



Fox Crossing Community Development Department  
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**VILLAGE OF FOX CROSSING  
PLANNING COMMISSION MEETING  
WEDNESDAY, June 17, 2020 @ 5:15 PM  
MUNICIPAL COMPLEX - 2000 MUNICIPAL DRIVE**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**PUBLIC HEARING**

1. Re-adoption of the Village of Fox Crossing Zoning Ordinance
2. CUP - Sara Mae LLC – Home Occupation

**APPROVAL OF MINUTES – May 13, 2020**

**OLD BUSINESS**

None

**NEW BUSINESS**

1. CUP – Sara Mae LLC. – Home Occupation
2. Re-adoption of the Village of Fox Crossing Zoning Ordinance

**OTHER BUSINESS**

1. Development Activity Report

**COMMUNICATIONS**

1. Sustainability Committee Report

**PUBLIC FORUM: Non-Agendized Village Related Matters**

*Pursuant to WI Statutes 19.83(2) & 19.84(2), the public may present matters; however, they cannot be discussed or acted upon. Limited to ten minutes - non-repetitive matters.*

**ADJOURNMENT**

If you have any questions, please call (920) 720-7105 for information. You may also access the staff recommendations on the website, [www.foxcrossingwi.gov](http://www.foxcrossingwi.gov). From the main page, click "Meetings," then "Agendas." The recommendation is posted on the website the Thursday or Friday preceding the Plan Commission meeting.

**PLEASE NOTE:** It is possible that members of and possibly a quorum of Village Board members or other governmental bodies may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body other than the governmental body specifically referred to on the agenda above.

The Commission reserves the right to take up any item on the agenda at any time after the meeting commences.

Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Village Administration Office at (920) 720-7101.





**Item 2** – CUP CBRF West American & Irish

A motion was made by Mr. Scheibe, seconded by Ms. Romzek, to open the public hearing for the Zoning Ordinance Amendment -Senior Housing Definition.

The motion carried – 6-0.

Director Dearborn said that Care Partners LLC is looking to put a 56 unity Senior Housing on this lot. Currently the area is surrounded by single family homes bounded by Irish Road and American Drive. The property south of American Drive is owned by Neenah School District. In the past there has been concerns from the residents in that area about flooding. Director Dearborn said the retention pond will be regraded. There was originally a stream ran through but was rerouted with the construction of American Drive. Director thinks is easy to fix and that the project is compatible for the land. He sees no issue and staff recommends the CUP.

Mr. Jochman asked if anyone from the public would like to speak.

Ben Ganther from 6030 County Road A Oshkosh was present to represent Jason Lindamin and Care Partners. They are the design build contractor and are there to answer any questions anyone might have.

Mr. Jochman asked if there are any questions.

Mr. Zielinski asked about the rental percentage and ownership percentage of the units.

Mr. Gather replied that the units are not owned and are memory care and assisted living. They're rental units.

Mr. Jochman asked 2 times.

A motion was made by Mr. Cox, seconded by Mr. Zielinski, to close the public hearing for the CUP for the 60 units Senior Housing.

The motion carried – 6-0.

**APPROVAL OF MINUTES – April 15<sup>th</sup>, 2020**

A motion was made by Mr. Cox, seconded by Ms. Romzek, to approve the meeting minutes of Wednesday, April, 15<sup>th</sup>, 2020 with minor corrections, previously discussed with Recording Secretary.

The motion carried – 6-0.

## **NEW BUSINESS**

### **Item 1** – CUP 56 Unit Senior Care Facility

Direct Dearborn said the staff is recommending approval of this conditional use permit with a few conditions. The conditions are:

- Address the issue of the impact in the surrounding community
- Full process of a storm water review which is required for all new projects
- Submit a site plan for review
- Comply with all state and local conditions

Everything can be done at the same time at staff level.

Mr. Jochman asked if anyone had any comments or concerns.

A motion was made by Mr. Cox, seconded by Ms. Romzek, to approve CUP 56 Unit Senior Care Facility with the conditions that applicant will provide staff with a report showing how storm water for this site will be addressed including its impact on the surrounding property. Following review and acceptance of how the storm water report, the applicant should apply for a site plan review and provide a storm water plan to comply with Village Storm Water Regulations and application shall comply with all local and state regulations.

The motion carried – 6-0.

### **Item 2** – Chapter 31 Ordinance Amendment – M-1 CBRF Addition

Director Dearborn said that the purpose of this amendment is to clarify and allow for a CBRF in this specific zoning district. The M-1 allows for multiple types of senior developments and multi-family developments, all by conditional use permit. The intent for the M-1 district is going to be much larger types of CBRFs. This change was necessary so that it complies with state statutes and does not limit our ability for this zoning district.

Mr. Jochman said that in the Memo, this amendment will add one additional sentence to the 4.07 Retirement Home. “Residential Care Apartment Complexes (RCAC) and Community Based Residential Facilities (CBRF). The units may be rented or owned as in a condominium. This use may include limited on-site commercial and medical facilities for the exclusive use of residents.

Mr. Cox asked if this will be added in Chapter 31 and will it be highlighted.

Mr. Dearborn replied that it will go to Village Board to approve but Planning Commission recommends it.

A motion was made by Mr. Cox, seconded by Ms. Romzek, to approve the Zoning Ordinance Amendment allowing CBRF in M-1 zones in Chapter 31, 4.07.

The motion carried – 6-0.

**Item 3** – CSM SunComfort

Director Dearborn said that SunComfort owns two lots. Their existing building is on the corner of Shady Lane and American Drive. They applied for a site plan review to add an addition to this building. They will be crossing property lines so they will have to do Certified Survey Map. It meets all the requirements and Staff is recommending approval with the conditions that taxes be paid and we get a copy of the recorded CSM.

A motion was made by Mr. Zielinski, seconded by Mr. Cox, to approve CSM SunComfort under conditions that all taxes be paid and that a copy of the recorded CSM be provided to the Village.

The motion carried – 6-0.

**Item 4** – License Review Valley Inn

Director Dearborn said the Planning Commission is assigned as authority to approve or deny Hotel/Motel licenses. He gave a quick history of Valley Inn, but said that the new owners have been working to clean up the property, brand the hotel, and substantial remodeling. The calls for service have decline dramatically. The Police Department is happy with the progress it has made. Director Dearborn has been out to the property talk to the owners. Director Dearborn recommends the approval of the Valley Inn License.

Mr. Cox asked about the resolution for the license.

Director Dearborn said there will be one.

Mr. Zielinski asked about the franchise agreement from last year.

Director Dearborn said they are working towards that as they are remodeling units and looking to put a restaurant in, but with COVID-19 it has been slow.

A motion was made by Mr. Cox, seconded by Ms. Romzek, to approve License Renewal Valley Inn at 2000 Holly Road.

The motion carried – 6-0.

**Item 5** – License Review Cobblestone

Director Dearborn said this is the same process. The hotel is a nice asset for the community. From a economic development point of view, he is concerned about the current situation but thinks they have the ability to continue. There is no issue and staff is recommending approval for another year.

Mr. Jochman said that this is like the previous license approval, a resolution will be made and Mr. Jochman will sign the resolution.

A motion was made by Mr. Zielinski, seconded by Mr. Cox, to approve License Renewal Cobblestone Hotel & Suites on 1465 Bryce Dr.

The motion carried – 6-0.

## **OTHER BUSINESS**

### 1. Development Activity Report

Director Dearborn said that single family is down from previous years. We have only issued 2 single family in April for a total of 7 this year. The values are pretty high for single family homes. The department issued 1 duplex and 1 smaller commercial as compared to last year where there were 2 commercial, 18 single family, and 3 duplexes. But the values are good we are at \$13,255,000 opposed to last year's \$9,000,155. Director Dearborn said two senior housing projects were just approved. He sees positive trends with continue request for information for development.

## **COMMUNICATIONS**

### 1. Sustainability Committee Report

There is no meeting until June. The community Gardens are going well, all the plots are rented out on the west side. The east side has one left. We discontinued the collection of plastic bags and materials. We have limited staff that it will be best for public to just take the grocery stores. When we move ahead and open building up to public, we will be able to continue sustainability initiatives.

Mr. Jochman asked if anyone has any comments or questions.

**ADJOURNMENT:** A motion was made by Mr. Cox, seconded by Mr. Scheibe to adjourn.

The motion carried – 6-0.

5:54 p.m.

Plan Commission  
May 13, 2020 Minutes

Farrah Yang,  
Recording Secretary

# MEMO

**Date:** June 10, 2020  
**To:** Village Planning Commission Members  
**From:** Community Development Department Staff  
**RE:** New Business Item 1 ---- CUP – Sara Mae LLC. – 1386 Martingale Ln.

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## Overview

The applicant, Sara Ertl, is proposing a home occupation at 1386 Martingale Lane. Her business is a Hair Salon to which she will be the sole employee and will have limited customers as they are all done by appointment.

The R-2 Suburban Low Density Zoning District allows other uses by right and few by conditional use. The proposed home occupancy establishment requires a conditional use permit (CUP).

## Staff Recommendation

We recommend the approval of this CUP with the following findings and conditions.

