

VILLAGE OF HORTONVILLE
PLANNING & ZONING COMMISSION
September 10th, 2026, 6:00 p.m.
Municipal Services Center
531 N. Nash St., Hortonville, WI



AGENDA

1. Call to Order
2. Approval of August 13, 2026, Meeting Minutes
3. Public hearing to repeal, replace, or create the ordinance(s) of Article 3 - planned unit development overlay district, Article 4 - conditional uses, Article 5 - non-conforming uses, structures, and lots, Article VII - signs and billboards, Article 8 - satellite earth stations; television or radio antenna towers; wind energy systems, Article 9 - outside storage of firewood, fences and hedges, private recreational facilities, Article 10 - administration and enforcement, and Article 11 – zoning board of appeals
4. Close Public Hearing
5. Discussion and possible action to repeal and replace, or create the ordinance(s) of:
Article 3 - planned unit development overlay district,
6. Discussion and possible action to repeal and replace, or create the ordinance(s) of:
Article 4 - conditional uses,
7. Discussion and possible action to repeal and replace, or create the ordinance(s) of:
Article 5 - non-conforming uses, structures, and lots,
8. Discussion and possible action to repeal and replace, or create the ordinance(s) of:
Article 7 - signs and billboards
9. Discussion and possible action to repeal and replace, or create the ordinance(s) of:
Article 8 - satellite earth stations; television or radio antenna towers; wind energy systems,
10. Discussion and possible action to repeal and replace, or create the ordinance(s) of:
Article 9 - outside storage of firewood, fences and hedges, private recreational facilities,
11. Discussion and possible action to repeal and replace, or create the ordinance(s) of:
Article 10 - administration and enforcement,
12. Discussion and possible action to repeal and replace, or create the ordinance(s) of:
Article 11 – zoning board of appeals
13. Any topics for future discussion
14. Adjourn

"Requests from persons with disabilities who need assistance to participate in this meeting or hearing should be made to the Village Administration Office at 779-6011 with as much advance notice as possible."

Posted: September 1, 2026
Lauren Prochnow, WCMC
Deputy Clerk-Treasurer

**VILLAGE OF HORTONVILLE
PLANNING & ZONING COMMISSION
August 13, 2026, MEETING MINUTES**

President Jeanne Bellile called the meeting to order at 6:00 p.m. in the Community Center at 531 N. Nash St., Hortonville, Wisconsin.

Members present: Richard Gruenewald, Mike Bellile, Julie Arendt Vanden Heuvel, and Roger Retzlaff.

Members Excused: Barry Hoff, Tom Banker, Dave Moe, Ryan Hansch

Officials/Staff present: Administrator Nathan Treadwell, and Deputy Clerk-Treasurer Lauren Prochnow

Approval of Minutes

Motion [Retzlaff, Arendt Vanden Heuvel] to approve July 23, 2026, minutes. Unanimous voice vote, motion approved.

Public Hearing

Motion [Arendt Vanden Heuvel, Gruenewald] to open the public hearing to repeal and replace, and create the current ordinance of traffic visibility triangle, parking requirements, highway access, storage and parking of recreational vehicles, automobiles, utility trailers, storage of trucks, tractors and road machinery, and landscaping and buffer requirements. Unanimous voice vote; motion carried.

Administrator Treadwell – the first thing – traffic visibility triangle we have but the line connecting them was set 35 feet which was excessive. Most municipalities have between 20-30 feet, how it's determined by measuring 35 feet each way from the intersection and measuring across the lot. Nothing can be above 2.5 feet, anything higher cannot be in the vision triangle. 25 feet is still a significant amount.

Carrie Lathrop – This is any corner?

Administrator Treadwell: Yes, even angled corners.

Trustee Arendt Vanden Heuvel – is this all-zoning codes?

Administrator: Yes, in the downtown zoning districts, if something came down. The turn lane prevents the need for it because of the right of way.

Rick Gruenewald – you are the zoning administrator?

Administrator – Yes.

Administrator Treadwell moved the discussion to parking requirements – design standards – is this something we want in there? Does it matter to the village people's parking areas, spacing?

If there was any alteration, new build or re-design, then it would need approval. My concern is if there is something wrong, are we going to tell them to take it out? Let's say it's a 10 ft wide stall for 30 degree parking? This is new, I wanted your opinion on this. This may put us in the middle of something that's not necessary.

If you're fine with me removing this, I think it's best – it's just the design standards for the stalls.

The other thing to draw attention to is location of on- lot parking.
Discussion ensued.

Right of way issue has not come up. We could remove the right of way line and you would still be out of there.

Surfacing, this is fine; my suggestion would be to add in districts leaving out I2. General Industrial should have a different standard as well. If we separated out I2 and were done through determination by P&Z Board. Some type of customer/employee parking lot would be paved, but the rest would be determined by the P&Z Board.

Landscaping – any thoughts to this? President Bellile said it should not be demanded.

Highway Access – this really doesn't pertain to us too much. We have no control over this, it needs to be approved at the county level. The County regulates it all and is more strict than we ever would be.

Storage and parking of recreational vehicles, automobiles and utility trailers - This is very similar to what we have now; some of the definitions go into more detail. Storage of those vehicles needs to be 15 feet from the lot line, and they have to own it; they can't have someone renting the space out.

Storage of trucks, tractors and road machinery – some of this is in our current ordinance. The section under the types of vehicles not allowed, I don't know what your thoughts are, I understand tractors, tractor trailers and dump trucks, but auto wreckers, some are the same size as trucks.

Trustee Arendt Vanden Heuvel – could we do this based on size? Chasse size?

President Bellile – what about construction trailers?

Administrator: They should have cones, and should not be allowed.

Mike Bellile – is this a police matter?

Administrator: The problem with some of these is that the definitions are going to make it hard based on this. This is more of a nuisance issue.

Our ordinance currently covers some of this, I would alter the current ordinance to talk about the 2 types of trucks we didn't have in the past.

Landscape and buffer requirements. The biggest thing we should discuss is E, one thought was to leave out C1, due to the issues of the businesses we have in town. C2-highway, there's only a few, and part of the idea would be to remove that and move A&B out and keep the berm designation. When you put in minimum of shade trees to footage, it doesn't benefit.

President Bellile – leaving berms is good and gives us a little bit to control.

Administrator: I'm suggesting taking out C1 and leaving C2. I would suggest moving out A&B and keeping C.

Buffer yard Landscaping – currently in the proposed ordinance, it's very specific and would change it to a very open-ended requirement.

Would you want to go through with the requirements? I think evergreen trees are better. I think that would be it with the zoning code.

Close Public Hearing

Motion [Retzlaff, M. Bellile] to close the public hearing. Unanimous voice vote; motion carried.

Discussion and possible action to repeal and replace, and create the current ordinance of traffic visibility triangle, parking requirements, highway access, storage and parking of recreational vehicles, automobiles, utility trailers, storage of trucks, tractors and road machinery, and landscaping and buffer requirements.

Motion [Retzlaff, Arendt Vanden Heuvel] to recommend the ordinance change with the corrections made. Unanimous voice vote; motion carried.

Any other topics for future discussion

Going through other zoning chapters as quickly as possible trying to get it done in the next meeting. We're at the point that we can try and go through.

Arendt Vanden Heuvel - Do we have an ordinance of docks on the lake? Is this village or DNR? There's one dock in poor shape and is starting to become a hazard.

Adjourn

Motion [M. Bellile, Arendt Vanden Heuvel] to adjourn. Unanimous voice vote, motion carried. The Commission meeting adjourned at 7:06 p.m.

Minutes submitted by,

Lauren Prochnow, WCMC
Deputy Clerk-Treasurer

Current Ordinance

DIVISION 2. PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

Sec. 44-92. Purpose.

The purpose of the planned unit development district is to promote creative and efficient use of the land by providing design flexibility in the application of the provisions of a primary zoning district by providing an overlay district within any of the primary zoning districts. The planned unit development provisions are intended to:

- (1) Protect natural features in private, common, or public open space.
- (2) Improve the efficiency of public streets and utilities.
- (3) Provide transitions in land use in keeping with the character of adjacent land use, or improve the arrangement of structures, facilities, and amenities on a site for both private and public benefit.

(Code 1989, § 17.27(1))

Sec. 44-93. Designation.

All planned unit development districts shall be designated on the official zoning map of the village and in the legal description of the property to be overlaid.

(Code 1989, § 17.27(2))

Sec. 44-94. Uses.

All principal, provisional, conditional, and accessory uses allowed in the primary zoning district are permitted in the planned unit development district subject to the provisions of the primary zoning district and as specified on an approved development plan.

(Code 1989, § 17.27(3))

Sec. 44-95. Applicability.

All applicable primary zoning district provisions, other than use restrictions, are superseded by the approval of a preliminary development plan by the village board. The approved preliminary development plan establishes the provisions. The preliminary or final development plan shall govern and take precedence over primary zoning district provisions. However, no preliminary or final development plan shall be approved by the village board which, for the total land area of the planned development:

- (1) Exceeds maximum coverage area of a lot by more than 30 percent;

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- (2) Reduces minimum lot area and lot width by more than 25 percent of the applicable district provision; and
- (3) Reduces minimum setback in an industrial primary zoning district from a property line adjoining a residential primary zoning district. The approval of a final development plan subject to the provisions of the planned unit development district shall satisfy the requirements for final site and building plan approval in all primary and overlay zoning districts.

(Code 1989, § 17.27(5))

Sec. 44-96. Applicable procedure.

Prior to an applicant's request for rezoning, or submission of a preliminary development plan, a pre-PUD application meeting is required between the applicant and village staff. At this time the appropriate application procedures, requirements and applicable Code provisions will be reviewed and explained. Prior to the issuance of any permits for development within a planned unit development district, a rezoning of planned unit development district shall be adopted by the village board, a preliminary development plan shall be approved by the village board, and a final development plan shall be approved by the village board according to the procedure provided in this division.

(Code 1989, § 17.27(6)(intro. ¶))

Sec. 44-97. Preliminary development plan.

(a) Content.

- (1) The applicant shall submit preliminary development plans, which include the following:
 - a. A location map which indicates existing and future land uses.
 - b. Maps of existing and proposed site features and uses at a scale specified by the zoning administrator which indicates topography in two-foot contours; building outlines; location of significant vegetation; location of streets, drives, and parking areas; and other significant features.
 - c. Drawings of all proposed structure elevations including signs.
 - d. A preliminary circulation plan indicating pedestrian and vehicular movement systems. This plan shall also include service access for receiving material and trash removal.
 - e. A preliminary drainage, grading, utility and erosion control plan.
 - f. A written report which indicates covenants or agreements which will influence the use and maintenance of the proposed development, describes the analysis of site conditions and development objectives which have resulted in the planned unit development proposal, and includes a statement of which primary zoning district provisions are being modified by the planned unit development.
 - g. A shift of density or intensity plan, if applicable.

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- h. A wetlands identification plan which identifies all wetlands on the property where development is proposed.
 - i. Any other information deemed necessary by the zoning administrator in order to evaluate plans.
 - (2) Five copies of the information listed in subsection (a)(1) of this section shall be submitted plus one reduced set no larger than 8.5 inches by 11 inches.
- (b) For village-initiated rezoning to planned unit development districts, the preliminary development plan may consist of any information deemed necessary to identify and protect the public interest.
- (c) The purpose of the preliminary development plan is to establish the intent, density, and intensity for a proposed development. The applicant shall submit a preliminary development plan to the zoning administrator together with an application for rezoning to the planned unit development district. The planning and zoning commission shall conduct an informal public hearing, to consider the rezoning request, and to consider a recommendation for approval or disapproval of a preliminary development plan. At this public hearing, the planning and zoning commission shall receive a report from the zoning administrator recommending approval, disapproval, or approval with specified modifications. Upon due consideration the planning and zoning commission shall recommend to the village board, by a two-thirds vote of the entire commission, approval or disapproval of the rezoning, or approval of the preliminary development plan, or disapproval of the preliminary development plan, or approval of the preliminary development plan with specified modification.
- (d) Following planning and zoning commission recommendation, the village board shall hold a public hearing for consideration of the rezoning request and a public hearing, in accordance with the law, for consideration of a preliminary development plan. At this public hearing, the village board shall receive the recommendation from the planning and zoning commission and a report from the zoning administrator. Upon due consideration, the village board shall, by a two-thirds vote of the entire board, approve or disapprove the rezoning, or approve the preliminary development plan, or disapprove the preliminary development plan, or approve a preliminary development plan with specified modifications. Any preliminary plan approval and rezoning shall be valid for one year from the date of the approval. If the applicant fails to obtain final development approval within that time period, the preliminary plan and rezoning approval shall be automatically deemed null and void.

(Code 1989, § 17.27(6)(a))

Sec. 44-98. Final development plan.

- (a) Content.
 - (1) The applicant shall submit final development plans, which include the following information:
 - a. A location map which indicates existing and future land uses.
 - b. Maps of existing and proposed site features and uses at a scale specified by the zoning administrator which indicate topography in two-foot contours; building outlines; location of significant vegetation; location of streets, drives and parking areas; and other significant features.

