frontage on a public road, occupied by a principal structure or use, and sufficient in size to meet the parcel width, parcel frontage, parcel area, yard, parking area, and other space provisions of this Ordinance. For the purposes of this definition, the boundaries of the lot include those commonly owned parcels that are abutting or touching at more than one point and those commonly owned parcels that are separated only by a waterway or a transportation or utility right-of-way.

Lot Width: The average width of a parcel of land.

Manufactured Home: A structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the federal department of housing and urban development as complying with the standards established under 42 USC 5401 to 5425.

Mobile Home: Also see Section 2.9(7). A manufactured or assembled structure built before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be equipped and used, primarily for human habitation, with walls of rigid collapsible construction, which has an overall length in excess of 45 feet. "Mobile Home" includes the mobile home structure, its plumbing, heating, air conditioning, and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

Mobile Home Park: Mobile Home Parks are allowed as a conditional use in the Recreational (REC) zoning district. Any plot or tract of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Modular Home: Any structure or component thereof intended for use as a dwelling and either (a) of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for installation, connection, or assembly and installation at the building site, or (b) of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation, on the building site and for which certification is sought by the manufacturer.

Motel: A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.

Multi-Family Residential: A building holding 3 or more dwelling units. This includes apartment buildings and other dwelling units that are enclosed within a building or attached by a common floor or wall. Each dwelling unit may be owner-occupied or renter-occupied, with the building, lot, and/or unit in fee simple or condominium ownership. If in condominium ownership, the dwelling units may be detached.

Nonmetallic Mining: Land uses that include operations or activities for extraction from the earth, for sale or use by the operator, of mineral aggregates such as stone, sand and gravel, and nonmetallic minerals, related operations or activities such as drilling and blasting, excavations, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as fracking, crushing, screening, scalping, dewatering and blending. Nonmetallic mining operation does not include or allow the following activities or uses by way of illustration which include but are not limited to: manufacture of concrete building blocks or other similar products, asphalt or hot blacktop mixing or production of ready mix concrete.

Nonconforming Structure: Any structure, at the time of the effective date of this Ordinance, which does not conform to the regulations of this Ordinance.

Nonconforming Use: Any use, at the time of the effective date of this Ordinance, which does not conform to the regulations of this Ordinance.

Oil and Gas Exploration: Activities licensed by the Wisconsin Department of Natural Resources under subd. II of Ch. 295 Wis. Stats.

Outdoor Public Recreation - Active: Land uses that include recreational uses located on public or private property which involves active recreational activities that are open to the public or to customers, patrons, or members. Active uses include play courts (such as tennis courts and basketball courts); playfields (such as ball diamonds, football fields, and soccer fields); tot lots; outdoor swimming pools; swimming beach areas; fitness courses; golf courses; trap, target, and shooting ranges; and similar land uses.

Outdoor Public Recreation - Passive: Land uses that include recreational uses located on public or private property which involves passive recreational activities that are open to the public or to customers, patrons, or members. Passive uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, ski trails, horse trails, open grassed areas not associated with any particular active recreational land use, picnic areas, picnic shelters, gardens, fishing areas, and similar land uses.

Personal or Professional Sales and Service: Land uses that are exclusively indoor whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such land uses include, but are not limited to, professional services, insurance services, realty offices, financial services, medical offices and clinics, veterinary clinics, barber shops, beauty shops, and related land uses.

Personal Storage Facility: Land uses oriented to the indoor storage of personal items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Also known as "mini-warehouses."

Portable Storage Facility: Land uses that include shipping containers, semi-trailers, portable on demand storage (PODS), and store and move (SAM) containers that are intended for temporary storage while an individual or business is relocating. Such storage facilities shall need a permit which regulates the length of time a portable storage facility is allowed on the specified premise.

Principal Uses: The primary uses conducted on a lot located within the zoning district. A lot may have more than one principal use, but only one principal use per defined area of ground within the lot.

Private Airport: An airfield or land strip where the use of the facility is limited to non-commercial flights.

Residential Accessory Structure: Land uses clearly incidental to the primary residential use and includes such uses as garages, carports, storage sheds, and decks.