### Findings:

1. Sara resides in the home where her hair salon will be established.
2. No more than 25% of her house is being used for the home occupation.
3. There is adequate parking spaces for her customers as she has a 3 car garage.

### Conditions:

1. No more than two clients at a time, by appointment only, shall come to the home.
2. Hours of operation is between 7am to 9pm
3. Retail Sale of merchandise is prohibited
4. The business follows all the codes of a Major Home Occupation as defined by Chapter 31.7-175.

CUP Location



# MEMO

**Date:** June 10, 2020  
**To:** Village Planning Commission Members  
**From:** Community Development Department Staff  
**RE:** New Business Item 2 -Re-adoption of the Village of Fox Crossing Zoning Ordinance-

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## Overview

The Village's code of ordinances are being re-codified to correct references to the Town of Menasha, changes in statutes and other such corrections due to the communities incorporation and a Village.

The re-adoption of the Village's Zoning Ordinance, as well as all the other Village codes, corrects references to town statutes in the ordinance, County Zoning Regulations and corrections and clarifications of various definitions and references and changes to sections of the ordinance referring to statutes that have been revised or removed due to recent statute changes.

This has been an over three- year project working with staff and a consultant to codify the Village's entire ordinances. When completed all ordinances will be available on line in a searchable format and will be maintained in this format by General Code.

A recommendation from the Planning Commission is required for a zoning ordinance prior to action by the Village Board. Following action taken by the Planning Commission the entire newly codified Villages the Village Board will act upon ordinances, including the zoning chapter.

## Recommendation

Staff recommends approval of this re-adoption of the zoning code.

**ARTICLE 1**  
**General Provisions**

**§ 435.1-01. Title.**

This chapter shall be known as the "Village of Fox Crossing Zoning Ordinance" and may be referred to herein as "this chapter."

**§ 435.1-02. Authority.**

This chapter is adopted under the authority granted by §§ 61.354, 61.35, 62.23, 66.0401, and 66.0403, Wis. Stats., and amendments thereto.

**§ 435.1-03. Jurisdiction.**

Jurisdiction of these regulations shall include all lands and waters within the Village of Fox Crossing, except for those shoreland areas governed by the General Code of Winnebago County, consistent with the shoreland zoning standards set forth in Ch. NR 115, Wis. Adm. Code.

**§ 435.1-04. Legislative findings.**

- A. General findings. The Village Board makes the following legislative findings:
- (1) Pursuant to § 66.1001, Wis. Stats., the Village adopted a Comprehensive Plan on August 25, 2003.<sup>51</sup>
  - (2) This chapter is consistent with and furthers the overall intent of the Village's Comprehensive Plan, as may be amended.
- B. Other findings. Other legislative findings are included in the various articles, divisions, and sections of this chapter as may be appropriate.

**§ 435.1-05. Purpose.**

- A. General purpose. This chapter promotes the public health, safety, and welfare and is intended to:
- (1) Implement the goals, objectives, and policies of the Village's Comprehensive Plan to the greatest extent practicable;
  - (2) Establish clear and consistent standards, regulations, and procedures for the review of proposed development as may be regulated by this chapter; and
  - (3) Establish minimum standards for the sustainable use and development of land within the Village.

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**51. Editor's Note: See Ch. 388, Comprehensive Plan.**



- B. Specific purposes. Consistent with § 66.1001, Wis. Stats., this chapter is also intended to:
- (1) Promote the public health, safety, and general welfare;
  - (2) Encourage planned, orderly and sustainable land use development;
  - (3) Protect property values and the property tax base;
  - (4) Permit the careful planning and efficient maintenance of highway systems;
  - (5) Ensure adequate highway, multi-modal transportation, utility, health, educational and recreational facilities;
  - (6) Recognize the needs of agriculture, forestry, industry and business in future growth;
  - (7) Encourage the sustainable use of land and other natural resources which is in accordance with their character and adaptability;
  - (8) Provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems;
  - (9) Conserve soil, water and forest resources;
  - (10) Protect the beauty and health of the surrounding environment for family life; and
  - (11) Promote the efficient and economical use of public funds.
- C. Other purposes. Other purposes are included in the various articles, divisions, and sections as may be appropriate.

**§ 435.1-06. Applicability; compliance required; exceptions.**

- A. Generally. Except as specifically provided, the provisions of this chapter shall apply to all development within the Village under the jurisdiction of this chapter. No development shall be undertaken without the prior authorizations required by this chapter and other applicable chapters of the Village of Fox Crossing Municipal Code.
- B. Previously granted permits. When a permit has been issued in accordance with law prior to the effective date of this chapter, or amendment thereto, it shall be valid for one year from the date of issuance, even if it authorizes an action that is not allowed under the current chapter or amendment. If the action, as authorized by the permit, does not commence within that time period and continue in good faith to completion, such permit shall lapse and be null and void.
- C. Establishment of a use, structure, or building not requiring authorization. If prior to the adoption of this chapter, or amendment thereto, a use, structure, or building is actively being established that did not require a permit or authorization, said work may continue to

completion even when the use, structure, or building requires a permit or other authorization under this chapter, is being developed contrary to this chapter, or is otherwise prohibited under this chapter.

**§ 435.1-07. Liability.**

The Village of Fox Crossing and its officials, agencies, employees, agents, and assigns shall not be liable for any flood damage, sanitation problems, structural damage, or other damages or loss of property value that may occur as a result of reliance upon and conformance with this chapter.

**§ 435.1-08. Relationship to state and federal regulations.**

In addition to meeting the requirements contained in this chapter, development shall comply with all applicable regulations of federal and state agencies. In all cases, the strictest of the applicable provisions shall apply.

**§ 435.1-09. Relationship to private agreements.**

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any easement, covenant, deed restriction, or other private agreement governing land development. However, when this chapter imposes a greater restriction than the aforementioned, the provisions of this chapter shall apply.

**§ 435.1-10. Additional local and regional regulations.**

- A. In addition to meeting the regulations contained in this chapter, development shall comply with all applicable regulations of the Village of Fox Crossing Municipal Code.
- B. Land located in the vicinity of the Outagamie County Regional Airport may also be subject to additional land use regulations as may be adopted by Outagamie County under § 114.136, Wis. Stats.
- C. Land located within shoreland zoning areas as defined by Ch. NR 115, Wis. Adm. Code, will also be governed by the Winnebago County General Code.
- D. Land located within floodplain areas will also be governed by the Winnebago County General Code.
- E. In all cases, the strictest of the applicable provisions shall apply.

**§ 435.1-11. No defense to nuisance action.**

Compliance with the standards and requirements in this chapter shall not constitute an absolute defense to an action to abate a public or private nuisance.

**§ 435.1-12. Applicability to public entities.**

This chapter shall apply to all publicly owned land to the fullest extent allowed by state and federal law. When a public entity undertakes any development that is exempted from this chapter, in whole or in part, it is strongly encouraged to meet the provisions of this chapter.

**§ 435.1-13. Applicability to projects under Public Service Commission jurisdiction.**

This chapter shall apply to projects under the purview of the Wisconsin Public Service Commission (PSC) to the fullest extent allowed by state law. The Planning Commission or the Village Board, or both, may submit a written request to the PSC outlining those standards and/or requirements of this chapter that the PSC should impose as conditions of project approval, if approval is to be granted.

**§ 435.1-14. Applicability to wind and solar energy systems.**

Any regulations placed on wind and solar energy systems by this chapter may be superseded by Wisconsin Statutes.

## **ARTICLE 2 Interpretation And Construction**

### **§ 435.2-01. General rules of construction.**

- A. Generally. In the interpretation and application of this chapter, all provisions shall be construed so the true intent and meaning of this chapter is carried out.
- B. Minimum requirements. The interpretation and application of any provision of this chapter shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and general welfare and not be deemed a limitation or repeal of any other powers granted by state statute.

### **§ 435.2-02. Responsibility for interpretation.**

In the event a question arises concerning any provision or the application of any provision of this chapter, interpretations shall be issued consistent with Article 6 of this chapter.

### **§ 435.2-03. Delegation of authority.**

If a provision in this chapter states that an elected official, department supervisor, or some other employee is to perform some act, such individual may designate, delegate, or authorize a subordinate to perform the act unless state law or the provision clearly prohibits such delegation.

### **§ 435.2-04. Internal conflicts.**

More specific provisions of this chapter shall be followed in lieu of more general provisions that may be more lenient than or in conflict with the more specific provision.

### **§ 435.2-05. Use of graphics, illustrations, headings, references and statutory citations.**

- A. Purpose. Graphics, illustrations, headings, references, and statutory citations are included to improve the readability of this chapter and increase reader comprehension. Specifically, graphics and illustrations are included to help the reader visualize the meaning of the text. Headings and subheadings generally state the content of that section and are intended to help the reader quickly find information. References and statutory citations are included when the section is related to a state or local law or another section in this chapter. These are included to help the reader understand the relationship among various provisions.
- B. Interpretation. A graphic, illustration, heading, reference, or statutory citation shall not govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision.

- C. Effect of deficiency. Because the text controls, no provision shall be held invalid by reason of any deficiency in any graphic, illustration, heading, reference, or statutory citation.