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- c. Detailed drawings of all proposed structure elevations, including scaled elevations of all signs. Samples of all proposed materials which will be used on the exterior of structures may be required with the elevation drawings.
 - d. Proposed floor plans for all floor levels.
 - e. A landscape plan indicating tree and shrub species, luminaire location, type and height, and provisions for plant material watering.
 - f. A final circulation plan indicating pedestrian and vehicular movement systems. This plan shall also include service access for receiving and trash removal.
 - g. A final drainage, grading, utility and erosion control plan.
 - h. A written report which indicates covenants or agreements which will influence the use and maintenance of the proposed development, describes the analysis of site conditions and development objectives which have resulted in the planned unit development proposal, and includes a statement of which primary zoning district provisions are being modified by the planned unit development.
 - i. A shift of density or intensity plan, if applicable.
 - j. Any other information deemed necessary by the village board in order to evaluate plans.
- (2) Five copies of the information listed in subsection (a)(1) of this section shall be submitted, plus one reduced set no larger than 8.5 inches by 11 inches.
- (b) The purpose of the final development plan is to establish a detailed development plan for a proposed development. Following approval of final development plans by the village board, a permit for development within the planned unit development district may be issued. The applicant shall submit a final development plan to the zoning administrator. The planning and zoning commission shall conduct an informal public hearing to consider a recommendation for approval or disapproval of a final development plan. At this public hearing, the planning and zoning commission shall receive a report from the zoning administrator recommending approval, disapproval, or approval with specified modifications. The planning and zoning commission shall determine that the proposed final development plan is in substantial conformance with the approved preliminary development plan. Upon due consideration, the planning and zoning commission shall recommend to the village board, by a two-thirds vote of the entire commission, approval of the final development plan, or disapproval of the final development plan, or approval of the final development plan with specified modifications.
- (c) Following planning and zoning commission recommendation, the village board shall hold a public hearing in accordance with the law, for consideration of a final development plan. At this public hearing, the village board shall receive the recommendation from the planning and zoning commission and a report from the zoning administrator. Upon due consideration, the village board shall, by a two-thirds vote of the entire board, approve the final development plan, or disapprove the final development plan, or approve the final development plan with specified modifications. If the village board disapproves the final development plan, the preliminary development plan previously considered and approved by the village shall also be considered disapproved by the village board as of the same date.
- (d) The planning and zoning commission and the village board shall find the following by a two-thirds vote of the entire body, prior to the approval of preliminary development plans or final development building plans:
- (1) The planned unit development is not in conflict with the comprehensive plan.

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- (2) The planned unit development is not in conflict with any adopted district plan.
- (3) The planned unit development is not in conflict with the intent of the primary zoning district.
- (4) The planned unit development is not in conflict with other applicable provisions of this Code.
- (5) The planned unit development or unit thereof is of sufficient size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit without dependence upon any subsequent unit.
- (6) The planned unit development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which are proposed to serve the planned unit development.
- (7) The planned unit development will not have an undue and adverse impact on the reasonable enjoyment of the neighborhood property.
- (8) That any variation from strict application of the primary zoning district provisions in the planned unit development is not in conflict with the intent of the planned unit development district and is justified by the design of the proposed development.

(Code 1989, § 17.27(6)(b))

Sec. 44-99. Administration may approve certain minor changes.

The zoning administrator may approve minor changes to final development plans adopted by the village board, provided that the changes do not involve an increase in floor area of structures or number of dwelling units, a change in exterior building material, or an alteration of any condition attached or modification to the final development plan made by the village board. A major change to a final development plan which is at variance with any standards of this Code or is less restrictive than any conditions of approval for the initial final development plan shall require approval by a two-thirds vote of all members of the village board.

(Code 1989, § 17.27(6)(c); Ord. of 3-2-2000)

Secs. 44-100—44-126. Reserved.

Current Ordinance

ARTICLE II. CONDITIONAL USES

Sec. 44-39. Authorization.

The village board may authorize the zoning administrator to issue a conditional use permit for conditional uses specified in this chapter after review and a public hearing, provided such uses are in accordance with the purpose and intent of this chapter.

(Code 1989, § 17.11(1))

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Sec. 44-40. Permit.

Application for a conditional use permit shall be submitted to the zoning administrator on forms provided and shall be accompanied by a plan showing the location, size and shape of the lots involved, any proposed structures and the existing and proposed use of each structure and lot. The cost of a land use permit shall be established by the village board.

(Code 1989, § 17.11(2))

Sec. 44-41. Review.

Both the planning and zoning commission and the village board shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.

(Code 1989, § 17.11(3))

Sec. 44-42. Conditions.

Conditions related to landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restrictions, access restrictions, increased yards and parking requirements may be required by the village board upon its finding that such conditions are necessary to fulfill the purposes and intent of this chapter.

(Code 1989, § 17.11(4))

Sec. 44-43. Other provisions.

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

(Code 1989, § 17.11(5))

Sec. 44-44. Uses in specific districts.

- (a) In the R1, R2, and R3 districts, conditional uses include home occupations, hospitals and clinics, colleges and vocational schools, public museums, art galleries and microwave relay structures and community television antenna towers.
- (b) In the R2 district:

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- (1) One or more manufactured homes are conditional uses, provided that the location of the homes must be approved and a license granted by the village board as a part of a planned manufactured home development.
- (2) A planned manufactured home development must be intended to be exclusively for residential use of manufactured homes and shall include only single-family homes, offices and a dwelling for the owner or administrator of the manufactured home development, and structures for residents of the development, including, without limitation, toilets, bathing, clothes washing facilities and similar services. Such developments are subject to the following regulations:
 - a. *Height.* No mobile home or building shall exceed one story or 15 feet in height.
 - b. *Yards.* Every manufactured home development shall have minimum front, side and rear yard setbacks of 40 feet.
 - c. *Spacing of units.* Manufactured homes shall not be placed closer than 20 feet apart or within ten feet of the roadway serving such units.
 - d. *Area.* Each manufactured home development shall have a minimum area of five acres. Each manufactured home lot shall have a minimum lot area of 3,000 square feet and a minimum lot width of 40 feet.
 - e. *Additional requirements.* In addition to the foregoing, the village board may impose such other conditions, requirements or limitations concerning the design, development, and operation of such manufactured home developments as it may deem necessary for the protection of adjacent properties and public interest.
- (c) In the R1, R2, and R3 districts, medical and dental clinics are conditional uses.
- (d) In the C2 Highway Commercial District, the following highway-oriented uses are conditional uses:
 - (1) Automotive sales and service.
 - (2) Automotive parts sales.
 - (3) Lumberyards.
 - (4) Greenhouses.
 - (5) Feed and seed stores.
 - (6) Farm machinery and equipment sales.
 - (7) Building supply stores.
 - (8) Plant nurseries.
 - (9) Meeting and gathering places (churches, event venues).
 - (10) Post-secondary schools.
- (e) In the C1 district, conditional uses include adult establishments, including bookstores, motion picture theaters, mini-motion picture theaters, bath houses, massage parlors, modeling studios, body painting studios, cabarets and novelty shops.

(Code 1989, § 17.11(6))

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Secs. 44-45—44-61. Reserved.

CURRENT ORDINANCE

DIVISION 6. NONCONFORMING USES

Sec. 12-197. Generally.

- (a) Applicability. If standards of this division conform with Wis. Stats. § 62.23(7)(h), they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of the ordinance from which this article is derived or any amendment thereto.
- (b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this article may continue subject to the following conditions:
 - (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. The terms "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
 - (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.
 - (3) The village shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
 - (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 12-146(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this subsection.
 - (5) Substantially damaged or destroyed nonconforming structures or buildings.
 - a. Except as provided in subsection (b)(2) of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be

replaced, reconstructed or rebuilt unless the use and the structure meet the current article requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.

- b. For nonconforming buildings that are damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the non-flood disaster, provided that the nonconforming building will meet all the minimum requirements under applicable FEMA regulations (44 CFR 60), or the regulations promulgated thereunder.
- (6) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with section 12-114(a), flood-resistant materials are used, and construction practices and floodproofing methods that comply with section 12-226 are used.

(Code 1989, § 20.06(1))

Sec. 12-198. Floodway areas.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (1) Has been granted a permit or variance which meets all ordinance requirements;
 - (2) Meets the requirements of section 12-197;
 - (3) Will not increase the obstruction to flood flows or regional flood height;
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to section 12-226, by means other than the use of fill, to the flood protection elevation;
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch of every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all village ordinances and Wis. Admin. Code ch. COMM 83.

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- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all village ordinances and Wis. Admin. Code chs. NR 811 and 812.

(Code 1989, § 20.06(2))

Sec. 12-199. Floodfringe areas.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the village, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in section 12-146, except where subsection (b) of this section is applicable.
- (b) Where compliance with the provisions of subsection (a) of this section would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of appeals, using the procedures established in section 12-224, may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
- (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) Flood depths will not exceed two feet;
 - (5) Flood velocities will not exceed two feet per second; and
 - (6) The structure will not be used for storage of materials as described in section 12-146(5).
- (c) If neither the provisions of subsections (a) or (b) of this section can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
- (1) Meets all other regulations and will be granted by permit or variance;
 - (2) Does not exceed 60 square feet in area; and
 - (3) In combination with other previous modifications or additions to the building, does not equal or exceed 50 percent of the present equalized assessed value of the building.
- (d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal systems shall meet all the applicable provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.
- (e) All new wells, or addition to, replacement, repair or maintenance of a well, shall meet the applicable provisions of this article and Wis. Admin. Code chs. NR 811 and 812.

(Code 1989, § 20.06(3))

Secs. 12-200—12-221. Reserved.

CURRENT ORDINANCE

Subdivision II. Signs

Sec. 44-182. General standards.

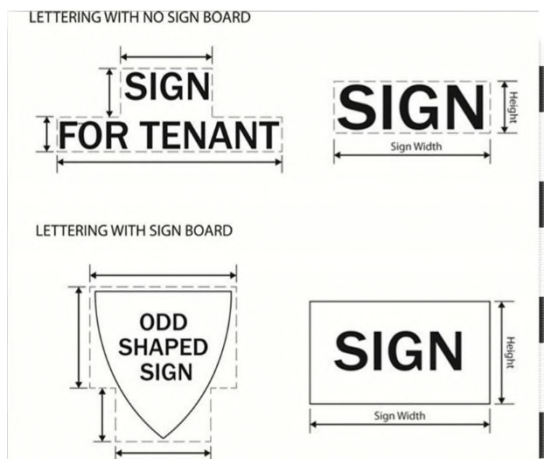
The following general standards shall apply to signs in the downtown zoning district:

- (1) *Right-of-way.* Private signs are prohibited within the public right-of-way or easements. Awning, projecting, marquee, and sidewalk signs are excluded from this regulation if they follow location requirements noted in this subdivision.
- (2) *Building materials.* All signs must be constructed of quality, industry-accepted sign materials.
- (3) *Landscaping.* All permanent freestanding signs shall incorporate a landscaped base.
- (4) *Maintenance.* Signs shall be kept in good maintenance. Owners of faded or damaged signs or signs in disrepair will be contacted and repairs will be required within 15 calendar days.
- (5) *Lighting.* Signs that have external illumination, whether the lighting is mounted above or below the sign face or panel, shall have lighting fixtures or luminaires that are fully shielded. Illuminated panel lighting is not allowed.

(Code 1989, § 17.30(5)(a)(1)—(5))

Sec. 44-183. Measurement of sign area.

Sign measurement area for signs in the downtown zoning district shall be calculated by the edge of the sign board/back. Where signage does not have a sign board/back or for odd-shaped signs, the area of lettering or symbols shall be calculated. The applicant shall submit dimensions as part of the sign permit process.



(Code 1989, § 17.30(5)(a)(6))

Sec. 44-184. Street frontage.

Street frontage is defined as a side of the property that faces a public street. Corner lots have two street frontages.

(Code 1989, § 17.30(5)(a)(7))

Sec. 44-185. Permanent signs.

A sign permit is required for all permanent signs in the downtown zoning district. A total number of signs per property are regulated. See sign size and location table for dimension requirements.

(1) Total permanent signs allowed per property:

<i>Sign Type</i>	<i>Number of Signs Allowed in Downtown District</i>
<i>Building signs:</i>	
Awning/canopy sign	1 sign per street frontage (this only limits number of signs on structure and not number of awnings and canopies)
Marquee	1 per building
Menu sign	1 per tenant
Projecting sign	1 per tenant
Roof sign	1 per building
Wall sign	1 per street frontage
Wall sign, painted	Allowed on 1 wall without windows
<i>Freestanding signs:</i>	
Monument	1 freestanding sign per street frontage (monument or pylon)
Pylon sign	1 freestanding sign per street frontage (monument or pylon)
<i>Information signs:</i>	
Directory	1 per building
Nameplate	1 per tenant

(2) Permanent sign types, size (per face) and location requirements.