Resort Establishment: Land uses which provide overnight housing in individual rooms, suites of rooms, cabins, or cottages. Such land uses may also provide indoor and outdoor recreational facilities for the exclusive use of their customers. Restaurants, arcades, fitness centers, and other on-site facilities

available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.

Sales and Service Activity (Indoor) as an Accessory to Indoor Storage and Wholesaling: Land uses that include any indoor sales and service activity that is clearly incidental to an indoor storage and wholesaling facility on the same site.

Sales and Service Activity (Indoor) as an Accessory to Light Industrial: Land uses that include any indoor sales or service activity that is clearly incidental to light industrial activity on the same site.

Salvage or Junk Yard: Land uses that include any land or structure used for a salvaging operation including, but not limited to, the above-ground outdoor storage, collection, recycling, dismantlement, and/or sale of old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; wastepaper and other waste or discarded material which might be prepared to be used again in some form; inoperable appliances and machinery; and three (3) or more motor unlicensed vehicles or (3) pieces or more of abandoned farm equipment no longer used as such, to be used for scrap metal or stripping of parts. It shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business or materials or objects held and used by a manufacturer as an integral part of his own manufacturing process. Licensed recycling facilities involving on-site outdoor storage of salvage materials are not included in this land use.

Side Yard: A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the nearest point of any structure and the lot line.

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

Single-Family Residence: Land uses consisting of a single detached building containing one dwelling unit. This land use includes modular and manufactured homes as defined by this ordinance. This land use does not include mobile homes as defined in the Wisconsin Statutes 101.91(10).

Single-Family Residence Accessory to a Business Use: Land uses consisting of a single-family residence that is accessory to a Business use (for shopkeeper or employee, for example). This residence may be attached to the Business building or be freestanding.

Solar Energy Systems: Equipment that converts, stores, and transfers solar energy into usable forms of thermal or electrical energy.

Solid or Hazardous Waste Facility: Land uses that include any area, lot, land, parcel, building, or structure, or part thereof, used for deposit, disposal, processing, or transfer of solid, demolition, or hazardous waste.

Storage or Wholesaling (Indoor): Land uses primarily oriented to the receiving, holding, and shipping of materials. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities. It does not include uses described in the "personal storage facility" land use category. Retail outlets associated with this principal use shall be considered an accessory use.

Storage or Wholesaling (Outdoor): Land uses primarily oriented to the receiving, holding, and shipping of materials for a single business or a single group of businesses. Such a land use, in which any activity beyond loading and parking is located outdoors, is considered an outdoor storage and wholesaling land use. Examples of this land use include equipment yards, lumber yards, coal yards, landscaping materials yard, tank farms, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. Contractors' storage yards are considered accessory in the "contractor shop" land use category. Retail outlets associated with this principal use shall be considered an accessory use.

Street Yard: The front yard. Corner lots shall have two such yards.

Streets or Roads: A public right-of-way providing primary access to abutting properties.

Structural Alterations: Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

Transportation, Communications, Pipeline, Electric Transmission, Utility, or Drainage Uses:

Activities that require a conditional use permit under this ordinance unless the use is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

Travel Trailer: A travel trailer is a vehicular, portable, structure built on a chassis and designed as a temporary dwelling for travel, recreation, and vacation.

Turning Lanes: An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

Two Family Residence: A building containing two (2) dwelling units. This includes dwelling units that are enclosed within a building or attached by a common floor or wall.

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

Wind Energy System: Wind Energy System shall mean equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes all of the land, buildings, structures and equipment used by the wind energy system and its support facilities including the wind turbine, tower, access roads, control and office facilities, meteorological towers, maintenance and all power collection and transmission systems.

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

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## SECTION 14.0 FARMLAND PRESERVATION

### 14.1 FP Farmland Preservation Zoning District

The purpose of this district is to promote areas for uses of a generally exclusive agricultural nature in order to protect farmland and to allow participation in the state's farmland preservation program. Land zoned under this district must comply with the following:

#### (1) Permitted Uses

- A. Agricultural uses, except livestock facilities housing more than 500 animal units of cattle, poultry, swine, sheep, or goats or any other animal confinement facilities housing other types of animals (e.g., mink). See Section 14.4 for agricultural use definitions.
- B. Accessory Uses including the farm residence. See Section 14.4 for accessory use definition.
- C. Nonfarm residences constructed in a rural residential cluster in accordance with an approval of the cluster as a conditional use.
- D. (Upon notification to the Village Board) of any transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for those uses.