**§ 435.2-06. Interpretation of boundaries and designations for base districts.**

- A. Boundary line interpretations. Interpretations regarding boundaries of base land use districts shall be made in accordance with the following rules:
- (1) Center lines. Boundaries shown as following, or approximately following, any easement, railroad, alley, road, street, highway, or similar feature shall be construed as following the center line of such feature.
  - (2) Property lines. Boundaries shown as following, or approximately following, any platted lot line or other property line shall be construed as following such line.
  - (3) Political boundaries. Boundaries shown as following, or approximately following, any political boundary shall be construed as following such line.
  - (4) Section lines. Boundaries shown as following, or approximately following, a section line, half-section line, or quarter-section line shall be construed as following such line.
  - (5) Natural boundaries. Boundaries shown as following, or approximately following, any natural feature, such as a stream, river, canal, other bodies of water, or topographical features, such as a watershed boundary, shall be construed as following such natural feature as verified by field inspection when necessary.
- B. Street abandonment. In the event a public road, street, or alley is officially vacated or abandoned, the regulations applicable to the land to which it reverted shall apply to such vacated or abandoned road, street, or alley, unless otherwise provided by Village action.

**§ 435.2-07. Interpretation of boundaries and designations for overlay districts.**

The location of overlay district boundaries shall be as shown on the Village's Official Zoning Map, or other supplemental map.

**§ 435.2-08. General rules of interpretation.**

In the construction of this chapter, the following shall be observed, unless such construction would be inconsistent with the text or with the manifest intent of this chapter:

- A. Gender. Words of the masculine gender include the feminine and neuter, and vice versa.
- B. Singular and plural words. Words in the singular include the plural and words in the plural include the singular.
- C. Tense. Words in the present tense include the past and future tense, and the future tense includes the present tense.
- D. "Must," "shall" and "will." The words "must," shall" and "will" imply a mandatory condition.
- E. "May" and "should." The words "may" and "should" imply a permissive condition.
- F. "Includes" and "including." The words "includes" and "including" shall not limit a provision to the specific example(s) listed, but are intended to extend their meaning to all other instances or circumstances of like kind or character.
- G. "Such as." The phrase "such as" shall not limit a provision to the specific example(s) listed, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- H. Conjunctions. When used at the end of a series, the word "and" indicates that all listed items apply. When the word "or" is used at the end of a series, it indicates that one or more of the listed items apply.

**§ 435.2-09. Computation of time.**

When a time period is specified in this chapter, the first day of the period shall be the first day after the event that triggered the time clock to start. If the last day of the time period is a Saturday, Sunday, or a legal holiday, that day shall be excluded and the time period shall be extended to the next business day.

**§ 435.2-10. Calculations.**

- A. Required quantities. When a calculation is made to determine the minimum number of a required quantity (e.g., landscaping and parking spaces) and results in a fraction, the number shall be rounded up to the next whole number.
- B. Allowable units. When a calculation is made to determine the number of dwelling units that may be allowed based on a density factor and results in a fraction, the number shall be rounded down to the next whole number.



**ARTICLE 3**  
**Definitions**

**§ 435.3-01. General definitions.**

- A. Words and phrases not defined. Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
- B. Words and terms defined. For the purpose of this chapter, certain terms and phrases are defined below and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

ACCESSORY BUILDING — See "building, accessory."

ACCESSORY LAND USE — See "land use, accessory."

ADULT ARCADE — An establishment where coin-operated, slug-operated, electronically or mechanically controlled still- or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer individuals per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

ADULT BATHHOUSE — An establishment which provides the services of baths, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities.

ADULT BODY PAINTING STUDIO — An establishment wherein patrons are afforded an opportunity to paint images on another person's body which is wholly or partially nude. An adult body painting studio shall not be deemed to include a tattoo parlor.

ADULT BOOK/VIDEO STORE —

- (1) An establishment that as one of its principal business purposes offers for sale, lease, or rental any of the following:
- (a) Books, magazines, periodicals, or other printed matter that is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas;
  - (b) Photographs, paintings, or other visual renderings that are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas;
  - (c) Films, motion pictures, videocassettes, video reproductions, DVDs, CD-ROMs, or similar media that are distinguished or



characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas;

- (d) Games, whether electronic or non-electronic, that are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or
  - (e) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- (2) A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.
  - (3) This definition excludes films, motion pictures, videocassettes, streaming videos, DVDs, slides or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America.

**ADULT CABARET —**

- (1) An establishment, such as a nightclub, dance hall, bar, restaurant, or similar establishment, that regularly features:
  - (a) Persons who appear seminude;
  - (b) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
  - (c) Films, motion pictures, videocassettes, streaming videos, DVDs, slides or other photographic reproductions which are characterized by the exhibition or display of specified sexual activities or specified anatomical areas.
- (2) This definition excludes films, motion pictures, videocassettes, slides, or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America.

**ADULT MASSAGE PARLOR —** An establishment with or without sleeping accommodations that provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in specified sexual activities.

**ADULT MODELING STUDIO —** An establishment that provides the services of modeling for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing, or otherwise.

**ADULT MOTION-PICTURE THEATER —** An establishment that, for any form of consideration, regularly shows films, motion pictures,

videocassettes, streaming videos, DVDs, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas. This definition excludes films, motion pictures, videocassettes, streaming videos, DVDs, slides or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America.

**ADULT-ORIENTED ESTABLISHMENT** — A business that regularly features either live nudity or live seminudity as a permanent focus of its business, giving special prominence to such content on a permanent basis, as cited in *Kraimer v. City of Schofield*, 342 F. Supp. 2d 807 at page 822, citing *Schultz v. City of Cumberland*, 228 F.3d 831, or otherwise permits live display of specified sexual activities to members of the public. "Adult-oriented establishment" shall include within its definition, without limitation, adult arcades, adult bathhouses, adult body painting studios, adult book/video stores, adult cabarets, adult massage parlors, adult modeling studios and adult motion-picture theaters, and further includes any premises to which public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing sexually oriented motion pictures, or wherein an entertainer provides sexually oriented entertainment to a member of the public, a patron or a member, whether or not such sexually oriented entertainment is held, conducted, operated, or maintained directly or indirectly and/or for profit.

**AGRICULTURAL WASTE** — Manure, milking center waste, and other organic waste generated by a livestock facility.

**AGRICULTURAL ZONING DISTRICT** — A zoning district established by this chapter that has an "A" followed by a number as its abbreviation (e.g., A-2).

**ALLEY** — A vehicular accessway that provides primary vehicular access to the back of the lots that front on a street.

**ALTERNATIVE TOWER STRUCTURE** — Man-made towers, water towers, buildings, bell steeples, light poles, electric transmission and distribution structures, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (Exhibits 3-1 and 3-2).

Exhibit 3-1. An antenna array mounted on top of a transmission tower



Exhibit 3-2. Two antenna arrays on top of silos



**ANIMAL UNIT** — A unit of measure used to regulate the number of various types of livestock and other farm animals by type. In Wisconsin, one animal unit is equivalent to one beef cow or steer (600 pounds or more) or any combination of other animals based on assigned animal unit factors.

**ANIMAL UNIT EQUIVALENT FACTOR** — A numeric value assigned to various types of livestock and other farm animals in relation to one beef cow or steer (600 pounds to market). For the purpose of this chapter, the animal unit factors established by the Wisconsin Department of Agriculture, Trade and Consumer Protection under Ch. NR 243, Wis. Adm. Code, are to be used. Those factors as of January 2006 are listed in Table 3-1.

**Table 3-1. Animal Unit Factors**

<b>Livestock Type</b>		<b>Animal Unit Factor</b>
Dairy cattle	Milking and dry cows	1.4
	Heifers (800 pounds to 1,200 pounds)	1.1
	Heifers (400 pounds to 800 pounds)	0.6
	Calves (up to 400 pounds)	0.2
Beef cattle	Steers or cows (600 pounds to market)	1.0
	Calves (under 600 pounds)	0.5
	Bulls (each)	1.4
Swine	Pigs (55 pounds to market)	0.4
	Pigs (up to 55 pounds)	0.1
	Sows (each)	0.4
	Boars (each)	0.5
	Layers (each)	0.01

<b>Table 3-1. Animal Unit Factors</b>		
<b>Livestock Type</b>		<b>Animal Unit Factor</b>
	Broilers (each)	0.005
	Broilers — continuous overflow watering	0.01
Poultry	Layers or broilers — liquid manure system	0.033
	Ducks — wet lot (each)	0.2
	Ducks — dry lot (each)	0.01
	Turkeys (each)	0.018
Sheep (each)		0.1
Goats (each)		0.1

Source: Wisconsin Department of Agriculture, Trade and Consumer Protection

**APPEAL** — A process initiated by an aggrieved party to review a decision made pursuant to this chapter or an alleged failure to act as required by this chapter.

**APPLICANT** — A person that submits an application as required by this chapter.

**ARBOR** — A structure over a walkway or other open area usually consisting of parallel colonnades supporting an open roof of girders or cross rafters often supporting vines or other plants (Exhibit 3-3).