<i>Sign Type</i>	<i>Downtown District Size and Location Requirements</i>
<i>Building signs:</i>	
Awning/canopy. A sign on a roof-like cover extending over or in front of a place (as over the deck or in front of a door or window) as a shelter.	9 square feet of awning canopy can be signed; the lowest part of the awning must be at least 80 inches above the sidewalk
Marquee. A sign that is attached to, in any manner, or made a part of any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.	32 square feet per face; the lowest part of the awning must be at least 80 inches above the sidewalk

Menu sign. A sign that displays a menu for the on-site eating/drinking establishment and is attached to the building for pedestrian use.	3 square feet
Projecting sign. A sign affixed to any part of a building or structure which extends beyond the building or structure.	20 square feet per face; cannot extend more than 4 feet over the right-of-way; they must be at least 10 feet above the sidewalk or 15 feet above a driveway or alley
Wall sign. A sign attached to, placed against, or supported by the exterior surface of any building.	15 percent of wall area sign is attached to
Wall sign, painted. A sign applied to a building wall with paint and which has no sign structure.	15 percent of wall area sign is attached to
<i>Freestanding signs:</i>	
Monument sign. A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles.	32 square feet
Pole/pylon sign. An elevated sign supported by poles or pylons that are wrapped with a stone or professional building material.	32 square feet; 20-foot maximum height
<i>Information signs:</i>	
Directory. A sign, other than an identification sign, listing the names, uses, or locations of the various businesses or activities conducted within a building or group of buildings that is centrally located and intended to provide on-site directions.	6 square feet
Nameplate. A sign indicating the name and address of a building; or the name of an occupant thereof, and the practice of a permitted occupation therein.	2 square feet

(Code 1989, § 17.30(5)(b))

Sec. 44-186. Temporary signs.

A sign permit is required for all temporary signs in the downtown zoning district. See sign size and location table for dimension requirements.

(1) Total temporary signs allowed per property:

<i>Sign Type</i>	<i>Number of Signs Allowed in Downtown District</i>
<i>Temporary signs:</i>	
Banner, soft sided signs	2 per property; 30 days maximum, 4 times a year

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(Supp. No. 5)

Sidewalk sign	1 per property; during business hours only
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(2) Temporary sign types, size, and location requirements.

<i>Sign Type</i>	<i>Downtown District Size and Location Requirements</i>
<i>Temporary signs:</i>	
Banner/soft sided sign. A sign made of flexible materials and supported along one or more sides or at two or more corners by staples, tape, wires, ropes, strings, or other materials that are not fixed or rigid.	24 square feet
Sidewalk sign. A sign, which may be an A-frame or sandwich board type sign, placed on the sidewalk or boulevard area within the public right-of-way and associated with the abutting commercial establishment in compliance with these standards.	15 square feet; not to be placed where it may interfere with ADA requirements

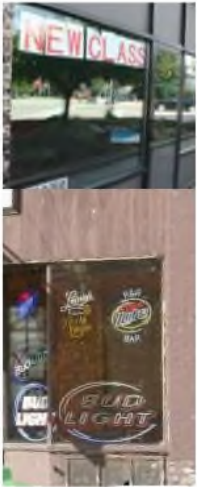
(Code 1989, § 17.30(5)(c))

Sec. 44-187. Signs not requiring a permit.

A sign permit is not required for the signs listed in this section. See sign size and location table for dimension requirements.

(1) Total signs allowed per property:

<i>Sign Type</i>	<i>Number of Signs Allowed in Downtown District</i>
Signs not requiring a permit	
Construction sign	Only during the duration of work; must be removed within 5 calendar days of work ending
Government sign	As needed
Political sign	See Wis. Stats. § 12.04
Real estate	1 per property
Yard sign	1 per property
Warning signs	As needed

	
Window signs	May not exceed 25 percent of window area of a street frontage
	

(2) Size requirements for signs not requiring a permit.

Sign Type	Downtown District Size Requirements
Construction sign. Signs announcing new buildings or projects or advertising the company doing the work.	32 square feet
Governmental sign. A sign erected and maintained by or on behalf of the United states, the state, the county, or the village for the purpose of regulating traffic or for civic purposes.	As needed
Political. A temporary sign announcing or supporting candidates or issues in connection with any national, state, or local election.	See Wis. Stats. § 12.04
Real estate. A sign announcing the sale or rental of the property upon which the sign is located.	32 square feet

Yard sign. A sign that is supported or mounted by stakes pushed into the ground.	3 square feet
Warning sign. A sign limited to a message of warning, danger, or caution.	3 square feet
Window signs. Signs and decals placed on the interior of the window.	May not exceed 25 percent of window area

(Code 1989, § 17.30(5)(d)(1))

Sec. 44-188. Prohibited signs.

The following signs are expressly prohibited in the downtown zoning district, unless otherwise stated in these regulations:

- (1) *Abandoned sign.* Any sign that is not well maintained for a consecutive 120 calendar day period or that is not fully supported by the structure designed to support the sign for a consecutive 120 calendar day period.
- (2) *Absence of permit.* Any sign requiring a permit for which a permit has not been issued.
- (3) *Air-activated/inflatable signs.* Any sign that uses air to maintain that sign or cause movement of the sign.
- (4) *Billboards.* A sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.
- (5) *Electronic message center.* A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.
- (6) *Interference.* No sign may be erected that, by reason of position, shape or color, would interfere in any way with the proper functioning or purpose of a traffic sign or signal.
- (7) *Lighting.* Use of revolving beacons, beamed lights or similar devices that would so distract automobile traffic as to constitute a safety hazard.
- (8) *Near street intersections.* There shall be no flashing or revolving sign in the front setback area or within 125 feet of a street intersection. No flashing or revolving signs are permitted in windows.
- (9) *Non-professional signs.* No sign shall be hand painted in a non-professional or "amateur" manner.
- (10) *Parked vehicle.* Any sign on a motor vehicle, trailer, farm implement or other mobile equipment, which is parked in a position visible to traffic on a public road for a period longer than six days in a 60-calendar-day period.
- (11) *Safety hazards.* Any sign that, because of its location, animation or other action, is deemed to jeopardize public safety.
- (12) *Simulated emergency signs.* Any sign that is similar to or attempts to replicate police, fire or other emergency services.
- (13) *Simulated traffic signs.* Any sign that is similar to or attempts to replicate traffic signs.

(Code 1989, § 17.30(5)(d)(2))

Sec. 44-189. Permit procedure.

- (a) Except as otherwise provided in this chapter, 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 chapter. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the village.

(b) Any person desiring to place, erect, alter or relocate a sign, except an exempt sign, shall make application to the building inspector and shall provide in writing the following information:

- (1) The name, address, and telephone number of the applicant.
 - (2) The name, address, and telephone number of the owner of the premises upon which the sign is to be attached or erected.
 - (3) The street number and street name or parcel number of the land upon which the sign is to be attached or erected.
 - (4) A clear and legible scale drawing of the proposed sign and a map of the lot or parcel of land on which it is to be erected, showing the intended location on the site.
 - (5) The basic materials to be used in the construction of the sign.
 - (6) The name, address, and telephone number of the owner/user of the sign if he is neither the applicant nor the owner of the premises on which the sign is to be attached or erected.
 - (7) A description of all electrical equipment if the sign is to be lighted or illuminated.
 - (8) If work is to be performed by a professional contractor, the name, address and telephone number of such contractor and a certificate giving proof of adequate insurance held by the contractor.
 - (9) Such other information as the building inspector may require in order to indicate compliance with this chapter and all other ordinances of the village.
- (c) If the sign permit is denied by the building inspector, he shall give written notice of the denial to the applicant, together with a brief statement of the reasons for denial. Such notice shall be within ten working days of the application.

(Code 1989, § 17.30(5)(e))

Sec. 44-190. Existing signs.

All signs permanently erected, put up, installed, or constructed prior to August 2, 2018, which were in compliance with the regulations in effect immediately prior to that time and which are not in compliance with the provisions of these regulations shall be deemed a legal nonconforming sign. A legal nonconforming sign may remain in place until such a time as it is:

- (1) Removed or structurally changed;
- (2) Damaged to the extent of more than 50 percent of its replacement value at the time of the damage;
- (3) In a state of disrepair or is a hazard as determined by the building inspector.

In the event of any of the conditions listed in this section, the sign shall be removed or replaced with a sign conforming with these regulations.

(Code 1989, § 17.30(5)(f))

Secs. 44-191—44-217. Reserved.

CURRENT ORDINANCE

Sec. 44-222. Fences.

- (a) For reasons of suitability, aesthetics, and public safety, conditional use permits shall be required for all fences except simple chain-link fences without barbed wire or electrical charge, split or decorative rail fences and picket fences.
- (b) Fences shall not be located in any recorded easement without the written consent of the entity controlling the easement. If the easement is controlled by the Village the property owner must sign a permission agreement that will be recorded by the register of deeds.
- (c) Fences in residential districts shall not exceed six feet in height on the side and rear yards, and can be placed on the lot line.
- (d) Fences located in the front yard setback area:
 - (1) All Fences located within the front yard setback area shall be a minimum of 50 percent open to vision through the fence equally distributed throughout the fence length
 - (2) No boundary or aesthetic fence or wall including a hedge or row planting shall be permitted in excess of four feet in the front yard setback area visual clearance requirements of section 44-7 and shall not impede any driveway or sidewalk.
 - (3) Exceptions if the fence is located on a double frontage lot where there is an access restriction on one frontage then that frontage with access restriction may be treated as a side or rear yard for fence placement, but shall still follow section 44-222(d)(1).
- (e) Fences in the shoreland and floodplain districts are allowed within 75 feet of the normal high water mark if they are open fences.
- (f) Fences may be located in all yards in commercial and industrial districts. Fences located in the front yard shall be approved by the planning and zoning commission prior to the issuance of a permit. Fences installed in commercial and industrial districts shall not exceed six feet in height, except when required to enclose outside storage areas and when approved by the planning and zoning commission. Fencing constructed to enclose outside storage areas shall comply with the conditions of use in the village business park covenants.
- (g) It shall be the responsibility of the property owner in any district wishing to construct a fence or barrier between an adjacent property to locate the correct property stakes. If the property stakes are missing, it will be the responsibility of the property owner constructing the barrier to have the property stakes installed by a registered surveyor. All costs shall be borne by the property owner installing the barrier.
- (h) The finished side of the fence, as deemed by the building inspector, shall face the adjacent property and the posts should be placed in the interior of the fence.
- (i) The property owner shall be required to maintain the fence in a safe and suitable condition and the yard from the fence to the property line.
- (j) Permit required. No barrier shall be constructed without a permit having been issued by the building inspector. Application for the permit shall be made at the village administration office. The fee for the permit shall be established by the village board.

(Code 1989, § 17.28(4); Ord. No. O-3-21, 10-21-2021; Ord. No. O-2-24, 1-18-2024)

CURRENT ORDINANCE

Sec. 2-238. Board of zoning appeals.

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- (a) *Composition; terms.* The board of zoning appeals of the village shall consist of five members and two alternate members who shall be residents of the village, appointed by the village president and confirmed by a majority vote of the village board. Members first appointed shall serve one for one year, two for two years and two for three years and the alternate members shall serve three years. Thereafter, all members shall be appointed for three years.
- (b) *Appointment of members; compensation; removal.* The board of appeals shall be appointed as specified in Wis. Stats. § 62.23. The members shall serve without compensation and shall be removable by the village president for cause upon written charges and after public hearing.
- (c) *Rules of procedure.* The board of appeals shall make and file in the office of the village clerk-treasurer its own rules of procedure consistent with the statutes.
- (d) *Powers and duties.* The board of appeals shall have the powers and duties provided in this Code and under Wis. Stats. § 62.23, including, without limitation, the authority to hear and decide appeals where it is alleged that the building inspector has made an erroneous finding or order and to grant specific variances from the terms of chapter 44, pertaining to zoning, where it is shown that unique physical circumstances applying to a lot cause hardship to the owner under chapter 44, pertaining to zoning, and that the variance still will be in fundamental harmony with surrounding uses.
- (e) *Hearing authority; voting.* The board of appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made and to that end shall have all the powers of the building inspector. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to affect a variance. The grounds of every such determination shall be stated and recorded.
- (f) *Board may not approve prohibited uses.* No action of the board of appeals shall have the effect of permitting in any zoning district uses prohibited in such district by this Code.
- (g) *Filing of minutes and variances.* The minutes of proceedings and hearings before the board of appeals and all variances granted by it shall be filed promptly at the office of the village clerk-treasurer and shall be open for public inspection during office hours.

(Code 1989, §§ 1.28, 17.40; Ord. of 10-6-2005)

State law reference(s)—City planning, Wis. Stats. § 62.23; village planning, Wis. Stats. § 61.35.

Proposed with Changes

ARTICLE III. PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT (PUD) –

Sec. 44-92. Purpose.

The Planned Unit Development Overlay District is an overlay district that is established to encourage and promote creative and efficient design in the Village of Hortonville by allowing for greater design flexibility in the development of land while ensuring substantial compliance with the basic intent of the zoning ordinance and the underlying zoning district. preservation of open land. The planned unit development provisions are intended to:

- (1) Protect natural features in private, common, or public open space.
- (2) Improve the efficiency and economic development of public streets, services and utilities.
- (3) Encourage and facilitate preservation of open land.
- (4) Provide transitions in land use in keeping with the character of adjacent land use, or improve the arrangement of structures, facilities, and amenities on a site for both private and public benefit.