[Subsection (D) acknowledges that state or federal law may sometimes preempt local authority to restrict the siting of certain facilities. It does not purport to determine which state or federal actions are preemptive. It merely says that IF state or federal action is preemptive, no local permit is required and there is no need to rezone the site out of the farmland preservation district. Uses covered by subsection (D) might include, for example, state and federal highways, federally mandated pipelines, and energy generation and transmission facilities whose location and design are specifically mandated by the Wisconsin Public Service Commission pursuant to a certificate of convenience and necessity.]

- E. Undeveloped natural resource and open space areas.
- F. Non-Farm residences built prior to January 1, 2014.

#### (2) Conditional Uses

- A. Livestock Facilities housing more than 500 animal units of cattle, poultry, swine, sheep, or goats or any other animal confinement facilities housing other types of animals (e.g., mink) with a Village of Kekoskee Livestock Siting License Permit.
- B. Agriculture-related uses. (See Section 14.4 for agricultural related use definition.)

C. New nonfarm residences or a proposal to convert a farm residence to a nonfarm residence after January 1, 2014, through a change in occupancy if all of the following apply:

1. The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.
2. There will not be more than 4 dwelling units in nonfarm residences, nor, for a new residence, more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.

Please note that a certified FP zoning district will often include some "outlier" parcels that are not located in any "base farm tract" (because they were not part of a "farm" when the ordinance was certified). Those "outlier" parcels are NOT subject to the density standards in subsections 14.1(2) C.1 and 14.1(2) C.2 but ARE subject to the siting standards in subsection 14.1(2) C.3 below.

3. The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:
  - (a) Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
  - (b) Significantly impair or limit the current or future agricultural use of other protected farmland.

D. Nonfarm residential clusters.

The Village Board, after review by the Plan Commission, may issue a single conditional use permit authorizing 2 or more proposed nonfarm residences if all of the following apply:

1. The conditional use permit includes all of the following information:
  - (a) The total number of nonfarm residences authorized by the permit.
  - (b) A legal or survey description of each parcel on which a nonfarm residence is authorized.
  - (c) The number of nonfarm residences authorized on each parcel under subsection D.2., if more than one.
  - (d) The number of dwelling units authorized in each authorized nonfarm residence, if more than one.
2. Each of the parcels described under subsection D.1(b), shares a boundary with at least one other parcel described under subsection D.1(b).

3. Each of the proposed nonfarm residences will meet all of the standards under subsection C when all of the proposed nonfarm residences have come into existence.
  4. The conditional use permit prohibits all of the following:
    - (a) Any further division of any parcel described in subsection D.1(b).
    - (b) Any nonfarm residence or dwelling unit on a parcel identified in subsection D.1(b), other than a nonfarm residence or dwelling unit identified in the permit.
- E. Upon Notification of the Village Board, transportation, communication, pipeline, electric transmission, utility, or drainage uses, facilities for the generation from sunlight, wind, coal, or natural gas, if all the following apply:
1. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  2. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  3. The use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.
  4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  5. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

A wind turbine that complies with Wisconsin Public Service Commission siting rules under (proposed) PSC 128, Wis. Adm. Code, and s. 91.46(4), Wis. Stats. is presumed to comply with the conditional use criteria.

- F. Governmental, institutional, religious, or nonprofit community uses, if all of the following apply:
1. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  2. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  3. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.

4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  5. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
- G. Nonmetallic mineral extraction if all of the following apply:
1. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. §295.14 (including all applicable provisions of this ordinance), and with any applicable requirements of the Wisconsin Department of Natural Resources concerning the restoration of nonmetallic mining sites.
  2. The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  3. The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
  4. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
  5. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  6. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.
  7. Compliance with Section 4.5 of this ordinance.
- H. Oil and gas exploration or production that is licensed by the Department of Natural Resources under Subchapter II of Chapter 295, Wisconsin Statutes.
- I. Exotic animals not typically associated with Wisconsin and/or agricultural farming practices.
- J. Private airport or air strip qualifying as an accessory use under s. 91.01(1)
- K. Dog kennels qualifying as an accessory use under s. 91.01(1)
- L. Game farms/shooting preserves qualifying as an accessory use under s. 91.01(1) (b). To meet the definition of agricultural use, the game birds or cervids must be raised on the farm for release for hunting.