Exhibit 3-3. An example of an arbor over a sidewalk



**AUTO TITLE LOAN BUSINESS** — Any person licensed pursuant to § 138.09, Wis. Stats., who makes a loan that is secured by an interest, other than a purchase money security interest, in the borrower's motor vehicle.

**BASE ZONING DISTRICT** — See "zoning district, base."

**BEE COLONY** — An aggregate of honeybees, consisting of workers, drones, queen, brood, combs, and honey.

BEEKEEPER — A person who keeps one or more colonies of honeybees.

BERM — A mound or embankment of earth typically installed to provide screening or for aesthetic effect.

BLASTING — The use of an explosive material to loosen, move, or shatter a mass of earth materials.

BOARD OF APPEALS, ZONING — The body appointed under authority of § 62.23, Wis. Stats., to hear and decide administrative appeals, variances, and other matters as allowed by this chapter and state law.

BODY PIERCER — An individual who performs body piercing on any human body part or tissue, except an ear, on another person upon his or her request.

BODY PIERCING — The perforating of any human body part or tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.

BUFFER YARD — A linear strip of undeveloped land, along with landscaping or a fence, that is located between two different zoning districts that have potentially incompatible characteristics. Buffer yards are intended to create separation between incompatible land uses and eliminate or lessen the impacts (e.g., noise, dust, glare of lights, outdoor activities) of the most intrusive land use on the other.

BUILDING — A structure having a roof supported by walls or columns, or other supports, intended for the shelter or enclosure of people, animals, goods, or property of any kind.

BUILDING AREA — The total horizontal projected area of a building.

BUILDING CODES — Those regulations adopted by a municipality or the state that regulate the construction, repair, alteration, demolition, and maintenance of buildings.

BUILDING PERMIT — A permit issued prior to an addition to, or the construction, alteration, repair or demolition of, a structure. (In contrast, see "zoning permit.")

BUILDING SCALE — The relationship between the mass of a building and its surroundings, including streets, open spaces, and surrounding buildings. Mass is the three-dimensional bulk of a structure: height, width, and depth.

BUILDING, ACCESSORY — A detached building, not used as a dwelling unit, that is incidental and subordinate to the use of the principal building and which is located on the same lot.

BUILDING, PRINCIPAL — The building on a lot in which the principal use, as permitted on such lot by the regulations of the district in which it is located, is conducted.

BURDEN OF PROOF — The obligation of a party to establish a fact by evidence.

**CALIPER** — The diameter of a tree, measured at a point six inches above the ground line if the resulting measurement is not more than four inches. If the resulting measurement is more than four inches, the measurement is taken 12 inches above the ground line.

**CAMPGROUND SPACE** — A designated portion of a campground that is rented for the exclusive use of its occupants. A campground space may include a parking spur, fire ring, table, and other amenities.

**CFR** — An acronym for Code of Federal Regulations.

**CO-LOCATION** — The location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.

**COMMERCIAL OR BUSINESS ZONING DISTRICT** — A base zoning district established by this chapter that has "B" followed by a number as its abbreviation (e.g., B-1).

**COMPREHENSIVE PLAN** — The document that the Village of Fox Crossing Village Board adopted consistent with § 66.1001, Wis. Stats.<sup>52</sup>

**CONDITIONAL USE** — See "land use, conditional."

**CONDITIONAL USE PERMIT** — A permit issued by the Director of Community Development authorizing establishment of a conditional use consistent with the provisions of this chapter.

**CONDOMINIUM** — A form of ownership with unrestricted right of disposal of one or more units in a multiple-unit project with the land and all other parts of the project held in common ownership or use with owners of the other units.

**CORNER LOT** — See "lot, corner."

**CURB** — The barrier used to separate a street and other vehicle use areas from the surrounding environs.

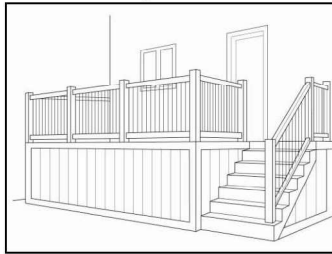
**DAWN TO DUSK** — The time period extending from 30 minutes before sunrise to 30 minutes after sunset of any given day.

**dba** — An abbreviation for decibels, A-weighted

**DECIBELS, A-WEIGHTED (dba)** — A unit for expressing the relative intensity of sounds in air on a scale from zero, for the average least perceptible sound, to about 130, for the average level at which sound causes pain to humans. The A-weighting system is typically used to measure environmental noise (e.g., noise from aircraft, railroad lines, and roadways).

**DECK** — An unenclosed exterior structure, attached or adjacent to the exterior wall of a building, which has a floor but no roof (Exhibit 3-4).

Exhibit 3-4. An example of a deck



DENSITY — As the context would indicate, the number of existing, proposed, or permitted dwelling units in a given area.

DEVELOPMENT — Any activity that must comply with, or is in any way regulated by, this chapter.

DEVELOPMENT AGREEMENT — A contract between a developer and a municipality that describes the obligations of both parties regarding a private development project.

DISABILITY — A mental or physical impairment that substantially limits one or more life activities.

DISTINGUISHED OR CHARACTERIZED BY — The dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or display of specified sexual activities or specified anatomical areas.

DISTRICT — See "zoning district."

DOUBLE FRONTAGE LOT — See "lot, through."

DUSK TO DAWN — The time period extending from 30 minutes after sunset to 30 minutes before sunrise of any given day.

DWELLING UNIT — A structure, or portion thereof, that is intended to be used as a home or residence for one family, which includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

EASEMENT — A non-possessory legal right a person has to the property of another for a specific use. An easement may apply to the entire property or a portion thereof and may be perpetual or temporary, expiring after a period of time or after a certain event occurs. A utility easement, for example, would allow any person with a right to use the easement to install and maintain utilities across, over, or under the subject land. A road easement would likewise allow the installation and maintenance of a driveway or roadway along with ancillary utilities.

ELECTRONIC MESSAGE DISPLAY — A type of sign display where the message is created with a number of internal lights, such as light-

emitting diodes (LEDs), and which may be changed at intervals by an electronic process.

ENVIRONMENTAL PROTECTION AGENCY (EPA) — An independent federal agency established in the executive branch that implements major environmental legislation.

EQUALIZED ASSESSED VALUE — The estimated market value of a property, including land and improvements.

FAA — An acronym for Federal Aviation Administration.

FAMILY — One individual living alone in a dwelling unit or two or more individuals living together in a dwelling unit as a single housekeeping unit.

FARM — A parcel of land or a collection of two or more contiguous parcels of land in common ownership provided more than 50% of the entire land area is assigned for property tax purposes to one or more of the following use classifications as defined by the Wisconsin Department of Revenue pursuant to § 70.32(2), Wis. Stats.:

- (1) Agricultural land: Class 4.
- (2) Agricultural forest: Class 5m; or
- (3) Productive forest: Class 6.

FARM PRODUCTS — Agricultural, horticultural, and arboricultural crops. Animals considered within the definition of "agricultural" include, but are not limited to, livestock and stable animals.

FCC — An acronym for Federal Communications Commission.

FEDERAL AVIATION ADMINISTRATION (FAA) — A federal agency within the U.S. Department of Transportation with the authority to regulate air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, and air navigation; and promote the development of a national system of airports.

FEDERAL COMMUNICATIONS COMMISSION (FCC) — A federal agency established by the Communications Act of 1934 to regulate broadcast communications (wire, radio, and television) in the United States.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — A federal agency with a mission to reduce loss of life and property and protect our nation's critical infrastructure from all types of hazards through a comprehensive, risk-based emergency management program of mitigation, preparedness, response, and recovery.

FINDING — A written conclusion or determination that is considered in reaching a decision.

FLAG LOT — See "lot, flag."



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

**FLOOR AREA** — The total horizontal area contained within the outside perimeter of a building.

**FLYWAY BARRIER** — As relates to beekeeping, an obstruction consisting of a solid wall, fence, dense vegetation, or combination thereof, so bees are forced to fly over the material to reach the colony.

**FUGITIVE DUST** — The solid airborne particulate matter resulting from any activity conducted on a parcel zoned or used for industrial or commercial purposes.

**GARAGE** — A structure used for storing motorized vehicles that has any more than two sides completely enclosed.

**HAZARD** — A condition, whether man-made or natural, that presents a tangible danger to the public health, safety, and general welfare.

**HAZARDOUS SUBSTANCE** — A material regulated by the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 1101 to 11050, as may be amended.

**HAZARDOUS WASTE** — A waste or combination of wastes that because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial present or future hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise mismanaged.

**HEALTHY SUSTAINABLE BUSINESS NETWORK (HSBN)** — A program that identifies those business neighborhoods/networks demonstrating leadership in health and wellness, safety and sustainable business practices in the Village of Fox Crossing.

**HIVE** — As relates to beekeeping, a receptacle inhabited by a colony of honeybees.

**HONEYBEE** — All life stages of the common domestic honeybee, *Apis mellifera* species of European origin, including the queen and drones.

**IMPERVIOUS SURFACE** — A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. The term includes, without limitation due to enumeration, all areas covered by structures, decks, roof extensions, patios, porches, driveways, sidewalks, parking lots, pavement, gravel, compacted clay, and loading docks, all as measured on a horizontal plane.