Sec. 44-93. Designation.

All planned unit development overlay districts shall be designated on the official zoning map of the village and in the legal description of the property to be overlaid.

Sec. 44-94. Uses.

All principal, provisional, conditional, and accessory uses allowed in the primary zoning district are permitted in the planned unit development overlay district subject to the provisions of the primary zoning district and as specified on an approved development plan.

Sec. 44-95. Applicability.

All applicable primary zoning district provisions, other than use restrictions, are superseded by the approval of a development plan by the village board. However, no preliminary or final development plan shall be approved by the village board which, for the total land area of the planned development:

- (1) Exceeds maximum coverage area of a lot by more than 30 percent;
- (2) Reduces minimum lot area and lot width by more than 25 percent of the applicable district provision; and
- (3) Reduces minimum setback in an industrial primary zoning district from a property line adjoining a residential primary zoning district. The approval of a final development plan subject to the provisions of the planned unit development district shall satisfy the requirements for final site and building plan approval in all primary and overlay zoning districts.

Sec. 44-96. Applicable procedure.

Before the planning and zoning commission may review a preliminary development plan, the plan and application shall be submitted to the zoning administrator at least 20 days prior to the planning and zoning commission meeting. The preliminary plan shall include all items listed in Sec. 44.97.1. A pre-PUD application meeting is required between the applicant and village staff. At this time the appropriate application procedures, requirements and applicable Code provisions will be reviewed. The procedure for rezoning to a planned unit development district shall be as required for any other zoning district change under this chapter, except that, in addition thereto, and prior to the issuance of any permits for development within a planned unit development district, a rezoning of planned unit development district shall be adopted by the village board, a preliminary development plan shall be approved by the village board, and a final development plan shall be approved by the village board according to the procedure provided in this division.

Sec. 44-97. Preliminary development plan.

(a) Content.

- (1) The applicant shall submit preliminary development plans, which include the following:
 - a. A location map which indicates existing and future land uses.
 - b. Maps of existing and proposed site features and uses at a scale specified by the zoning administrator which indicates topography in two-foot contours; building outlines; location of significant vegetation; location of streets, drives, and parking areas; and other significant features.
 - c. Drawings of all proposed structure elevations including signs.
 - d. A preliminary circulation plan indicating pedestrian and vehicular movement systems. This plan shall also include service access for receiving material and trash removal.
 - e. A preliminary drainage, grading, utility and erosion control plan.
 - f. A written report which indicates covenants or agreements which will influence the use and maintenance of the proposed development, describes the analysis of site conditions and development objectives which have resulted in the planned unit development proposal, and includes a statement of which primary zoning district provisions are being modified by the planned unit development.
 - g. A shift of density or intensity plan, if applicable.
 - h. A wetlands identification plan which identifies all wetlands on the property where development is proposed.
 - i. Any other information deemed necessary by the zoning administrator in order to evaluate plans.
 - (2) Five copies of the information listed in subsection (a)(1) of this section shall be submitted plus one reduced set no larger than 8.5 inches by 11 inches.
- (b) For village-initiated rezoning to planned unit development districts, no preliminary development plan is required.
- (c) The purpose of the preliminary development plan is to establish the intent, density, and intensity for the proposed development. The applicant shall submit a preliminary development plan to the zoning administrator together with an application for rezoning to the planned unit development overlay district. The planning and zoning commission shall hold a public hearing within 30 days of receiving a complete preliminary development plan and plan application and the same. At the public hearing, the planning and zoning commission may receive a report from the zoning administrator recommending approval,

disapproval, or approval with specified modifications and/or conditions. Upon due consideration, the planning and zoning commission shall recommend to the village board, by a two-thirds vote of the entire commission, either the approval or disapproval, with or without specified modifications and/or conditions, of the rezoning and preliminary development plan to the village board.

- (d) Once the planning and zoning commission's recommendations have been received, the village board shall consider the rezoning request, preliminary development plan, commission recommendation and any report from the zoning administrator. Upon due consideration, the village board shall, by a two-thirds vote of the entire board, approve or disapprove the rezoning and approve or disapprove the preliminary development plan, with any specified modifications or conditions. Any preliminary plan approval and rezoning shall be valid for one year from the date of the approval. If the applicant fails to obtain final development approval within that time period, the preliminary plan and rezoning approval shall be automatically deemed null and void.

Sec. 44-98. Final development plan.

- (a) Content.

- (1) The applicant shall submit final development plans, which include the following information:

- a. A location map which indicates existing and future land uses.
- b. Maps of existing and proposed site features and uses at a scale specified by the zoning administrator which indicate topography in two-foot contours; building outlines; location of significant vegetation; location of streets, drives and parking areas; and other significant features.
- c. Detailed drawings of all proposed structure elevations, including scaled elevations of all signs. Samples of all proposed materials which will be used on the exterior of structures may be required with the elevation drawings.
- d. Proposed floor plans for all floor levels.
- e. A landscape plan indicating tree and shrub species, luminaire location, type and height, and provisions for plant material watering.
- f. A final circulation plan indicating pedestrian and vehicular movement systems. This plan shall also include service access for receiving and trash removal.
- g. A final drainage, grading, utility and erosion control plan.
- h. A written report which indicates covenants or agreements which will influence the use and maintenance of the proposed development, describes the analysis of site conditions and development objectives which have resulted in the planned unit development proposal, and includes a statement of which primary zoning district provisions are being modified by the planned unit development.
- i. A shift of density or intensity plan, if applicable.
- j. Any other information deemed necessary by the village board in order to evaluate plans.

- (2) Five copies of the information listed in subsection (a)(1) of this section shall be submitted, plus one reduced set no larger than 8.5 inches by 11 inches.

- (b) The purpose of the final development plan is to establish a detailed development plan for a proposed development. Following approval of final development plans by the village board, a permit for development within the planned unit development overlay district may be issued. The applicant shall submit a final development plan to the zoning administrator. The planning and zoning commission shall conduct a public hearing to consider the proposed final development plan. At this public hearing, the planning and zoning

commission may receive a report from the zoning administrator recommending approval, disapproval, or approval with specified modifications or conditions. The planning and zoning commission shall determine whether the proposed final development plan is in substantial conformance with the approved preliminary development plan, fulfillment of all required items and continued compliance with finding required for preliminary development plan approval. Upon due consideration, the planning and zoning commission shall recommend to the village board, by a two-thirds vote of the entire commission, either approval or disapproval of the final development plan, with any proposed specified modifications or conditions.

- (c) Following the planning and zoning commission's recommendation, the village board shall receive the recommendation from the planning and zoning commission and the report from the zoning administrator. Upon due consideration, the village board shall, by a two-thirds vote of the entire board, approve the final development plan, or disapprove the final development plan, or approve the final development plan with specified modifications and/or conditions. If the village board disapproves the final development plan, the preliminary development plan previously considered and approved by the village shall also be considered disapproved by the village board as of the same date.
- (d) The planning and zoning commission and the village board may, in their discretion, consider whether:
 - (1) The planned unit development is in conflict with the comprehensive plan.
 - (2) The planned unit development is in conflict with any adopted district plan.
 - (3) The planned unit development is in conflict with the intent of the primary zoning district.
 - (4) The planned unit development is in conflict with other applicable provisions of this Code.
 - (5) The planned unit development or unit thereof is of sufficient size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit without dependence upon any subsequent unit.
 - (6) The planned unit development will create an excessive burden on parks, schools, streets, and other public facilities and utilities which are proposed to serve the planned unit development.
 - (7) The planned unit development will have an undue and adverse impact on the reasonable enjoyment of the neighborhood property.
 - (8) Any variation from strict application of the primary zoning district provisions in the planned unit development is in conflict with the intent of the planned unit development district and is justified by the design of the proposed development.
 - (9) Any other factor that the planning and zoning commission and/or village board deem reasonably necessary to ensure compatibility with surrounding uses and to protect the public interest.

Sec. 44-99. Administration may approve certain minor changes.

The zoning administrator may approve minor changes to final development plans adopted by the village board, provided that the changes do not involve an increase in floor area of structures or number of dwelling units, a change in exterior building material, or an alteration of any condition attached or modification to the final development plan made by the village board. A major change to a final development plan which is at variance with any standards of this Code or is less restrictive than any conditions of approval for the initial final development plan shall require approval by a two-thirds vote of all members of the village board.

Secs. 44-100—44-126. Reserved.

Proposed Ordinance with Changes

ARTICLE IV. CONDITIONAL USES

Sec. 44-127. Permit.

The village board may authorize the zoning administrator to issue a conditional use permit for conditional uses specified in this chapter after review and a public hearing, provided that such conditional uses and related structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Only conditional uses allowed in each zoning district per Article 4, Use Regulations, may be considered for a conditional use permit.

Sec. 44-128. Application.

Application for a conditional use permit shall be submitted to the zoning administrator on forms provided and shall be accompanied by a plan showing the location, size and shape of the lots involved, any proposed structures, and the existing and proposed use of each structure and lot. The cost of a land use permit shall be established by the village board.

Sec. 44-129. Review.

Both the planning and zoning commission and the village board shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.

Sec. 44-130. Conditions.

Conditions related to landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restrictions, access restrictions, setback and yards, type of shore cover, specified sewage disposal and water supply systems, planting screens, piers and docs, parking requirements and any other requirements to fulfill the purpose and intent of this chapter may be required by the village board upon its finding that such conditions are necessary.

Sec. 44-131. Other provisions.

Conditional uses shall comply with all other provisions of this chapter, including but not limited to lot width and area, yards, height, parking, and loading.

Sec. 44-132. Village Board Action.

After holding a public hearing, as provided within this article, and after careful consideration of the recommendation of the plan commission, the village board may grant the conditional use permit as applied for, grant the conditional use permit with conditions deemed appropriate by the board, or deny the permit.

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

Variances shall only be granted as provided within this article. Sec. 44-45. Recordation. When a conditional use is approved, an appropriate record shall be made of the land use and building permits and such conditional use shall be applicable solely to the structures, use and property so described.

Sec. 44-133. Permit Lapses.

A conditional use permit shall lapse and be void unless the use granted is operational, or substantial construction required to implement such use has been commenced, within one year of the issuance of such permit unless a different time period is established by the village board.

Sec. 44-134. Termination.

In the event that a permitted conditional use subsequently does not conform to the conditions of the original permit granted, the conditional use permit may be terminated by action of the village board following a hearing.

Secs. 44-135—44-155. Reserved.

PROPOSED ORDINANCE WITH CHANGES

ARTICLE V. NONCONFORMING USES, STRUCTURES, AND LOTS.

Sec. 44-156. Intent.

Any use of land or structures, or any lot or structure which was lawfully established and existed at the effective date of adoption or amendment of the ordinance from which this chapter is derived, which are no longer permitted or permissible by the provisions of this chapter as adopted or amended or as a result of some other government action (for example, as a result of a right-of-way acquisition) shall be deemed nonconforming. It is the intent of this chapter to recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established and to permit such nonconformities to continue subject to certain restrictions.

Sec. 44-157. Nonconforming uses.

A nonconforming use is a land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located. Such use may continue subject to the following restrictions:

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- (1) Such use shall not be enlarged or increased, and it may not be extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this chapter.
 - (2) A nonconforming use that has been discontinued for a period of twelve months shall not be reestablished, and any future use of the land or primary structure shall conform to the provisions of this chapter.

Sec. 44-158. Nonconforming structures.

A nonconforming structure is a building or structure that was lawfully constructed in accordance with all zoning and building regulations, but does not meet the current setback, height, or other dimensional or density requirements of this ordinance for permitted uses in the zoning district in which it is located. A nonconforming structure may be maintained and repaired, subject to the following restrictions.

- (1) Additions or expansions may be made to a nonconforming structure provided that such additions or expansions do not increase the degree of nonconformity of the structure.
- (2) Ordinary repairs and nonstructural alterations may be made to nonconforming structures. Ordinary repairs and nonstructural alterations include internal and external painting; decorating; paneling; the repair or replacement of doors, windows, nonbearing walls, fixtures, heating and cooling components, wiring, plumbing, roofing and other nonstructural components; and the maintenance, repair, or replacement of existing private sewage and water supply systems or connections to public utilities.
- (3) Pursuant to Wis. Stat. sec. 62.23(7)(hc), a nonconforming structure which is damaged on or after March 2, 2006, by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation may be restored or rebuilt to its size, location, and use that it had immediately before the damage or destruction occurred, except that it may be constructed larger in size to the extent required to comply with applicable state or federal requirements. Such reconstruction shall start within one year from the date of damage or destruction and diligently pursued to completion.

Sec. 44-159. Nonconforming lots of record.