- M. Shooting Ranges meeting the requirements in s. 91.01(1)(d).
- N. Manure storage systems. (Please note that permits for manure storage systems are subject to S. ATCP 50.56 and Ch. ATCP 51, Wis Adm. Code.
- O. Slaughtering of livestock from the FP District.
- P. Processing agricultural by-products or wastes received directly from farms, including farms in the FP District.

Upon a recommendation from the Plan Commission, the Village Board may issue a conditional use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section. Before issuing a conditional use permit, the Village Board shall determine in writing, that the proposed use meets applicable conditions under this section. The Village Board may issue the permit subject to any additional conditions beyond which the Plan Commission recommended to carry out the purposes of this ordinance.

(3) Area, Height and Yard Requirements:

- A. All Principal Structures shall be on a lot consistent with the principal use permitted on such lot by the regulations of the district in which it is located.
- B. No Zoning Permit shall be issued for a lot which abuts a public road dedicated to only a portion of its proposed width and located on that site thereof from which the required dedication has not been secured.
- C. Dimensions of Building Sites:

1. Minimum Area and Width: Except as otherwise specifically required or permitted, the minimum lot area shall be 1.0 acre and a minimum lot width of 125 feet at the building line, 125 feet at the water's edge and 125 feet of road frontage.
2. Side and Rear Yards: There shall be a fifteen (15) foot minimum side yard for the principal structure. Accessory structures shall not be located in the front yard of any parcel (i.e., beyond the front wall of the principal structure). Accessory structures shall not exceed the height of the principal structure and should not be closer than 5 feet from the lot line. Accessory structures shall not be closer than 10 feet from the principal structure in side yards and occupy no more than 20% of the rear yard area or 20% of the side yard area.
3. Height Limitations: The maximum height for all residential structures shall be forty (40) feet. The maximum height for all accessory structures shall be forty (40) feet. Height limitations are further regulated per Section 6.1 of this Ordinance.
4. Yard and Other Limitations: Per Sections 6.2, and 6.3 of this Ordinance.
5. Setbacks: All new structures shall be regulated in accordance with Section 5.0 of this Ordinance.
6. Street Grade: Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Land Use Administrator as

being in satisfactory relationship with the existing street grade, with particular consideration for proper drainage and safe vehicular access.

7. Preservation of Topography: In order to protect the property owner from possible damage due to change in the existing grade of adjoining land, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1-1/2 horizontal to 1 vertical within a distance of 20 feet from the property line, except with the written consent of the abutting property owner and with review of the Plan Commission and approval of the Village Board, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of material involved, and all slopes shall be protected against erosion.

#### **14.2 Rezoning Land out of the FP Farmland Preservation Zoning District**

Land may be rezoned out of the FP Farmland Preservation Zoning District if the Plan Commission through their review and recommendation, and Village Board, after a public hearing, finds that all of the following apply:

- (1) The land is better suited for a use not allowed in the FP Farmland Preservation Zoning District.
- (2) The rezoning is consistent with the Village of Kekoskee Comprehensive Plan.
- (3) The rezoning is substantially consistent with the Dodge County Farmland Preservation Plan, certified under Ch. 91, Wis. Stats., which is in effect at the time of zoning.
- (4) The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

The above Section 14.2 (1-4) does not apply to any of the following situations:

- (5) A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under Ch. 91, Wis. Stats.
- (6) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Dodge County farmland preservation plan map, certified under Ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

#### **14.3 Certification of Ordinance and Amendments by DATCP**

- (1) This Zoning Ordinance must be certified by the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) in order for owners of land that is zoned FP Farmland Preservation in the Village of Kekoskee to be eligible to claim tax credits under the State of Wisconsin's Farmland Preservation Program.
- (2) The Village of Kekoskee shall notify DATCP of any amendments as required by Wis. Stats. 91.36(8).