INDUSTRIAL ZONING DISTRICT — A base zoning district established by this chapter that has an "I" followed by a number as its abbreviation (e.g., I-1).

INTERIOR LOT — See "lot, interior."

INTERSTATE HIGHWAY — A highway at any time officially designated as part of the national system of interstate and defense highways by the Wisconsin Department of Transportation and as approved by the appropriate authority of the federal government.

KILOWATT (KW) — A unit of power equal to 1,000 watts.

LAND — The earth, water, and air above, below or on the surface.

LAND USE — As the context indicates:

- (1) The development that has occurred on the land;
- (2) Development that is proposed for the land; or
- (3) The use permitted for the land under this chapter.

LAND USE, ACCESSORY — A land use that is incidental and subordinate to and customarily found with a principal land use.

LAND USE, CONDITIONAL — A land use that would not be appropriate generally or without restriction throughout a specified area but if controlled as to the number, area, location, or relation to the surrounding properties by the imposition of appropriate conditions could be appropriate in the specified area.

LAND USE, PERMITTED BY RIGHT — A land use that is allowed throughout a specified area. Land uses permitted by right may be reviewed through a site plan review process and shall otherwise be reviewed to ensure that all provisions of local, state, and federal regulations are met.

LAND USE, PRINCIPAL — The dominant land use or uses of a parcel of land.

LAND USE, TEMPORARY — A land use which is on a parcel of land for a limited and specified period of time, up to six months.

LANDSCAPING PLAN — A drawing of a subject property that shows existing and/or proposed landscaping elements and other features as required by this chapter. Depending on the nature of the development project, the content of a landscaping plan can be shown on a site plan. (Also see "site plan.")

LIVESTOCK — Includes bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids (camels), ratites (ostrich, emu), and farm-raised fish. This does not include animals bred for the specific purpose of living inside the dwelling as determined by the Zoning Administrator.

LOADING AREA — An off-street area set aside for the purpose of unloading or loading a motor vehicle, trailer, or truck.

LOT — A parcel of ground with a definable location based on a recorded survey or similar instrument.

LOT AREA — As the context would indicate, lot area can refer to the minimum required area, actual area, or proposed area.

LOT FRONTAGE — The linear distance a lot abuts on a street right-of-way or other similar feature. As the context would indicate, lot frontage can refer to the minimum required distance, actual distance, or proposed distance.

LOT LINE — A line dividing one parcel of land from another.

LOT LINE, FRONT — A property boundary line described for each of the following types of lots:

- (1) Interior lot, the property boundary line abutting a street;
- (2) Corner lot, the property boundary line associated with the street address of the parcel abutting a street;
- (3) Through lot, if access restricted, the property boundary line abutting the street providing the primary access to the lot, or if not access restricted, the property boundary lines abutting both streets; and
- (4) Flag lot, the interior property boundary line most parallel to and nearest the street from which access is obtained.

LOT LINE, REAR — A property boundary line that does not intersect a front lot line and that is most distant from and most closely parallel to the front lot line.

LOT LINE, SIDE — A property boundary line that is not a front or rear lot line.

LOT, CORNER — A lot situated at the junction of and fronting on two or more streets. A lot abutting on a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the front lot line meet at an interior angle of less than 135°.

LOT, FLAG — A lot with access provided by a corridor from a street to the bulk of the lot.

LOT, INTERIOR — A lot that abuts only one street.

LOT, THROUGH — A lot having a frontage on two streets that are more or less parallel to one another.

LOW-IMPACT STORMWATER DESIGN — A design approach to stormwater management intended to mimic the predevelopment hydrology of a site. Initial site design strategies include minimizing impervious surfaces and the integration of existing wetlands, riparian

areas, and other environmentally sensitive natural resources into the overall site design. Man-made features, generally distributed throughout the site, are also used to store, infiltrate, evaporate, and detain stormwater runoff. Examples of such features include bioswales, rain gardens, and pervious surfaces.

**MAINTENANCE AND REPAIR** — See "ordinary maintenance and repair."

**MANUFACTURED HOME** — A structure substantially completed off site meeting minimum provisions for dwellings and is:

- (1) Transportable in one or more sections;
- (2) Built on a permanent chassis;
- (3) Placed on a permanent foundation;
- (4) Connected to utilities (plumbing, heating, gas, electrical); and
- (5) Constructed on or after June 15, 1976, in accordance with U.S. Housing and Urban Development standards and identified with a HUD seal of approval.

**MANUFACTURED HOME PAD** — The area of a manufactured home space that has been prepared for the placement of a manufactured or mobile home.

**MANUFACTURED HOME SPACE** — A designated area of a manufactured home park that is designed to accommodate one manufactured or mobile home for exclusive use of the occupants.

**MEGAWATT (MW)** — A unit of power equal to 1,000,000 watts.

**MIGRANT WORKER** — This term shall have the meaning under § 103.90(5), Wis. Stats.

**MITIGATE** — To take an action designed to offset or rectify a negative impact.

**MIXED-USE ZONING DISTRICT** — A zoning district established by this chapter that has an "M" followed by a number as its abbreviation (e.g., M-1).

**MOBILE HOME** — A structure which was constructed prior to June 15, 1976, and was designed to be transported as single unit or in sections by any motor vehicle upon a public highway and is designed, equipped, and used exclusively for sleeping, eating, and living quarters, or is intended to be so used, and which has an overall length in excess of 45 feet.

**MODULAR HOME** — A dwelling unit that meets local building codes and which was constructed off site in a factory as separate modules which are joined together and set on a permanent foundation. (Note: A modular home is one type of factory-built housing.)

**MULCH** — A nonliving organic or inorganic material customarily used in landscape design to retard erosion, retain soil moisture, maintain even soil temperature, control weeds, and/or enrich the soil. Examples of materials often used include tree bark, wood chips, and decorative stones.

**MUNICIPAL CODE** — The compilation of laws as adopted by the Village of Fox Crossing Village Board.

**NATURAL RESOURCES CONSERVATION SERVICE (NRCS)** — A federal agency created in 1935 within the U.S. Department of Agriculture to work with private landowners and managers to conserve soil, water, and other natural resources by providing technical and financial assistance.

**NAVIGABLE WATERWAY** — Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. The term does not include farm drainage ditches if:

- (1) Such lands are not adjacent to a natural navigable stream or river;
- (2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (3) Such lands are maintained in nonstructural agricultural use.

**NONCONFORMING BUILDING** — A building that at the time of construction conformed to existing regulations, including size, location, and other dimensional standards, but is now inconsistent with this chapter.

**NONCONFORMING CONDITIONAL USE** — A use that was classified as a nonconforming use but which has since been reviewed and approved as a conditional use using the procedures and requirements specified in this chapter.

**NONCONFORMING LOT** — A lot that at the time of creation conformed to existing regulations, including lot size, dimensions, lot configuration, and other dimensional and design standards, but is now inconsistent with this chapter.

**NONCONFORMING STRUCTURE** — A structure that at the time of construction or placement conformed to existing regulations, including size, location, and other dimensional standards, but is now inconsistent with this chapter.

**NONCONFORMING USE** — A use of land that at the time of establishment conformed to existing regulations but is now inconsistent with this chapter.

**NONMETALLIC MINERAL** — A product, commodity, or material consisting principally of naturally occurring, organic or inorganic,

nonmetallic, nonrenewable material. Nonmetallic minerals include stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc, and topsoil.

NRCS — An acronym for Natural Resources Conservation Service.

NUCLEUS — As relates to beekeeping, a small quantity of bees with a queen housed in a smaller than usual container used for rearing or as a starter colony.

NUDE or NUDITY — The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft or cleavage with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola, or the showing of covered male genitals in a discernibly turgid state. The definition shall not include any portion of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel commonly worn by persons in public.

OCCUPANCY — The purpose for which a building, or part thereof, is used or intended to be used.

OPERATING STANDARDS — Regulations governing the ongoing operation of a land use, including related business practices.

ORDINARY HIGH-WATER MARK (OHWM) — The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore of any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

ORDINARY MAINTENANCE AND REPAIR — Those activities related to the general day-to-day maintenance of a building or other similar structure, including interior remodeling, painting, decorating, paneling, plumbing, insulation, the repair of cracks in a foundation wall, the application of waterproof coatings to a foundation wall, and the replacement of windows, doors, electric wiring, siding, roofing materials, and other nonstructural components. (In contrast see "structural alteration.")

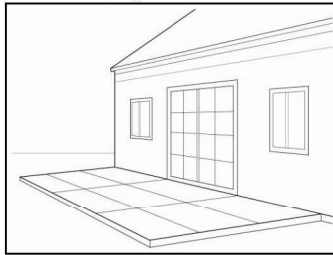
OVERLAY ZONING DISTRICT — See "zoning district, overlay."

PANELIZED HOME — A dwelling unit that meets local building codes and which was constructed off site in a factory as flat panels (e.g., walls, roof, and floor) which are joined together and set on a permanent foundation.

PARKING SPACE — An area permanently reserved and maintained for the parking of one motor vehicle which meets the dimensional standards of this chapter.

**PATIO** — An at-grade surfaced area intended for outdoor living that may be next to a building or separated from a building (Exhibit 3-5).