A nonconforming lot is a lawfully platted and recorded lot but no longer meets all applicable minimum lot area or lot width regulations of the zoning district in which the lot is located. A nonconforming lot may be used as a building site and developed with a use allowed in the subject zoning district subject to the following conditions:

- (1) Development of nonconforming lots must comply with the lot and building regulations of the subject zoning district unless otherwise expressly stated.
- (2) Nonconforming lots may not be adjusted in size or shape to create additional nonconformity or increase the degree of nonconformity for lot area, lot width, setbacks, or other applicable lot and building regulations. Lot area or shape adjustments that do not increase the extent of nonconformity are allowed.
- (3) The existence of a nonconforming lot may be maintained under this chapter, but where practicable, should be eliminated in the event of any division of contiguous property owned by the same owner. If two or more lots or combinations of contiguous lots in single ownership are of record at the effective date of adoption or amendment of this chapter, the lands involved shall be considered to be an individual parcel for the purpose of this chapter and no portion of such parcel shall be used, divided, or sold which does not meet the lot area and lot width requirements for the district in which it is located.

Sec. 44-160. Repairs and maintenance.

Nothing in this chapter shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.

Sec. 44-161. Nonconforming characteristics of use.

If characteristics of use such as lighting, parking, or other matters pertaining to the use of land, premises, and structures are made nonconforming by the provisions of this chapter as adopted or amended, no change shall thereafter be made in such characteristics of use which increase the nonconformity, however, that changes may be made which do not increase or which decrease such nonconformity.

PROPOSED ORDINANCE WITH CHANGES**ARTICLE VII. SIGNS AND BILLBOARDS****Sec. 44-214. Purpose.**

The purpose of this article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location, and maintenance of all signs and billboards. Because signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation, there exists a need to uniformly regulate signs in the village. This article allows adequate communication through signage while encouraging aesthetic quality and safety in the design, location, size, and purpose of all signs.

Sec. 44-215. Signs containing a political message during an election campaign period.

The village hereby adopts and incorporates by reference Wis. Stats. sec. 12.04, including the definitions contained therein and including any amendments to Wis. Stats. § 12.04. Notwithstanding any other provisions contained in this article VIII, the regulation of on-premises signs placed on residential property pursuant to Wis. Stats. sec. 12.04(4), are exempt from permitting requirements. To ensure traffic and pedestrian safety, such signs:

- (a) Shall not exceed 11 square feet in area.
- (b) Shall not be placed in the road right-of-way.
- (c) May not have any electrical, mechanical or audio auxiliary.

Sec. 44-216. No discrimination against non-commercial signs or speech.

The owner of any sign which is otherwise allowed under this article may substitute a noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular commercial copy over any other noncommercial copy. This provision does not create a right to increase the total amount of signage in terms of size and number on a parcel or within a development or allow the exchange of an off-premises commercial message in place of an on-premises commercial message.

Sec. 44-217. Severability.

If any portion of this article or any regulation contained herein is held to be invalid or unconstitutional by a court of competent jurisdiction, it is the village's specific legislative intent that said portion or regulation is to be deemed severed from this article and should in now way affect or diminish the validity of the remainder of this article or any other sign regulation set forth herein.

Sec. 44-218. Sign permit.

- (a) *Required.* No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a permit, except those signs excepted in this article, and without being in conformity with the provisions of this chapter.
- (b) *Permit Fee.* Applicants must submit a nonrefundable application fee at the time of application for a sign permit. The fee for such application shall be set by the Village Board and on file with the Office of the Village Clerk. Permit fees shall increase to three (3) times the amount if a permit is applied for after the work is started.
- (c) *Issuance of Permit.*
 - (1) All applications for a sign permit must be on a form provided by the Village Clerk and on file with the Office of the Village Clerk. Applications must be completed fully and accurately and will not be processed until they are deemed complete.
 - (2) Permits shall be issued by the zoning administrator. Applicants for a sign permit must provide the zoning administrator with a site plan indicating where the proposed sign would be located and a drawing showing the design and the dimensions of the sign.
 - (3) The zoning administrator may issue permits only if all of the requirements of this Code are met. Permits may be revoked at any time if the requirements of this Code are violated.
- (d) *Appeal.* Appeal of the denial of a sign permit shall be to the planning and zoning commission. A written notice of appeal shall be filed with the zoning administrator within ten (10) days of the issuance of the written denial of the permit application. The zoning administrator shall provide the notice of appeal to the plan commission, which shall hear the appeal as soon as reasonably practical.

(e) *Variances.* Variances to any provisions within this article shall follow **sec. XX-XXX.**

Sec. 44-219. Signs permit exceptions.

All signs must have a valid permit issued by the village, except the following, provided that the following exempt signs may not be located over a public road right-of-way or in, on, or over public water, and may not be located on village property without prior village planning and zoning commission approval:

- (a) No more than one sign over show windows or doors of a nonconforming business not to exceed two feet in height and ten feet in length.
- (b) No more than one real estate sign per lot not to exceed eight square feet in area that advertise the sale, rental, or lease of the premises upon which such signs are temporarily located.
- (c) One public, charitable, or religious institutional identity sign not to exceed twenty (20) square feet in area located on the premises and located a minimum of ten (10) feet from the road right of way.

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- (d) Historic marker signs placed flat against a building, monument stone, or other permanent surface or may be ground sign not to exceed twenty (20) square feet in area or not to exceed the size limitations established by the State Historic Markers Program administered by the Wisconsin State Historical Society, whichever is greater.
 - (e) No more than one home occupation wall sign associated with an otherwise lawful home occupation which may not be an illuminated sign and shall not exceed six (6) square feet.
 - (f) Government signs.
 - (g) Official signs, such as traffic control, parking restriction, information, and notices.
 - (h) Temporary signs not exceeding 11 square feet in area, when authorized by the building inspector, for a period not to exceed 30 days.
 - (i) Neighborhood and subdivision identification signs at the entrance(s) of a neighborhood or subdivision on private property not exceeding eight (8) feet in height or forty-eight (48) square feet per sign. Such signs must comply with setback requirements of the district.
 - (j) A sign for the purpose of designating a new building or development, for promotion of a subdivision, for announcement of a special event, or for similar special informational purposes may be permitted for a limited period of time in any district with the approval of the zoning administrator and subject to the following:
 - (1) Drawings showing the specific design, appearance, and location of the sign shall be submitted to the zoning administrator for approval;
 - (2) The permitted size and location of any such sign shall be at the discretion of the zoning administrator based upon the character of the area, the type and purpose of the sign, and the length of time permitted;
 - (3) Where the sign is to be located on the premises involved, such may be permitted for a period up to one year. An extension may be permitted for a period not to exceed two years total;
 - (4) Where the sign is not to be located on the premises involved, such sign may be permitted for a period not to exceed nine months.
 - (k) Signs designating entrances, exits, service areas, parking areas, restrooms, and other such signs relating to functional operation of the building or premises shall be permitted without limitation other than reasonable size and necessity.
 - (l) Signs not exceeding one square foot in area and bearing only property numbers, postbox numbers, or names of occupants of premises.
 - (m) Signs directing and guiding traffic and parking on private property.
 - (k) No more than five (5) yard signs per lot not exceeding eleven (11) square feet in area each and no more than four (4) feet high. The cumulative total yard sign area of any lot is forty (40) square feet.
 - (l) Window signs which do not exceed fifty percent (50%) of the gross window area of any given wall or ten percent (10%) of the glass on any door. The square footage of permanent window signs shall be included in the maximum allowable square footage of wall signs pursuant to [sec. xx-xxx](#).
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Sec. 44-220. Signs prohibited.

All signs not expressly permitted or exempt under this article are prohibited in any location in the village. Prohibited signs include, but are not limited to:

- (a) Signs that employ intermittent flashing illumination, animation, motion picture, laser projection, or sound emission except for electronic message signs as defined.
- (b) Beacons.
- (c) Off-premises signs.
- (d) Roof signs.
- (e) Signs marked, tacked, or otherwise affixed to trees or other vegetation.
- (f) Signs containing statements, words, or pictures of an obscene or pornographic nature.
- (g) Signs which purport to be, or are in imitation of, or resemble an official traffic sign or signal.

Sec. 44-221. Legal nonconforming signs.

- (a) *Generally.* Any sign lawfully existing at the time this ordinance is adopted that does not conform to these regulations may remain. Any nonconforming sign hereafter relocated, moved, reconstructed, extended, changed in shape or use, enlarged, expanded, altered or modified shall be made to comply with the provisions of this article.
- (b) *Maintenance.* Maintenance of nonconforming signs including changing the sign face of existing message areas, replacing light bulbs or wiring, and painting is permitted.
- (c) *Replacement after certain damage.* If damaged or destroyed, a nonconforming sign may be replaced within one year after the calamity to the size, location, and use that it had immediately before the damage or destruction occurred, if the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

Sec. 44-222. Indemnification of the village for sign installation and maintenance.

All persons engaged in the business of installing or maintaining signs involving the erection, alteration, relocation, or maintenance of a sign within or near public right-of-way or public property shall agree to indemnify, defend, and hold harmless the village and its officers, agents, and employees from any and all claims.

Sec. 44-223. Construction specifications.

- (a) All signs shall comply with the provisions of Chapter 6 of this Municipal Code on Buildings and Construction, the provisions of the National Electrical Code as amended, and the additional construction standards set forth in this section where applicable.
- (b) All ground structures shall be self-supporting and permanently attached to sufficient foundations based on the height and size of sign.

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- (c) Electric service to ground signs shall be concealed.
 - (d) All signs, except those attached flat against the wall of the building, shall be constructed to withstand wind loads of thirty (30) pounds per square foot on the largest face of the sign and structure.
 - (e) No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action.

Sec. 44-224. Maintenance required; abandoned signs.

- (a) *Maintenance and repair.* All signs and murals shall be maintained in safe, legible and good condition.
 - (1) *Safety.* All signs shall be maintained to the same structural standards by which they were approved or, in the case of nonconforming signs and murals, the standard by which they would have otherwise been approved. All metal parts which are subject to rust or corrosion shall be painted at all times, all anchors and other fastenings shall be maintained in a secure and functioning condition capable of sustaining the loads for which they were designed.
 - (2) *Legibility.* All signs shall be maintained in a legible condition (except when a weathered or natural surface is intended). Painted signs and murals shall be repainted at such times as the deterioration of the paint results in illegibility or disfiguration.
 - (3) *Condition.* All materials that comprise the sign face shall be replaced if broken. All electrical components, switches, lamps, relays, fuses and similar devices shall be maintained in good working order. Faded, torn, frayed, ripped, dirty, stained, or discolored materials shall be replaced.
- (b) *Discontinued or abandoned signs.*
 - (1) If any sign is discontinued or abandoned for a period of at least six (6) consecutive months in a twelve (12) month period, such sign shall be considered a public nuisance affecting or endangering surrounding property values and will be considered to be detrimental to the public health, safety and general welfare of the community.
 - (2) All discontinued or abandoned signs and sign messages shall be removed by the owner or lessee of the premises when the business is no longer conducted there, except if any period of involuntary discontinuance occurs during the temporary closing of a street for road repair. If the owner or lessee fails to remove the sign, the zoning administrator or the zoning administrator's designee shall give the owner no less than thirty (30) days written notice to remove the sign.
 - (3) The zoning administrator or the zoning administrator's designee, may take any appropriate legal action necessary to obtain compliance, including issuing citations. Removal of the sign in question includes the removal of the sign structure and sign cab.

Sec. 44-225. Payment for removal of sign.

When it becomes necessary for the village to remove or cause to be removed or taken down, a defective, unsafe, or dangerous sign, the cost thereof shall be placed on the tax roll as a special charge and become a lien against the benefited property, unless paid sooner.

Sec. 44-226. Penalty.

Any person who shall violate or cause to be violated any provisions of this article shall, upon conviction thereof, forfeit not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), together with the costs of prosecution. Each day a violation exists, or continues, shall constitute a separate offense.

Sec. 44-227. Signs allowed by zoning district.

INSERT TABLE – a GREAT example and where most of this language comes from because it was recently created and well done is here:

<https://cms2.revize.com/revize/appletonwi/Documents/Legal%20&%20Administrative%20Services/Ord%20112-25%20-%20Signs.pdf?t=202510101525530&t=202510101525530>

Sec. 44-228 – 44-248 Reserved.

ARTICLE VIII SATELLITE EARTH STATIONS; TELEVISION OR RADIO ANTENNA TOWERS; WIND ENERGY SYSTEMS

DIVISION 1. SATELLITE EARTH STATIONS; SOLAR ARRAY SYSTEM APPLICATIONS

Sec. 44-249. Satellite earth stations; solar array system applications.

- (a) *Permit required.* No owner shall, within the village, build, construct, use or place any type of satellite earth station until a permit shall have first been obtained from the Director of Public Works.
- (b) *Application.* Application for a solar array system permit shall be made, in writing, to the zoning administrator. With such application there shall be submitted a complete set of plans and specifications, including a plot plan showing the location of the proposed solar array system with respect to adjoining alleys, lot lines and buildings. The zoning administrator, or the zoning administrator's designee, shall act on all such applications within a period of ten (10) days.
- (c) *Installation restrictions.* Satellite earth stations installed in any zoning district within the village shall comply with the following provisions:
 - (1) *Number of units.* Not more than one (1) satellite earth station may be allowed per individual recorded lot, except additional stations may be permitted upon application for a variance in nonresidential zones.
 - (2) *Location and setbacks.* Satellite earth stations shall be allowed only in rear and side yards. However, satellite stations in side yards may not be any closer to the street line than the established setback of the principal building or structure. Side and rear yard setbacks shall be the same as for an accessory structure within the respective zoning district but not less than the total vertical height of the satellite earth station.
 - (3) *Mounting.* Satellite earth stations located in agricultural or residential areas shall be ground mounted only. Satellite earth stations may be wall or roof mounted in business or industrial areas only with the permission of the Village Board. Satellite earth stations attached to the wall or roof of any principal or accessory structure shall be subject to the structure being constructed to carry all imposed loading. The village may require engineering calculations.