- (3) The Village of Kekoskee shall notify DATCP and the Dodge County Land Resources and Park Department, by March 1 annually, of any acres rezoned out of a farmland preservation zoning district during the previous year and a map that clearly shows the location of those acres as required by Wis. Stats. 91.48(2) and 91.48(3).

#### **14.4 Farmland Preservation Definitions**

For the purposes of Section 14 of this Ordinance, the following definitions shall be used. Please see Section 13 for conventional zoning district definitions.

Accessory Use: With the FP Zoning District means any of the following land uses on a farm:

- (1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
  - A. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
  - B. A facility used to keep livestock on the farm.
  - C. A facility used to store or process inputs primarily for agricultural uses on the farm.
  - D. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
  - E. A wind turbine or solar energy facility that collects wind or solar energy on the farm and uses or transforms it to provide energy primarily for use on the farm.
  - F. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
  - G. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
- (2) An activity or business operation that is an integral part of or incidental to, an agricultural use.
- (3) A farm residence, including normal residential appurtenances.
- (4) A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
  - A. It is conducted on a farm by an owner or operator of that farm.
  - B. It requires no buildings, structures, or improvements other than those described in par. (1) or (3).
  - C. It employs no more than 4 full-time employees annually.
  - D. It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
- (5) Any other use that DATCP, by rule, identifies as an accessory use.

#### Agricultural Use:

Any of the following activities conducted for the purpose of producing an income or livelihood:

- (1) Crop or forage production.
- (2) Keeping livestock.
- (3) Beekeeping.
- (4) Nursery, sod, or Christmas tree production.

- (5) Floriculture.
- (6) Aquaculture.
- (7) Fur farming.
- (8) Forest management.
- (9) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (10) Any other use that the Department of Agriculture, Trade and Consumer Protection, by rule, identifies as an agricultural use.

Agriculture-related use:

An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes. In addition, any use that the Department of Agriculture, Trade and Consumer Protection identifies by rule as an agriculture-related use. An “agriculture related use” must be primary (not just incidentally) related to agriculture and must have a direct connection to agriculture uses in the FP zoning district.

Animal Confinement Facility:

Any animal, livestock, or poultry operation with 500 or more animal units that are used in the production of food, fiber, or other animal products or that will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period.

Animal Unit:

Animal Unit has the following meaning that was given in s. NR 243.03 (3) Wisconsin Administrative Code as of April 27, 2004: “Animal Unit” means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11, Wisconsin Administrative Code, which are fed, confined, maintained, or stabled in an animal feeding operation. The total number of animal units for a given type of animal shall be calculated by multiplying the number of animals for each animal type by the appropriate equivalency factor from the following table and summing the products. The number of combined animal units shall be the sum of the number of animal units for each animal type. For animal types not listed in the following table, the equivalency to animal units shall be based on live animal weights. In these cases, 1,000 pounds of live weight is equivalent to one animal unit.

<b>Animal Unit Calculation Table</b>		
Number Equivalent to 500 Animal Units		
Number Equivalent to 500 Animal Units	Animal Type	Animal Equivalency Factor
	<b>Dairy Cattle:</b>	
350	Milking and Dry Cows	1.4
455	Heifers (800 to 1200 lbs.)	1.1
835	Heifers (400 to 800 lbs.)	0.6
2500	Calves (under 400 lbs.)	0.2
	<b>Beef Cattle:</b>	
500	Steers or Cows (600 lbs. to Mkt.)	1.0
1000	Calves (under 600 lbs.)	0.5
350	Bulls	1.4
	<b>Swine:</b>	
1250	Pigs (55 lbs. to Mkt.)	0.4



5000	Pigs (up to 55 lbs.)	0.1
1250	Sows	0.4
1000	Boars	0.5
	<b>Sheep:</b>	
5000	Per Animal	0.1
	<b>Horses:</b>	
250	Per Animal	2.0
	<b>Ducks:</b>	
2500	Per Bird (Wet Lot)	0.2
50000	Per Bird (Dry Lot)	0.01
	<b>Chickens:</b>	
50000	Layers	0.01
100000	Broilers	0.005
50000	Broilers (continuous overflow watering)	0.01
15000	Layers or Broilers (Liquid Manure System)	0.033
	<b>Turkeys:</b>	
27500	Per Bird	0.018
	<b>Combined Animal Units:</b>	
500	Calculated Total	

Base Farm Tract:

All land, whether one parcel or two or more contiguous parcels, that is in the FP Farmland Preservation Zoning District and that is part of a single farm on the adoption date of this ordinance regardless of any subsequent changes in the size of the farm. Alternatively, any other tract that the Department of Agriculture, Trade and Consumer Protection by rule defines as a base farm tract.