**Exhibit 3-5**



**PAYDAY LOAN BUSINESS** — Any person licensed pursuant to § 218.05, Wis. Stats., or a person licensed pursuant to § 138.09, Wis. Stats., who accepts a check, holds the check for a period of time before negotiating or presenting the check for payment, and pays to the issuer an agreed-upon amount of cash, or who refinances or consolidates such a transaction.

**PERMANENT FOUNDATION** — A continuous foundation wall at the perimeter of a building.

**PERMITTED USE** — See "land use permitted by right."

**PERSON** — An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

**PIER** — A structure extending into navigable waters from the shore with water on both sides that is built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. Such a structure may include a boat shelter which is removed seasonally. Such a structure may include a boat hoist or boat lift, and the hoist or lift may be permanent or may be removed seasonally. (Also see "wharf.")

**PLAN OF OPERATION** — A document describing the operation of a particular enterprise and other related matters as may be required by this chapter. (Also see "site plan.")

**PLANNED DEVELOPMENT DISTRICT (PDD)** — A base zoning district established by this chapter that has "PDD" followed by a number as its abbreviation (e.g., PDD-1).

**PLANNING COMMISSION** — The seven-member Commission appointed by the Village Board to review and make recommendations to the Village Board on planning and land use issues as authorized by Wisconsin Statutes.

**PLAYHOUSE** — An accessory building, either at ground level or elevated, or supported by a tree, characteristically used by children for play.

**POLYSTRUCTURE** — A structure having a frame of steel or other material that is covered with plastic, polyurethane, vinyl, canvas, or other flexible sheeting material (Exhibit 3-6).

**Exhibit 3-6**



**PORCH** — A part of a building with a roof of its own that covers an entrance (Exhibit 3-7)

**Exhibit 3-7**



**PRE-CUT HOME** — A dwelling unit that meets local building codes and which was largely constructed off site in a factory and then disassembled and transported to the site where it is reassembled and set on a permanent foundation.

**PREMISES** — A separate tract of land or parcel of land that has been or may be conveyed by deed or has otherwise been specified as a separate lot on an approved land development plan.

**PRIMARY HIGHWAY** — A highway, other than an interstate highway, at any time officially designated as part of the federal aid primary system by the Wisconsin Department of Transportation and as approved by the appropriate authority of the federal government.

**PRINCIPAL BUILDING** — See "building, principal."

**PRINCIPAL LAND USE** — See "land use, principal."

**PROPERTY BOUNDARY LINE** — A line dividing one parcel of land from another.

**PUBLIC NOTICE** — The means that a governmental body uses, or is required to use, to formally notify people and other interested entities of a pending governmental hearing or proposed action.

**RECREATIONAL VEHICLE** — A vehicular-type unit primarily designed as a temporary living quarters for recreational, camping or travel use



that either has its own motor power or is mounted on or drawn by another vehicle.

**REGULARLY FEATURES or REGULARLY SHOWS** — When used in the context of adult uses, a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the adult establishment.

**RESIDENTIAL ZONING DISTRICT** — A zoning district established by this chapter that has an "R" followed by a number as its abbreviation (e.g., R-1).

**REVIEWING AUTHORITY** — As the context would indicate, the Director of Community Development, Planning Commission, Zoning Board of Appeals, or Village Board.

**RIGHT-OF-WAY** — A strip of land dedicated or acquired for public use.

**SCREEN** — A feature, such as a wall, fence, hedge, berm, or similar feature, used to shield or obscure elements of a development from adjacent sites.

**SEMINUDE or SEMINUDE CONDITION** — The showing of the human male or female genitals, pubic area, vulva or anus with not more than a complete opaque covering or the showing of the female breast with not more than a complete opaque covering of any part of the nipple or areola.

**SETBACK** — A specified horizontal distance between two actual or imaginary features (e.g., property boundary lines, ordinary high-water mark, structures, wells, and septic systems).

**SEWAGE SLUDGE** — The residue matter resulting from the treatment of sewage.

**SHARED PARKING** — One or more parking spaces that partially or entirely meet the parking requirements of two or more land uses.

**SIGHT TRIANGLE** — See "vision clearance triangle."

**SIGN** — See Article 10, Signs.

**SITE PLAN** — A drawing of a subject property that shows existing and proposed conditions and other features required by this chapter. (Also see "plan of operation" and "landscaping plan.")

**SITE-BUILT HOME** — A dwelling unit that meets the Wisconsin Uniform Dwelling Code standards and which was largely constructed on site. Also known as a "conventional home" or "stick-built home."

**SPECIFIED ANATOMICAL AREAS** — The human male genitals in a discernibly turgid state, even if completely and opaquely covered, or less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast.

SPECIFIED SEXUAL ACTIVITY — Any of the following:

- (1) Showing of human genitals in a state of sexual stimulation or arousal;
- (2) The fondling or erotic touching of human genitals, pubic region, anus, or female breasts;
- (3) The act of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, or cunnilingus; or
- (4) Excretory functions as part of, or in connection with, any of the activities set forth above.

SPORT COURT — A hard-surfaced area located out of doors used exclusively for basketball, tennis, or other similar sports-related activity. This term does not include any portion of a driveway that is also used as a basketball court.

STATE — The State of Wisconsin.

STATIC MESSAGE DISPLAY — A type of sign display where the message does not change by an electronic process.

STOOP — A raised platform in front of an entrance to a building with one or more steps.

STOP-WORK ORDER — An order issued by a municipal government requiring the cessation of an activity that violates a building code or zoning code.

STORMWATER — Water from a rainfall event or melting snow or ice.

STREAM — A natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.

STREET — A public accessway within a public right-of-way or an easement.

STREET TERRACE — That area between the back of a curb (or the edge of pavement where there is no curb) and the property boundary line.

STREET YARD — Same as "yard, front."

STRUCTURAL ALTERATION — Any change in a supporting member of a structure such as foundation, bearing wall, column, beam or girder, footing, or pile, or any substantial change in the roof structure or in an exterior wall. (In contrast see "ordinary maintenance and repair.")

STRUCTURE — A man-made object with form, shape, and utility that is either permanently or temporarily placed on or into the ground, a streambed, or a lake bed or on another structure. Examples include buildings, decks, patios, stoops, play structures, swimming pools, hot tubs, bridges, storage tanks, fences, towers, flagpoles, utility poles, pipelines, transmission lines, smokestacks, and signs.

**SUBSTANDARD LOT** — A lot, with or without a structure, having a lesser dimension or area, or both, than what is required for the zoning district in which it is located.

**TATTOO** — To insert pigment under the surface of the skin of an individual by pricking with a needle or other instrument or technique so as to produce an indelible mark or figure through the skin.

**TATTOOIST** — An individual who tattoos another upon his or her request.

**TEMPORARY USE** — See "land use, temporary."

**THROUGH LOT** — See "lot, through."

**TOWER** — A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, and monopole towers. The term includes personal communication service towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and alternative tower structures.

**TOWER SITE** — The area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connection with the tower.

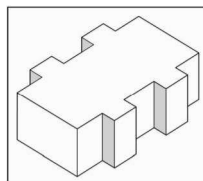
**TRELLIS** — A structure consisting of lattice with supporting posts and rails often supporting vines or other plants and used for aesthetic purposes or as a visual screen or barrier, or both.

**U.S. ARMY CORPS OF ENGINEERS** — A federal agency within the U.S. Department of Defense that serves the armed forces and the nation by providing vital engineering services and capabilities, as a public service, across the full spectrum of operations, from peace to war, in support of national interests.

**VARIANCE** — A grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

**VERTICAL OFFSET** — A jog in an exterior wall of a building so that one of the wall's surfaces is in front of another (Exhibit 3-9).

**Exhibit 3-9**



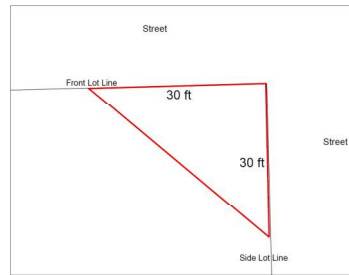
**VILLAGE** — All references within this chapter to "Village" shall be interchangeable with Village of Fox Crossing unless the context clearly indicates otherwise.

VILLAGE BOARD — The body of elected Trustees as established in Chapter 5 of the Municipal Code.

VISION CLEARANCE TRIANGLE — A triangle formed at the intersection of two streets or at the intersection of a street and a driveway within which the type and placement of structures and vegetation are controlled to ensure adequate sight distances for pedestrians and motorists.

- (1) At the intersection of two public streets, the vision clearance triangle shall be formed by measuring 30 feet back from the point of intersection of the front and exterior side lot lines and connecting the points so to form a triangle on the area of the lot adjacent to the street intersection (Exhibit 3-10).

**Exhibit 3-10**



- (2) At the intersection of a public street and a private accessway (except for single-family residential accessways), the sight triangle shall have sides of 15 feet along the accessway and 25 feet along the public street (Exhibit 3-11).

**Exhibit 3-11**



WATERCRAFT — Any device used and designed for navigation on water.