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- (4) *Diameter.* Satellite earth stations shall not exceed twelve (12) feet in diameter except for stations used to provide community antenna television services.
 - (5) *Height.* In residential and agricultural districts, no satellite earth station shall exceed the height of twelve (12) feet above the ground measured at grade level.
 - (6) *Wind pressure.* All satellite earth stations shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty miles per hour (80MPH).
 - (7) *Electrical installations.* Electrical installations in connection with earth satellite receiving stations, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer; in cases of conflict the stricter requirements shall govern. All cable used to conduct current or signals from the satellite earth station to the receivers shall be installed underground unless installation site conditions preclude underground. If a satellite earth station is to be used by two or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for permit. All satellite earth stations shall be grounded against direct lightning strikes.
 - (8) *Temporary placement.* No portable or trailer-mounted satellite earth station shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days.
 - (9) *Advertising.* No form of advertising or identification is allowed on the dish or framework other than the customary manufacturer's identification plates.
 - (10) *Interference with broadcasting.* Satellite earth stations shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the satellite earth station shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
 - (11) *Compliance with federal regulations.* The installation and use of every satellite earth station shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.
- (d) *Variances.* Requests for variances from the standards established by this section may be made to the Village Board.

Sec. 44-250 – 44-270 Reserved.

DIVISION 2. RADIO, TELEVISION, CELL PHONE AND INTERNET ANTENNA TOWERS

Sec. 44-271. Tower Location.

No radio, television, cell phone or internet antenna tower shall be erected or installed within the front yard or side yard. The rear setback and the side setback in rear yards shall be that for the principal structure within the respective zoning district. The exact location of the tower shall be subject to approval by the Village Board.

Sec. 44-272. Height Limitation.

No radio, television, cell phone or internet antenna tower shall exceed a height of 50 feet above the roofline of the building on the property upon which the antenna is located or 90 feet above the ground measured at grade level, whichever is the minimum.

Sec. 44-273. Conformance with State and National Safety Codes.

Radio, television, cell phone or internet antenna towers shall be erected and installed in accordance with the Wisconsin State Electrical Code, the National Electrical Safety Code and the instructions of the manufacturer; in cases of conflict the stricter requirements shall govern.

Sec. 44-274 – 44-294 Reserved.

DIVISION 3. WIND ENERGY SYSTEMS

Sec. 44-295. Purpose.

The purpose of this Article X, Division 3 is to provide a regulatory scheme for the construction and operation of Wind Energy Systems in the Village of Hortonville. This Ordinance is adopted pursuant to Wis. Stat. § 66.0401 and PSC 128 and pursuant to the Village's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

Sec. 44-296. Definitions.

- (a) *Wind Energy System* has the meaning given in Wis. Stat. § 66.0403(1)(m) and is used to convert wind energy to electrical energy. "Wind Energy System" includes Small Wind Energy Systems.
- (b) *Small Wind Energy System* means a Wind Energy System that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.
- (c) *Other Definitions*: The remaining definitions set forth in PSC 128.01 are incorporated by reference as though fully set forth herein.

Sec. 44-297. Permit Required.

No Wind Energy System may be installed, constructed or expanded in the Village without a Wind Energy System Permit granted pursuant to this section.

Sec. 44-298. Application.

Every application for a Wind Energy System Permit shall be made in writing accompanied by the fees as established by the Village Board and shall include the following information:

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- (a) Wind Energy System description and map(s) showing the location(s) of all proposed wind energy facilities.
 - (b) Technical description of wind turbines and wind turbine sites.
 - (c) Timeline and process for construction the Wind Energy System.
 - (d) Information regarding anticipated impact of the Wind Energy System on local infrastructure.
 - (e) Information regarding noise anticipated to be attributed to the Wind Energy System.
 - (f) Information regarding shadow flicker anticipated to be attributable to the Wind Energy System.
 - (g) Information regarding the anticipated effects of the Wind Energy System on existing land uses within 0.5 miles of the Wind Energy System.
 - (h) Information regarding the anticipated effects of the Wind Energy System on airports and air space.
 - (i) Information regarding the anticipated effects of the Wind Energy System on line-of-sight communications.
 - (j) A list of all state and federal permits required to construct and operate the Wind Energy System.
 - (k) Information regarding the planned use and modification of roads within the Village during the construction, operation, and decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense.
 - (l) A copy of all emergency plans developed in collaboration with appropriate first responders under PSC 128.18(4)(b).
 - (m) A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with PSC 128.19.
 - (n) A representative copy of all notices issued under Section ##-### [Notice to Property Owners] herein and PSC 128.105(1)(a) and 128.42(1).
 - (o) Any other information necessary to understand the construction, operation, community impact or decommissioning of the proposed Wind Energy System.

Sec. 44-299. Accuracy of Information.

The owner shall certify that the information contained in an application is accurate. The Village may reject or deny any application containing false, misleading, incomplete, or inaccurate information.

Sec. 44-300. Duplicate Copies.

The applicant shall file an original and three (3) copies of the application with the Village. One copy shall be in electronic form. Each copy shall include, but is not limited to, all worksheets, maps, and other attachments included in the application.

Sec. 44-301. Notice to Property Owners and Residents.

- (a) On the same day an owner files an application for a Wind Energy System, the owner shall, pursuant to Wis. Stat. sec. 66.0401(4)(a)3, use commercially reasonable methods to provide written notice of the filing of the application to all property owners within which any property or portion of property is within a one mile radius of the proposed location of any Wind Energy System facility. At the same time, a copy shall be provided to the Village. The notification shall include all of the following:
 - (1) A complete description of the Wind Energy System, including the number and size of the proposed wind turbines.
 - (2) A map showing the locations for all proposed Wind Energy System facilities.
 - (3) The proposed timeline for construction and operation of the Wind Energy System.
 - (4) Locations and times where the application will remain available for public view.
 - (5) Owner contact information.
- (b) After the Village receives an application for a Wind Energy System, the Village shall publish notice as set forth in Wis. Stat. sec. 66.0401(4)(a)1.

Sec. 44-302. Public Participation.

- (a) The Village shall make a copy of an application for a Wind Energy System available for public review at the Village Office and the Village website.
- (b) The Village shall accept written public comments on an application for a Wind Energy System filed with the Village Clerk and shall make them part of the record at the public hearing held pursuant to para. (c).
- (c) The Village Board shall hold at least one public hearing to obtain comments on and to inform the public about a proposed Wind Energy System.

Sec. 44-303. Joint Application Review Process.

If a Wind Energy System is proposed to be located in the Village and at least one other municipality with jurisdiction over the Wind Energy System, the Village may participate in the joint application review process as set forth in PSC 128.30(7).

Sec. 44-304. Application Completeness.

- (a) Applications submitted for Wind Energy Systems must be true, accurate, and complete. An application is complete if it meets the filing requirements set by ordinance and PSC 128.50(1).
- (b) No later than 45 days after the day an application is filed, the Village **WHO?** shall determine the completeness of the application and required materials and shall notify the owner in writing of his or her determination. An application is considered filed the day the owner notifies the Village in writing that all application materials have been filed. If the Village determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.

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- (c) The owner may file a supplement to an application that the Village has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. Once the supplement to an application has been submitted, the owner must file written notice with the Village and an additional 45-day completeness review period shall begin.

Sec. 44-305. Requests for Additional Information.

The Village may request additional information necessary to understand the Wind Energy System after determining that an application is complete. An owner shall timely provide additional information in response to all reasonable requests by the Village.

Sec. 44-306. Owner Requirements.

Pursuant to PSC 128.10(1), the Village incorporates by reference all owner requirements set forth in Subchapter II of PSC 128.

Sec. 44-307. Written Decision.

- (a) The Village shall issue a written decision to grant or deny an application. The Village shall provide its written decision to the owner and to the Wisconsin PSC. If the Village approves an application for a Wind Energy System, the Village shall provide the owner with a duplicate original of the decision.
- (b) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Outagamie County, Wisconsin within no more than seven (7) days.
- (c) The Village shall keep a complete written record of its decision-making relating to an application for Wind Energy Systems, if denied, for at least seven (7) years from denial and, if granted, for at least seven (7) years following decommission.

Sec. 44-308. Additional Requirements.

The Village requires the following as conditions for approval of an application to construct a Wind Energy System:

- (a) *Information.* The owner shall inform the Village in writing whether the owner has consulted with and received any non-binding recommendations for constructing, operating or decommissioning the Wind Energy System from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the Wind Energy System.
- (b) *Studies.* The owner shall cooperate with any study of the effects of Wind Energy Systems coordinated by a state agency.
- (c) *Monetary Compensation.* The owner of a Wind Energy System shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under PSC 128.

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- (d) *Aerial Spraying.* The owner of a Wind Energy System shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - (1) Substantial evidence of a history, before the Wind Energy System owner gives notice under PSC 12S. 105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans or sweet corn on all or part of a farm field located within 0.5 mile of a constructed wind turbine.
 - (2) A material reduction in potato, pea, snap bean or sweet com production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the Wind Energy System's effect on aerial spraying practices.
 - (e) *Permits.* The owner shall submit to the Village copies of all necessary county, state, and federal permits and approvals.
 - (f) *Annual Reports.* The owner shall file an annual report with the Village documenting the operation and maintenance of the Wind Energy System during the previous calendar year.

Sec. 44-309. Post-Construction Filing Requirements.

Within 90 days of the date a Wind Energy System commences operation, the owner shall file with the Village an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities and current information identifying the owner of the Wind Energy System. An owner shall label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under s. PSC 128.1 8(1)(g).

Sec. 44-310. Modifications to an Approved Wind Energy System.

- (a) *Material Changes.*
 - (1) An owner may not make a material change in the approved design, location or construction of a Wind Energy System without the prior written approval of the Village, unless the Village automatically approves the material change by taking either of the steps specified in s. PSC 128.32(2)(b)1 or 2.
 - (2) An owner shall submit to the Village an application for a material change to an approved Wind Energy System.
 - (b) *Review Limited.*
 - (1) The Village, upon notice of receiving an application for a material change to a Wind Energy System shall not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change
 - (2) An application for a material change is subject to ss PSC 128.30(1), (3) to (5), (6)(a) and (b) and (7) and 128.31 to 128.34.
 - (3) An application for a material change shall contain all information necessary to understand the material change as determined by the Village.
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- (4) The Village may, in its discretion, hold a public hearing to obtain comments on and to inform the public about a proposed material change to an approved Wind Energy System.

Sec. 44-311. Monitoring Compliance.

- (a) *Monitoring Procedure.* The Village may establish a procedure to monitor compliance by the owner with any condition on an approved Wind Energy System or to assess when Wind Energy System facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public, or other conditions as established by the Village. Such procedures shall be included in the permits granted under this ordinance. The owner shall cooperate with the Village during its monitoring.
- (b) *Third-Party Inspections During Construction.* The Village may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Village regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

Sec. 44-312. Notice of Complaint Process.

- (a) *Notice of Process for Making Complaints.* Before construction of a Wind Energy System begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any Wind Energy System facility. An owner shall include in the notice the requirements under s. PSC 128.40(1) for submitting a complaint to the owner, a petition for review to the Village, and an appeal to the PSC, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.
- (b) *Notice to Village.* An owner shall provide a copy of the notice provided under subsection (a) to the Village, and the owner shall keep the contact person and telephone number current and on file with the Village.

Sec. 44-313. Small Wind Energy Systems.

- (a) All of the provisions of this ordinance shall apply to Small Wind Energy Systems except for provisions adopted under the following subsections of PSC 128; PSC 128.14(4)(d), 128.15(1)(c), (3)(b) to (e), and (5), 128.16(2) to (4), 128.18(1)(g), (2)(b) and (c), (3)(am), (b) and (c), and (4)(b) to (f), 128.19(1)(c) to (e), (3) and (4), 128.30(2)(l) and (m), 128.33(1) to (3m) and (5), 128.34(3), 128.36, 128.40(2)(b) to (e), 128.41 and 128.42.
- (b) The standards in this Ordinance applicable to Wind Energy Systems are modified for Small Wind Energy Systems as follows:
- (1) The pre-application notice shall be filed at least sixty (60) days before an owner files an application to construct a Small Wind Energy System and the notice shall be provided only to adjacent landowners and the Village
- (2) Setback distances for Small Wind Energy Systems are as set forth in s. PSC 128.61(3).