Base farm tracts are defined ONLY for the purpose of calculating residential densities in connection with conditional use permit applications. They have no other legal or ownership implications and are not used for any other purpose. A "base farm tract" is a fixed geographical reference area that (once determined) remains constant over time.

Certified Farmland Preservation Plan:

A farmland preservation plan that is certified as determined under Wis. Stats. 91.12.

Certified Farmland Preservation Zoning Ordinance:

A zoning ordinance that is certified as determined under Wis. Stats. 91.32.

Common Ownership:

Ownership by the same person or persons, or by persons that are all wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple.

Land is deemed to be under "common ownership," for purposes of this ordinance, if it is all owned by the same individual, married couple, joint tenants, and tenants in common, corporation, LLC, partnership, estate or trust. If land parcels are owned by separate legal entities, but those legal entities are all wholly owned by exactly the same person or persons, those land parcels are deemed to be under "common ownership" for purposes of this ordinance.

Contiguous:

Adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not "contiguous" if they meet only at a single point.

Conditional Uses:

Uses of a special nature as to make impractical their predetermination as a permitted use in a district. Conditional uses as used in the FP Farmland Preservation Zoning District must meet the requirements of Wis. Stats. 91.46.

Density:

The number of dwelling units per acre allowable under the schedule of district regulations.

Farm:

All land under common ownership that is primarily devoted to agricultural use. For the purpose of this definition, land is deemed to be primarily devoted to agricultural use if the following apply:

- (1) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether on a majority of the land area is in agricultural use; or,
- (2) A majority (greater than 50%) of the land is in agricultural use.

In determining whether land is in agricultural use for purposes of par. (2), a zoning authority may consider how the land is classified for property tax purposes. See Ch. TAX 18, Wis. Adm. Code.]

Farm Acreage:

The size of a farm in acres for the purpose of determining the "base farm tract". "Farm acreage" includes farmland, farm buildings, farm residence and open space parcels over 10 acres. Farm acreage does not include non-farm residential acreage.

Farm Residence:

A single-family or two-family residence that is the only residential structure on the farm or is occupied by any of the following:

- (1) An owner or operator of the farm.
- (2) A parent or child of an owner or operator of the farm.
- (3) An individual who earns more than 50 percent of his or her gross income from the farm.

To qualify as a "farm residence," a residence must be located on a "farm." If a farm owner deeds off a residential parcel to another person (even if that person is the farm owner's parent, child, or employee), the separately owned parcel is no longer part of the original "farm." A residence built on that parcel does not qualify as a "farm residence" unless the parcel qualifies as a "farm" in its own right.

Gross Farm Revenues:

Means gross receipts from agricultural use of a farm, excluding rent receipts, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. Gross farm revenue includes receipts accruing to a renter but does not include rent paid to the landowner.

Livestock:

Means domestic animals traditionally used in this state in the production of food, fiber, or other animal products. "Livestock" includes cattle, swine, poultry, sheep, and goats. "Livestock" does not include equine animals, bison, farm raised deer, fish, captive game birds, camelids, ratites, or mink. (Please refer to ATCP 51 for any possible amendments to this definition.)

Livestock Facilities with More Than 500 Animal Units: Means facilities covered by Wis. Adm. Code Ch. ATCP 51.

Nonfarm Residence: Any residence other than a farm residence.

Nonfarm Residential Acreage:

Nonfarm residential acreage" means the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which Plan Commission has approved nonfarm residences, all parcels of 10 acres or less that do not qualify as farms, and the parcel to which the conditional use permit application pertains. If a residence is located or proposed to be located on an undivided farm, but does not qualify as a farm residence, the size of the residential parcel is deemed to be 10 acres

Nonfarm residential acreage is defined ONLY for the purpose of calculating residential densities in connection with conditional use permit applications in the FP zoning district.