WETLAND — An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

WHARF — A structure in navigable waters extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for

loading or unloading cargo or passengers onto or from watercraft. Such a structure may include a boat hoist or boat lift, and the hoist or lift may be permanent or may be removed. (Also see "pier.")

WRITTEN or IN WRITING — Any representation of words, letters, drawings, graphics, or pictures.

YARD — The area of a lot that is required to be unoccupied and unobstructed from the ground upward, except by trees, shrubbery, or as otherwise provided in this chapter.

YARD, FRONT — A yard as described for each of the following types of lots:

- (1) Interior lot: That area that extends across the front of a lot from side lot line to side lot line and from the front lot line to the front of the principal building;
- (2) Corner lot: That area that extends across the front of a lot between the side lot lines from the front lot line to the front of the principal building; and
- (3) Double frontage lot: If access restricted, that area that extends across the front of a lot from side lot line to side lot line and from the front lot line to the front of the principal building, or if not access restricted, that area that extends from side lot line to side lot line and from both front lot lines to the front and rear of the principal building. (Also see "lot line, front.")

YARD, REAR — A yard as described for each of the following types of lots:

- (1) Interior lot: That area that extends across the rear of a lot from side lot line to side lot line and from the rear lot line to the rear of the principal building; and
- (2) Corner lot: That area that extends between the side yard abutting the street right-of-way and the opposing side lot line and from the rear lot line to the rear of the principal building.

YARD, SIDE — A yard as described for each of the following types of lots:

- (1) Interior lot: The area that extends between the front yard and rear yard from the side lot line to the side of the principal building;
- (2) Corner lot, street side side yard: That area that extends from the front yard to the rear lot line and from the side lot line to the side of the principal building; and
- (3) Double frontage lot: If access restricted, same as interior lot; if not access restricted, that area that extends between the front yards from the side lot line to the side of the principal building.

ZONING ADMINISTRATOR — The Director of Community Development shall perform the duties of the Zoning Administrator as enumerated in this chapter and as authorized by state law.

ZONING DISTRICT, BASE — A type of zoning district that establishes uniform regulations for the use and development of land.

ZONING DISTRICT, OVERLAY — A type of zoning district that is superimposed over one or more base zoning districts, or portions thereof, and which imposes additional requirements, modifies existing requirements of the underlying base zoning district, or both.

ZONING PERMIT — A written permit issued for a specified parcel of land prior to the issuance of a building permit to ensure that the proposed use is consistent with the zoning requirements of the zoning district in which it is to be located.

**§ 435.3-02. Land use definitions.**

For the purpose of this chapter, certain land uses are defined below and shall have the meaning ascribed to them. For organizational purposes, similar land uses are grouped together to form a series. The first 16 series are principal land uses, accessory land uses are found in Series 17, and temporary land uses are found in Series 18.

<b>Land Use Series</b>	
1.	Agricultural Uses
2.	Resource-Based Uses
3.	Residential Uses
4.	Special Care Facilities
5.	Group Accommodations
6.	Food and Beverage Sales
7.	Vehicle Rental, Sales, and Service
8.	General Sales
9.	General Services
10.	Recreation and Entertainment Uses
11.	Government and Community Services
12.	Telecommunications and Utilities
13.	Transportation Facilities
14.	General Storage
15.	Industrial Uses
16.	Solid Waste Facilities
17.	Accessory Uses
18.	Temporary Uses

**Agricultural Uses**

1.01. Agriculture-related use. A place primarily involved in: (1) providing agricultural supplies, agricultural equipment, agricultural inputs, or agricultural services; (2) storing, processing, or handling raw agricultural commodities; (3) slaughtering livestock; (4) marketing livestock; and/or (5) processing agricultural by-products or wastes. Examples include (1) a grain warehouse, potato warehouse, or other warehouse that stores raw agricultural commodities received from farms; (2) a dairy plant that processes or handles milk from farms; (3) a meat slaughter establishment; (4) a food processing plant that processes raw agricultural commodities received from farms; (5) a feed mill or rendering plant that processes raw agricultural commodities or agricultural by-products received directly from farms, or supplies animal feed directly to farms; (6) a communal manure digester; (7) a pelletizing plant or other facility that processes raw agricultural commodities, by-products, or wastes (received directly from farms) to produce fuel or other products; (8) a sawmill or other facility that processes wood or other forest products received directly from farms; (9) a facility that provides farm inputs such as fertilizer, pesticides, seed, or feed directly to farms; and (10) a facility that is primarily engaged in providing agronomy or veterinary services to farms. The term does not include a sawmill, an ethanol plant, or a biodiesel plant.



1.02. Agriculture, crop. A place where nursery stock, trees, sod, fruit, vegetables, flowers, agricultural crops and forage, and other plants typically grown by agricultural operations in the region are grown.



1.03. Agriculture, general. A place where nursery stock, trees, sod, fruit, vegetables, flowers, agricultural crops and forage, and other plants are primarily grown for commercial purposes and/or livestock is raised primarily for commercial purposes. Buildings and other structures

necessary for the operation are allowed. The term does not include commercial stables.

- 1.04. Greenhouse. A place where fruit, vegetables, flowers and other types of plants are grown within an enclosed building for commercial purposes, whether using sunlight or artificial lighting. For the purpose of this definition, a mushroom farm is considered a greenhouse.



### **Resource-Based Uses**

- 2.01. Dam. An artificial barrier in or across a navigable watercourse which has the primary purpose of impounding or diverting water. A dam includes all appurtenant works, such as a dike, canal, or powerhouse.
- 2.02. Forestry. The harvesting, thinning, and planting of trees and related forest management activities whether for commercial or noncommercial purposes. The term includes temporary skidding yards necessary to store and sort logs harvested on the premises. The term does not include on-site processing and permanent skidding yards.
- 2.03. Hunting preserve. A place where the public or those with a membership can, for a fee or other consideration, hunt game animals not confined within a fenced enclosure. This use may include one or more buildings and other structures directly related to operation of this use, such as an office, structures and enclosures for rearing game animals for hunting purposes, and buildings for housing maintenance equipment, supplies, and related materials. The term does not include lands leased for private, individual use.
- 2.04. Sewage sludge disposal. The application of sewage sludge to a land area for final disposal.
- 2.05. Wildlife park. A place where the public can, for a fee or other consideration, view free-roaming wildlife from a motor vehicle. This use may include one or more buildings and other structures directly related to operation of this use, such as an office, structures and enclosures for rearing wild animals, and buildings for housing maintenance equipment, supplies, and related materials.

### **Residential Uses**



- 3.01. Mixed-use housing. One or more dwelling units located in a building, commonly on the second floor, that also houses a commercial land use, such as a retail use or a professional office.
- 3.02. Manufactured/mobile home park. A place where two or more spaces may be rented or leased for the placement of a mobile home or manufactured home.
- 3.03. Multifamily building, two units. A building containing two dwelling units that is situated on one lot. The units may be rented or owned as in a condominium.
- 3.04. Multifamily building, three or more units. A building containing three or more dwelling units that is situated on one lot. The units may be rented or owned as in a condominium.



- 3.05. Single-family dwelling. A building containing one dwelling unit that is situated on one lot and is not attached to any other dwelling unit by any means. The term includes manufactured homes, modular homes, panelized homes, pre-cut homes, and site-built homes, but excludes mobile homes.



- 3.06. Townhouse. A building containing three or more dwelling units that are separated by a party wall that extends from the ground to the roof and each of the units is located on a separate lot and has a separate entrance.



- 3.07. Twin home A building containing two dwelling units that are separated by a party wall that extends from the ground to the roof and each of the units is located on a separate lot and has a separate entrance.



## **Special Care Facilities**

- 4.01. Adult family home. A place licensed by the state under § 50.033(1m), Wis. Stats.
- 4.02. Community living arrangement. Any one of the following facilities: (1) residential care centers for children and youth, as defined in § 48.02(15d), Wis. Stats., operated by a child welfare agency licensed under § 48.60, Wis. Stats.; (2) group homes for children, as defined in § 48.02(7), Wis. Stats.; and (3) community-based residential facilities, as defined in § 50.01(lg), Wis. Stats. The term does not include adult family homes, as defined in § 50.01, Wis. Stats.
- 4.03. Foster home and treatment foster home. A place licensed by the state for the care of foster children and which is operated by a corporation, child welfare agency, church, or other such entity.
- 4.04. Group day-care center. A place licensed as a day care by the state where care is provided for nine or more children. This use may include outdoor play areas, playhouses, and related recreational equipment, such as swings, slides, basketball hoops, and jungle gyms.
- 4.05. Hospice care center. A place licensed by the state that provides palliative and supportive care and a place of residence to individuals with terminal illness and provides or arranges for short-term in-patient care as needed.
- 4.06. Nursing home. A place where five or more persons who are not related to the operator or administrator reside, receive care or treatment and,

because of their mental or physical condition, require twenty-four-hour nursing services, including limited nursing care, intermediate level nursing care, and skilled nursing services. The term does not include: (1) a convent or facility owned or operated exclusively by and for members of a religious order that provides reception and care or treatment of an individual; (2) a hospice as defined in state law; or (3) a residential care apartment complex as defined in state law.