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- (3) An owner shall provide notice of the requirements of s. PSC 128.14 only to each adjacent nonparticipating residence or occupied community building before the initial operation of the Small Wind Energy System.
 - (4) For purposes of PSC 128.19(1)(b) a Small Wind Energy System is presumed to be at the end of its useful life if it generates no electricity for a continuous 360-day period. Under PSC 128.19 (l)(f) When decommissioning is required, the owner shall begin decommissioning within 360 days after the wind energy system has reached the end of its useful life.
 - (5) For purposes of s. PSC 128.30(2)(9), the information regarding the anticipated effects of the Small Wind Energy System on existing land uses shall be only for parcels adjacent to the Wind Energy System.
 - (6) Written notice of the filing of an application shall be provided only to property owners and residents located adjacent to the Small Wind Energy System.
 - (7) Under PSC 128.30(6)(c) the Village may hold at least one public meeting to obtain comments on and to inform the public about a proposed Small Wind Energy System.

Sec. 44-314. Revocation.

Any permit granted for the installation, construction or expansion of a Wind Energy System may be revoked by the Village if the permit holder, its heirs, or assigns, violates any provision of this ordinance or the provisions of a Wind Energy System Permit granted pursuant to this ordinance.

Sec. 44-315. Penalties.

Any person found in violation of this ordinance shall be subject to a forfeiture as set forth by the Village Board WHERE and may result in revocation of the applicable license. Each day a violation continues shall constitute a separate and distinct offense for which additional citations may be issued.

Sec. 44-316. Severability.

If any section, subsection, sentence or phrase of this ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

Sec. 44-317. Interpretation.

In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements. Where the provisions of this ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, to the extent allowed by law the provisions of this ordinance shall prevail. Where the provisions of any statute other regulation, ordinance, or covenant impose greater restrictions than the provisions of this ordinance, to the extent allowed by law the provisions of such statute, other regulation, ordinance or covenant shall prevail. All references to statutes and regulations in this ordinance refer to the current version of the statute or regulation referenced, as amended from time to time.

Sec. 44-318. Guaranty/Warranty.

Nothing in this Ordinance may be interpreted as guaranteeing or warranting that any method, construction, product, service, building, or structure is free from risk. No issuance of a license or permit, approval, inspection, or other action by any Village official, employee, or agent shall constitute a warranty or guaranty that any method, construction, product, service, building, or structure is free from risk.

Secs. 44-319—44-339. Reserved.

NEW ORDINANCE WITH CHANGES/ADDITIONS

ARTICLE IX. ACCESSORY USES AND STRUCTURES; FENCES AND HEDGES –

Sec. 44-340. Accessory uses or structures.

- (a) *Building permit required.* No owner shall within the village build, construct, use or place any type of an accessory building, including prefabricated accessory buildings, until a building permit shall have first been obtained from the building inspector. Application for an accessory building permit shall be made, in writing, to the building inspector. With such application, there shall be submitted a fee pursuant to the village building code and a complete set of plans and specifications, including a plot plan or drawing accurately showing the location of the proposed accessory building with respect to adjoining alleys, lot lines and buildings. If such application meets all requirements of this section, the application shall be approved.
- (b) *Principal use to be present; exception.*
 - (1) An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
 - (2) Exception. It is allowed that a single utility structure, not greater than 12 feet in height and 144 square feet in area used solely for storage of lawn care equipment is allowed to be established prior to the establishment of a principal use or structure.
- (c) *Residential districts.*
 - (1) *Placement restrictions.* An accessory use or structure in a one-family and two-family residential district may be established subject to the following regulations:
 - a. *Number limits.* Each property shall be permitted to have no more than one accessory building and one utility building. In R-2 districts, two utility structures shall be permitted, except that where a property contains a side-by-side duplex and the lot size is split, in which case only one accessory structure and one utility structure shall be permitted at the property. A detached garage is considered an accessory building in all districts.
 - b. *Size limits. Size limits are based on current lot size*
 - 1. A lot that is 9,000-15,000 square feet is not allowed to be larger than the principal structure and shall not exceed 1,500 square feet.
 - 2. A lot that is 15,001-30,000 square feet is not allowed to be larger than the principal structure and shall not exceed 3,000 square feet.

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3. A lot that is 30,001- 87,120 square feet is not allowed to be larger than 1.5 times the size of the principal structure and shall not exceed 4,500 square feet.
 4. A lot that is larger than 87,121 square feet is not allowed to be larger than 1.5 times the size of the principal structure
 5. Maximum Lot coverage is 30% of the lot including utility structures. Unless otherwise specified in the district
 6. The accessory building unless otherwise specified cannot be taller than the principle structure.
- c. *Accessory Structure Materials:* Accessory structures and utility buildings are not allowed to be made of fabric, tarp or any other similar material. As determined by zoning administrator appealable to planning and zoning commission.
 - d. *Detached structure regulations; lot area coverage.* Accessory buildings shall not collectively cover more than 30% of the applicable lot. No detached accessory building shall occupy any portion of the required front yard. No detached accessory structure shall be located within five feet of any other accessory building, principal building or the side and rear lot line. The dimensions of any swimming pool, utility structure, detached garage, tennis court and other detached accessory buildings/structures shall be included in the determination of available lot area coverage for accessory structures.
 - e. *Accessory structures.* Notwithstanding fences, residential driveways and parking lots, unless otherwise provided by these regulations, no structure shall be located within five feet of any accessory building, principal building or lot line.
 - f. *Attached structures.* Notwithstanding fences, residential driveways and parking lots, all structures located within 12 inches of any principal or accessory building shall be considered to be attached to said building and shall comply with all requirements for the building to which it is attached.
- (2) *Use restrictions.* Accessory structures in residential districts shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes. **(ADU)**
- (d) *Nonresidential districts; placement restrictions.* Notwithstanding signs, pavement and fences as allowed within district regulations, accessory structures may be established in the front, rear or side yard and shall not be nearer than five feet to any side or rear lot line or 25 feet to a front lot line in any commercial or industrial district.
 - (f) *Landscaping uses.* Accessory vegetation used for landscaping and decorating may be placed in any required yard area. Permitted vegetation includes trees, shrubs and flowers and gardens. Under no circumstances may a tent be used as a dwelling or an accessory structure.
 - (g) *Temporary uses.* Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the zoning administrator.
 - (i) *Outdoor lighting.* Outdoor lighting installations shall not be permitted closer than five feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed 15 feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
 - (j) *Lawn accessories.* Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sun dials, flagpoles, etc., shall be permitted in setback areas but not closer than five feet to an abutting property line other than a street line.
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- (k) *Retaining walls.* Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six feet in height, and a terrace of at least five feet in width shall be provided between lot lines and any series of such walls.
- (l) *Residential greenhouses.* Residential greenhouses shall be considered utility structures, shall be less than 144 square feet and shall be 12 feet or less in height.
- (m) *Children's play structures.* For purposes of this section, children's play structures, including playhouses, tree houses or elevated play structures and climbing gyms, shall be considered an utility structures and shall comply with the requirements of this section whether such play structures are placed on a foundation or not. Swing sets, slides, sandboxes, and other generally portable play devices are not considered children's play structures for purposes of this section. A building permit is not required for the construction of a play structure. Play structures shall not be used for storage or be constructed out of materials that would constitute a nuisance.
- (n) *Portable storage units.*
- (1) *Permitted zoning districts: R-1, R-2, R-3.* When incidental to a residential dwelling:
- One portable storage unit shall be the maximum number allowed on a lot for no more than 30 consecutive days and no more than 60 total days per calendar year.
 - The portable storage unit shall be placed on an impervious surface.
 - The portable storage unit shall not be located within ten feet of the right-of-way.
 - The portable storage unit shall not be located within the vision corner.
 - Portable storage units shall not be used for the purposes of a garage or shed.
- (2) *Permitted zoning districts: DT, C-1, C-2, I-1, I-2, AG, P* when incidental to a permitted principle use:
- Two portable storage units shall be the maximum number allowed on a lot for no more than 30 consecutive days and no more than 90 total days per calendar year.
 - Portable storage units shall be placed on an impervious surface.
 - Portable storage units may be placed on a lot within a designated loading space.
 - The portable storage unit shall not be located within the required front setback unless permitted by the community development director.
 - Portable storage units shall not be used for the purposes of a garage, shed or other on-site storage.
- (o) *Safety.* All accessory structures shall be secured to the ground by a foundation, appropriately sized ground anchors or in a manner approved by the building inspector.
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Sec. 44-341. Outside storage of firewood.

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of up to 30 days from the date of its delivery.
- (b) No person shall store in the open more than two full cords of firewood in any residential district. No open storage of firewood shall exceed a dimension of four feet high, eight feet wide, and eight feet in length. No firewood shall be stored in any front yard or closer than five feet to any residential lot line.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles or that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.

Sec. 44-342. Outside storage.

No manure, rubbish, inoperable vehicles, salvage material or miscellaneous refuse may be stored within any residential district when the same may be construed as a nuisance or threat to the public health or safety or may be held to have a negative impact upon property values in the area. Junk shall be placed in properly zoned junkyards only. Outside storage in agricultural, commercial or industrial districts shall be located within an opaque fenced area, screening structure, or vegetative screening to block visibility; outside storage is not permitted in any required front yard.

Sec. 44-343. Fences and hedges.

- (a) For reasons of suitability, aesthetics, and public safety, conditional use permits shall be required for all fences except simple chain-link fences without barbed wire or electrical charge, split or decorative rail fences and picket fences.
- (b) Fences shall not be located in any recorded easement without the written consent of the entity controlling the easement. If the easement is controlled by the Village the property owner must sign a permission agreement that will be recorded by the register of deeds prior to the erection of a fence.
- (c) Fences in residential districts shall not exceed six feet in height on the side and rear yards and can be placed on the lot line.
- (d) Fences located in the front yard setback area:
 - (1) All fences located within the front yard setback area shall be a minimum of 50 percent open to vision through the fence equally distributed throughout the fence length
 - (2) No boundary or aesthetic fence or wall including a hedge or row planting shall be permitted in excess of four feet in the front yard setback area visual clearance requirements of section 44-7 and shall not impede any driveway or sidewalk.
 - (3) Exceptions if the fence is located on a double frontage lot where there is an access restriction on one frontage then that frontage with access restriction may be treated as a side or rear yard for fence placement but shall still follow section 44-222(d)(1).
- (e) Fences in the shoreland and floodplain districts are allowed within 75 feet of the normal high-water mark if they are open fences.

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- (f) Fences may be located in all yards in commercial and industrial districts. Fences located in the front yard shall be approved by the planning and zoning commission prior to the issuance of a permit. Fences installed in commercial and industrial districts shall not exceed six feet in height, except when required to enclose outside storage areas and when approved by the planning and zoning commission. Fencing constructed to enclose outside storage areas shall comply with the conditions of use in the village business park covenants.
 - (g) It shall be the responsibility of the property owner in any district wishing to construct a fence or barrier between an adjacent property to locate the correct property stakes. If the property stakes are missing, it will be the responsibility of the property owner constructing the barrier to have the property stakes installed by a registered surveyor. All costs shall be borne by the property owner installing the barrier.
 - (h) The finished side of the fence, as deemed by the building inspector, shall face the adjacent property and the posts should be placed in the interior of the fence.
 - (i) The property owner shall be required to maintain the fence in a safe and suitable condition and the yard from the fence to the property line.
 - (j) Permit required. No barrier shall be constructed without a permit having been issued by the building inspector. Application for the permit shall be made at the village administration office. The fee for the permit shall be established by the village board.

Sec. 44-344. Private Recreational Facilities

- (a) The following rules and regulations shall apply to private recreational facilities allowed as accessory uses and structures in the R-1, R-2, R-3, and Ag districts:
 - (1) Private swimming pools. For private swimming pools, the pool, pump, and filter shall not be located closer than ten feet to any property line or 50 feet from a street right-of-way. No electrical power lines shall be located over or under the pool, pump, and filter.
 - (2) Nothing in this division shall be construed as to prohibit the installation of basketball equipment in a driveway area within the R-1, R-2, R-3 and Ag districts in accordance with district requirements.

Secs. 44-345—44-365. Reserved

ARTICLE X. ADMINISTRATION AND ENFORCEMENT

Sec. 44-366. General administrative system.

This chapter contemplates an administrative and enforcement officer entitled the zoning administrator to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this zoning chapter require review and recommendation by the plan commission and ultimate action by the village board. A zoning board of appeals is provided to ensure proper administration of the chapter and to avoid arbitrariness.

Sec. 44-367. Zoning administrator.

The village board shall designate a village official to serve as the zoning administrator and as the administrative enforcement officer for the provisions of this zoning chapter.

(a) The zoning administrator is responsible for interpreting and administering this chapter by:

- (1) Issuing the necessary permits required by the provisions of this chapter, provided that its provisions have been complied with.
- (2) Conducting the inspections of buildings, structures, and use of land to determine compliance with the terms of local, state and federal laws.
- (3) Keeping an accurate record of all permits issued and matters arising out of this chapter.
- (4) Receiving, filing, and processing all applications for site plans, special exception uses, appeals, variances, and amendments to this chapter.
- (5) Initiating, directing, and reviewing, from time to time, a study of the provisions of this chapter and make recommendations to the planning and zoning commission for investigation and appropriate action.