This ordinance counts, as "nonfarm residential acreage," parcels on which residences have been approved but not yet built, as well as "open space" parcels less than 10 acres. Larger "open space parcels" may be counted as "farm acreage" (see definitions of "farm acreage" and "open space parcel)."

Nonconforming Uses or Structures: Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance which does not conform to the regulations of this Ordinance. Any such structure conforming in respect to use, but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

Open Space Parcel:

A parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.

Person:

An individual, corporation, partnership, limited liability company (LLC), trust, estate, or other legal entity.

Prime Farmland:

An area with a class I or II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture or land that is identified as prime farmland in a certified farmland preservation plan. Prime farmland soils are not necessarily associated with the boundaries of the FP Farmland Preservation Zoning District.

Protected farmland:

Land that is any of following:

- (1) Land that is located in the FP Farmland Preservation Zoning District certified under Ch. 91, Wis Stats.
- (2) Covered by a farmland preservation agreement under Ch. 91, Wis Stats.
- (3) Covered by an agricultural conservation easement under s. 93.73, Wis Stats.
- (4) Otherwise legally protected from nonagricultural development

## **SECTION 15.0 RIGHT-TO-FARM**

### **15.1 Purpose**

It is the intent of this section to conserve, protect, and encourage the continued use and improvement of agricultural land in the Village of Kekoskee for the production of agricultural products. Additionally, this Right-to-Farm section is designed to preserve the right of farmers to produce, without unnecessary interference, agricultural products using generally accepted agricultural practices.

### **15.2 Applicability**

The provisions of this section shall apply to all land use change applications within the jurisdiction of this Ordinance.

### **15.3 Limitation on Private Action**

This section shall not apply in the case of a negligent agricultural operation. An agricultural use or agricultural practice is not, nor shall it become, a nuisance if the following apply:

(1) The agricultural use or agricultural practice alleged to be a nuisance is conducted on, or on a public right-of-way adjacent to, land that was in agricultural use without substantial interruption before the plaintiff began the use of property that the plaintiff alleges was interfered with by the agricultural use or agricultural practice; and

(2) The agricultural use or agricultural practice does not present a substantial threat to public health or safety.

### **15.4 Development Review**

In reviewing any application for a land use change, the Village Board and/or Plan Commission shall, to the maximum extent feasible, ensure that such change does not adversely affect any existing agricultural operation on land not subject to the land use change, including access to active agricultural operations.

### **15.5 Sounds and Smells**

Farmers often work late into the night, especially during planting and harvest time, when noise from their machinery can be heard. Land preparation can cause dust, especially during windy and dry weather. The smell of organic fertilizer may be evident during field applications.

### **15.6 Slow Moving Vehicles**

Moving at top speeds of 15 to 20 miles per hour, farm equipment may slow travel time on rural roads. Vigilance and patience are required. Farm equipment will display a Slow-Moving Vehicle emblem, a red-orange, fluorescent triangle surrounded by a reflective red border, on the rear of the implement. This is a warning to slow down. Large farm equipment may extend into the oncoming traffic lane. Safety should be a top concern for all drivers on Village roads, as well as the equipment operators.

### **15.7 Chemicals**

Fertilizers and herbicides are often used in growing crops. These products are applied by licensed applicators. Respect for a neighbor's adjacent land is shown by knowing the prevailing winds and preventing drift.

## **15.8 Exceptions**

Should the Village be presented scientific information and evidence that certain farming practices threaten the health of Village residents, this section of the ordinance shall not apply to protecting those farming activities.

**NOTE:** Through section 823.08 of the Wisconsin Statutes, the Wisconsin Legislature has adopted a right to farm law. This statute limits the remedies of later established residential property to seek changes to pre-existing agricultural practices in the vicinity of residential property. Active agricultural operations are now taking place and may continue in the vicinity of the Village of Kekoskee. These active agricultural operations may produce noises, odors, dust, machinery traffic, or other conditions during daytime and evening hours.