(6) Carrying out such additional responsibilities as are hereinafter set forth in this chapter. (b) In the enforcement of this chapter, the Zoning Administrator or designee shall have the power and authority at any reasonable time and for any proper purpose, to enter upon any public or private premises and make inspection thereof only if there is an open permit on the property. If there is not an open permit on the property, permission shall be granted by the property owner to enter the property or by court order.

Sec. 44-368. Review and decision-making bodies.

- (a) *Plan commission.* The plan commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the village to the village board, other public officials and other interested organizations and citizens. In general, the plan commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this zoning chapter, its functions are primarily advisory to the village board pursuant to guidelines set forth in this zoning chapter as to various matters and, always, being mindful of the intent and purpose of this zoning chapter.
- (b) *Village board.* The village board, the governing body of the village, subject to recommendations by the plan commission, has authority to make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this zoning chapter. The village board may delegate to the plan commission the responsibility to hold some or all public hearings as required under this zoning chapter.
- (c) *Zoning board of appeals.* A zoning board of appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this zoning chapter. See article XIV of this chapter for additional provisions.

Sec. 44-369. Site plan review.

- (a) *Required for construction or other development.* All applications for zoning permits for any construction, reconstruction, expansion or conversion, except for one- and two-family residences in residential districts,

shall require site plan approval by the zoning administrator, in accordance with the requirements of this section.

- (b) *Application to the zoning administrator.* The applicant for site plan review shall submit, in writing, the following information to the zoning administrator:
- (1) Name, address, telephone number and email address of the property owner, developer (if different from current property owner), and general contractor.
 - (2) Name of project
 - (3) One physical copy that is 24 by 36, and one digital copy of the plans listed in the requirements section set forth below.
- (c) *Administration.* The village staff will review the application and may consult expert advisors to determine if the application and plans comply with the applicable requirements of this section. After the staff has reviewed the plans, the zoning administrator will issue or deny the zoning permit once all committee feedback has been addressed to the satisfaction of the staff. Within 30 days of receiving the application, the village staff will provide the applicant with comments or guidance from the zoning administrator. Approval or denial will be communicated within a reasonable timeframe based on the scope of the application.
- (d) *Requirements.* Any development shall be required to provide village staff with a copy of the following no smaller than one to fifty in scale:
- (1) Site Plan
 - (2) Stormwater/Drainage Plan
 - (3) Driveway Accesses/Sidewalk
 - (4) Landscaping Plan
 - (5) Lighting plan
 - (6) Water and Sewer Plan
- (e) *Effect on municipal services.* Before granting any site approval, the village staff may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the village engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the village administrator shall forward staff recommendations to the village board and shall not issue final approval until the village board has entered into an agreement with the applicant regarding the development of such facilities.
- (f) *Site plan review fees.* All plans and applications shall be accompanied by payment of a required fee of \$300.00 to cover the administrative costs involved for the first and a second submittal if needed, any additional submittal will be charged the review fee again.

Sec. 44-370. Zoning occupancy certificates.

- (a) Permit required. No vacant land shall be occupied or used, and no structure or building shall be hereafter erected, structurally altered, relocated, used or occupied until the zoning administrator or designee has certified the structure, building, use or occupancy complies with the provisions of this chapter and a zoning occupancy certificate has been issued. A like-certificate shall be obtained before any change is made in the type of use or before any legal nonconforming use is resumed, changed, or extended.
- (b) Applications and inspections. Applications shall be made to the Zoning Administrator by the following procedures; inspections may be conducted to verify compliance with Village Code requirements:

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- (1) Site plan. If a site plan is required by this chapter, then the zoning approval shall be reviewed and approved during the site plan process. A zoning occupancy certificate shall be issued upon completion of the required site plan and building improvements per § 320-214D, Inspection and completion.
 - (2) Special exception. If a special exception is required by this chapter, then the zoning approval shall be reviewed and approved during the special exception process. A zoning occupancy certificate shall be issued upon completion of required site plan improvements (if applicable) per § 320-214D, Inspection and completion, and meeting the conditions of the special exception (if applicable) per § 320-205E.
 - (3) Building permit. If a building permit is required by this chapter or Chapter 85 for a building requiring a site plan or special exception, a zoning occupancy certificate shall be issued upon completion of required site plan improvements (if applicable) per § 320-214D, Inspection and completion, and meeting the conditions of the special exception (if applicable) per § 320-205E, Inspection and completion, and meeting all applicable building codes. Building occupancy shall comply with Chapter 85.
 - (4) Zoning occupancy certificate. If a site plan, special exception, or building permit is not required, the property owner or applicant shall submit an application to the Zoning Administrator if a new use is proposed and provide appropriate information to verify compliance with this chapter and the Hortonville Municipal Code. If it is determined a site plan, special exception, and/or building permit is required during the review of the application, the property owner and/or applicant shall submit the applicable applications for approval prior to a zoning occupancy certificate being issued

Sec. 44-____. Rezoning request.

Sec. 44-371. Violations and penalties.

Any person who violates this chapter shall be subject to a forfeiture of not less than \$10.00 or more than \$200.00, plus the costs of prosecution. Every day of violation shall be a separate offense.

Sec. 44-372. Amendments.

The village board may amend this chapter following the procedures prescribed by Wis. Stats. § 62.23.

Sec. 44-373 – 44-393 Reserved.

PROPOSED ORDINANCE

ARTICLE XI. ZONING BOARD OF APPEALS

Sec. 44-394. Board of appeals.

- (a) *Establishment and purpose.* There is hereby established a Board of Appeals for the Village of Hortonville as authorized by Wis. Stat. sec. 62.23.(7)(e) for the purpose of hearing appeals from any aggrieved person or from any officer, department, board or commission of the Village affected by a zoning decision of the zoning administrator or plan commission. The board of appeals shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter. Members and alternate members shall be appointed as set forth in Sec. 2-238. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as such 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. No action of the board of appeals shall have the effect of permitting in any zoning district uses prohibited in such district by this Code.
- (b) *Procedures.* Appeals under this chapter shall be taken within 30 days of the order, requirement, decision, or determination appealed from by filing with the officer from whom the appeal is taken, as well as with the board of appeals, written notice of appeal specifying the grounds thereof together with a filing fee as may be established by the village board. The administrative officer with whom the appeal is filed shall promptly transmit to the board of appeals all papers constituting the record upon which the action appealed from was taken. The board of appeals may request the applicant provide additional information as may be needed to determine the case. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time.
- (c) *Stay of Proceedings.* An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals that, by reason of facts stated in the certificate a stay would, in the officer's opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (d) *Meetings.*
 - (1) *Open to public.* All meetings and hearings of the board of appeals shall be open to the public, except that the board may go into executive session to deliberate. The final vote on an appeal shall be taken in open session by roll call vote, recorded and open for public inspection in the board's office. Public notice of all regular and special meetings shall be given as required by Wisconsin open meeting laws, Chapter 19, and as set forth in Wis. Stat. sec. 62.23(7)(e)5.
 - (2) *Special meetings.* Special meetings may be called by the board of appeals chairperson whenever he or she deems necessary, or at the request of two members.
 - (3) *Hearings.* Hearings may be held at any regular or special meeting at the time set by the chairperson.
 - (4) *Voting.* The concurring vote of three members of the board of appeals shall be necessary for all of its actions other than setting its rules of operation. Such votes and discussions between members shall comply with Wisconsin open meeting laws.
- (d) *Powers of zoning board of appeals.* In addition to these powers enumerated elsewhere in this Code of Ordinances, the board of appeals shall have the following powers:
 - (1) *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator, building inspector or other administrative official in the enforcement of this Zoning Code or any ordinance adopted under Wis. Stats. §§ 61.35,

62.23, 62.231 (wetlands), Wis. Stats. § 87.30 or 144.26 (floodplains) or Wis. Stats. ch. 91 (farmland preservation).

- (2) *Variances.* To hear and rule on applications for specific variances from the terms provided in this chapter.
- (3) *Other matters.* To hear and act upon all other matters referred to it upon which it is required to act under this chapter.
- (4) *Assistance.* The board of appeals may request assistance from other village officers, departments, commissions, and boards.
- (5) *Oaths.* The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses at board of review hearings.

Sec. 44-395. Appeals.

Appeals to the board of appeals may, upon written petition, be taken by any person aggrieved by or affected by a decision of the zoning administrator or other administrative official charged with administering and enforcing this chapter. Such appeals shall be governed by the following provisions:

- (a) *Time of appeal.* Appeals shall be filed within 30 days after the date of receipt of the written decision or order from which the appeal is taken by filing a petition with the village clerk. 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.
- (b) *Who may appeal.* Appeals or applications to the board may be made by:
 - (1) The owner, mortgagee, purchaser under a land contract, optionee or occupant under a written lease for one year or more of the property for which relief is sought.
 - (2) Any officer (other than the zoning administrator), department, committee or board affected by a decision or order of the zoning administrator or other administrative official or body charged with administering and enforcing this chapter.
 - (3) Any person aggrieved and whose use and enjoyment of property within the village is directly and adversely affected by a decision or order of the building inspector, zoning administrator or the requested board action.
- (c) *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 of appeals. 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 shall provide all information requested on the form and any additional information requested, in writing, by the chairperson or secretary of the board of appeals 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.
- (d) *Filing appeal or application.* The applicant shall file two copies of the **required appeal form** with the village clerk. The village clerk shall deliver one copy to the zoning administrator or other officer or body from whose decision an appeal is taken. Upon receipt of an appeal, the zoning administrator or other officer or body responsible for the original determination shall transmit to the secretary of the board of appeals all notes or papers relating to the order or decision from which the appeal is being taken.
- (f) *Fee.* All appeals and applications filed with the village clerk shall be accompanied by payment of a required fee of \$175.00.
- (g) *Insufficient notice.* No appeal or application shall be considered by the board of appeals 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 ten days, in addition to the 30 days specified in subsection (a) of this section, in order to be considered by the board of appeals.

Sec. 44-519. Hearings.

- (a) *Notice.* The board of appeals shall fix a reasonable time and place for the hearing. Notice shall be published in the official newspaper not less than seven days prior to the hearing and given to the applicant and the administrative officer appealed from by regular mail or by personal service not less than five days prior to the date of hearing. In every case involving a variance, conditional use, planned unit development or public utility exception, notice shall also be mailed not less than five days prior to the hearing to the fee owners of record of all land within 100 feet of any part of the subject building or premises involved in the appeal.
- (b) *Appearances.* Hearings on appeals shall be public and shall be conducted according to the rules of procedure adopted by the board. At the hearing, the 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 of appeals may dismiss the appeal or application or may dispose of the matter on the record before it. Decisions of the board following the public hearing may be made either in public or closed session as the board shall determine.
- (c) *Stays.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the board of appeals after the notice of appeal, for reasons stated in the certification, that a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of appeals or by a court of record on the application on notice to the officer from whom the appeal is taken and on due cause shown.
- (d) *Amendments.* An applicant may amend an appeal at any time before or during the public hearing, provided the amendment does not materially alter the appeal from how it was described in the published hearing notice. If an amendment is requested after the public notice has been issued and the amendment conflicts with or materially changes the information contained in that notice, the applicant shall pay an additional fee to cover the cost of revising and republishing the notice. If the revised notice can be published within the time required for the scheduled hearing, the hearing on the amended appeal may proceed as originally scheduled. If timely publication is not possible, the Chairperson shall announce that the hearing will be deferred to a future meeting, for which proper public notice will be provided, and shall state the reasons for the deferral.
- (e) *Adjournments.* When all appeals or applications cannot be concluded on the scheduled hearing date, the board of appeals may adjourn the proceedings to a specific future date of its choosing. The adjourned date shall be treated as a continuation of the original hearing. Notice of the adjournment shall be provided to any absent members of the board of appeals.
- (f) *Withdrawal.* An 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.

Sec. 44-396. Findings and disposition of cases.

- (a) *Time of decision.* The board of appeals shall render its decision either at the termination of the hearing or within 30 days thereafter and shall transmit a signed copy of the board's decision to the applicant, zoning administrator, and Village Board
- (b) *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** of the board of appeals. Such decision shall state the reasons

for the board's determination with findings of fact and conclusions of law 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 special exception, conditional use or variance. Copies of the decision shall be sent to the applicant, village clerk, the secretary of the planning and zoning commission and any village committee or board involved.

- (c) *Basis of decision; findings.* At the conclusion of a hearing, the board should reduce to writing, its findings of fact and conclusions of law regarding the proper interpretation and application of this Zoning Code.
- (d) *Vote required.* All orders or decisions of the board of appeals granting a variance, exception or conditional use or reversing any action or order, require a majority vote of the members present. A quorum necessary for any meeting or hearing shall consist of four members, but a lesser number may meet and adjourn to a specified time.
- (e) *Conditions.* Variances or conditions imposed on 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 zoning 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 conditional use permits approved by the board shall expire six months after issuance if the performance of work is required and substantial work has not commenced.