- 4.07. Retirement home. A place where individuals, generally 62 years of age or older, may occupy independent dwelling units. The units may be rented or owned as in a condominium. This use may include limited on-site commercial and medical facilities for the exclusive use of residents.
- 4.08. Temporary shelter. A place where abuse victims or homeless individuals are temporarily housed and provided with ancillary services.

### **Group Accommodations**

- 5.01. Boardinghouse. A place, other than a hotel or restaurant, where meals or lodging is regularly furnished by prearrangement for compensation for four or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.
- 5.02. Campground. A place where members of the general public may set up tents, campers and trailers of all types, and recreational vehicles for camping and sleeping purposes. Accessory uses may include individual cabins, a dwelling unit for the manager of the campground, and one or more buildings to house a laundromat and retail sales for the convenience of campground guests, an office, maintenance equipment, supplies, and related materials.
- 5.03. Group recreation camp. A place where members of an association or other similar group, which operates the premises, and their invited guests may set up tents, campers and trailers of all types, and recreational vehicles for camping and sleeping purposes or stay overnight in a lodge, cabin, or other similar accommodation. Accessory uses may include a dwelling unit for the manager of the camp, sleeping accommodations for resident staff, and one or more buildings to house guest services, administrative offices, recreational facilities, maintenance equipment, supplies, and related materials. The term includes youth camps and church camps.
- 5.04. Hotel/motel: see "overnight lodging."
- 5.05. Migrant labor camp. Living quarters under the control and supervision of any person for any migrant worker or any other person who is not related by blood, marriage, or adoption to his or her employer and who occasionally or habitually leaves an established place of residence to travel to another locality to accept seasonal employment in the planting, cultivating, raising, harvesting, handling, drying, packing, packaging, processing, freezing, grading, or storing of any agricultural

or horticultural commodity in its unmanufactured state. The term does not include a premises occupied by the employer as a personal residence and by no more than two migrant workers or any accommodation subject to Ch. 50, Wis. Stats.

- 5.06. Overnight lodging. A place where individual guest rooms with private bathrooms are offered to transient guests for rent for no longer than 60 days within any six-month period. This use may also include: (1) recreational/fitness rooms and a food service area for the exclusive use of guests; and (2) banquet facilities for meetings and other gatherings. The term includes hotels and motels, but does not include bed-and-breakfasts or extended stay hotels and motels.
- 5.07. Resort. A place with lodging facilities and on-site amenities primarily intended for the use of overnight guests. Guest rooms may be located in one or more buildings and may include kitchen facilities. In addition to lodging facilities and recreational amenities, such as golf, horseback riding, or lake/beach access, a resort may also include a lodge or other gathering place for guests, dining facilities, administrative facilities, and maintenance and storage facilities.

### **Food and Beverage Sales**

- 6.01. Brewpub. A place where fermented malt beverages are manufactured and those beverages, along with other beverages and food, are offered for retail sale and on-site consumption.
- 6.02. Restaurant. A place where food and beverages are offered for retail sale for on-site or off-site consumption, and where the on-site consumption of fermented malt beverages, wine, or liquor, if any, is clearly secondary and subordinate to the sale of food and nonalcoholic beverages. A restaurant may also prepare food as part of a catering business. The term does not include a grocery store with a food service section.
- 6.03. Tavern. A place where fermented malt beverages, wine, or liquor is offered for retail sale for on-site consumption and where food consumption, if any, is clearly secondary and subordinate to the sale of alcoholic beverages. The term includes bars, drinking establishments, sports bars, and lounges.

### **Vehicle Rental, Sales, and Service**

- 7.01. Heavy vehicle sales and rental. A place where new and used large vehicles, such as recreational vehicles and campers, personal watercraft, and heavy trucks, are offered for rent, sale, lease, or exchange, or are taken on consignment. This use may include the repair of such vehicles as a subordinate use.



7.02. Truck stop. A place where fuels primarily for tractor trucks are offered for retail sale. Ancillary uses are limited to retail sale of motor vehicle fuel for cars, motorcycles, and light trucks; retail sale of food and beverages; a restaurant; sleeping quarters; overnight parking; a truck wash; truck scales; tire repair and sales; light maintenance activities, such as engine tune-ups, lubrication, and minor repairs; and other incidental uses customarily associated with a truck stop.

7.03. Vehicle fuel station. A place where fuels for cars, motorcycles, and light trucks are offered for retail sale. Ancillary uses are limited to the retail sale of food and beverages and light maintenance activities, such as engine tune-ups, lubrication, and minor repairs.



7.04. Vehicle repair shop. A place where motor vehicles, such as cars, motorcycles, and light trucks, are typically left overnight for maintenance, service, or repair. Typical services include transmission repair, body work and painting, vehicle upholstery, engine repair and overhauls, and similar activities. The term includes do-it-yourself shops where patrons use the facility, tools, and other equipment for a fee and perform the work themselves.



7.05. Vehicle sales and rental. A place where new and used cars, light trucks, motorcycles, mopeds, snowmobiles, and all-terrain vehicles (ATVs) are offered for rent, sale, lease, or exchange, or are taken on

consignment. This use may include the repair of such vehicles as a subordinate use.



7.06. Vehicle service shop. A place where motor vehicles, such as cars, motorcycles, and light trucks, are serviced while the owner waits and typically are not left overnight. Examples include quick lube/oil change facilities, tire stores, car washes, and vehicle detailing.



7.07. Vehicle storage yard. A place where impounded motor vehicles are temporarily stored or where damaged motor vehicles are temporarily stored before being taken to a repair shop or while waiting for an insurance adjustment to occur. The salvaging of motor vehicle parts or the repair of motor vehicles is not allowed.

## General Sales

8.01. Convenience retail sales. A place where a limited product line of frequently needed personal items is offered for retail sale. The term includes convenience stores and small grocery stores.

8.02. General retail sales. A place where a diverse product line is offered for retail sale. The term includes grocery stores, retail outlets, comparison shopping stores, full-line department stores, and dollar stores.



- 8.03. General retail sales, large format: (1) A single building that contains more than 20,000 gross square feet on a single parcel where the primary tenant occupies 65% or more of the gross floor area; (2) two or more buildings with a total of 20,000 gross square feet on a single parcel where the primary tenant occupies 65% or more of the gross floor area; or (3) a group of buildings on adjoining lots with more than 20,000 gross square feet of floor where the primary tenant owns the lots and occupies 65% or more of the gross floor area. The term does not include a retail store that is part of an industrial building or warehouse when the floor area of such store is less than 20,000 gross square feet.
- 8.04. Outdoor sales. A place where the merchandise offered for sale is primarily displayed outside of a building or other structure. This term does not include those land uses otherwise defined in this section.

## **General Services**

- 9.01. Administrative services. A place where employees primarily perform administrative functions and where customers are infrequent. The term includes data processing centers, customer service centers via telecommunications, architectural firms, and engineering firms.
- 9.02. Adult-oriented establishment. A place where no more than one of the following is located: adult arcade, adult bathhouse, adult body painting studio, adult book/video store, adult cabaret, adult massage parlor, adult modeling studio, or adult motion-picture theater.
- 9.03. Body-piercing establishment. A place where a licensed body piercer performs body piercing.
- 9.04. Commercial kennel. A place where five or more dogs, cats, or other domesticated animals over six months of age are housed for the purpose of boarding, breeding, training, or sale. The term includes boarding kennels, dog motels, and dog training centers. The term does not include animal hospitals, animal grooming parlors, or pet shops.
- 9.05. Commercial stable. A place where horses, donkeys, and other similar domesticated animals are kept for boarding, instructional purposes, or hire on trail rides. Nonresidential buildings and other structures such as barns, stables, riding arenas, and sheds necessary for the operation are allowed.
- 9.06. Equipment rental, large. A place where large equipment that is normally stored out of doors is offered for rent. Typical items include modular buildings, trucks and trailers, vertical lifts, skid loaders, forklifts, backhoes, and other types of heavy equipment.
- 9.07. Equipment rental, small. A place where small equipment is offered for rent and related supplies are offered for retail sale or rent. Items for rent or sale are stored indoors and may include hand tools, party equipment, and lawn and yard equipment.

- 9.08. Financial services. A place where financial and banking services are offered. The term includes banks, savings and loan institutions, other lending institutions, auto title loan businesses, and payday loan businesses. The term does not include automated teller machines, which are considered an accessory use.
- 9.09. Funeral home. A place where the deceased may be prepared for burial or cremation and people may gather for visitation or funeral ceremonies. The indoor display of funeral equipment may also occur. The term includes mortuaries.
- 9.10. General repair. A place where consumer goods such as shoes, bicycles, appliances, and business equipment are repaired. The term does not include repair of motor vehicles or industrial equipment.
- 9.11. General services. A place where services not otherwise included in any other service type category are offered. The term includes photography studios, weight loss centers, commercial postal services, beauty shops, pet grooming shops, photocopying and printing services, linen services, dry-cleaning services, and diaper services.
- 9.12. Health care clinic. A place where medical services are offered and patients do not stay overnight. The term includes dental clinics, medical offices, chiropractic offices, acupuncture centers, and sports medicine facilities. The term does not include those uses as classified as a health care center.
- 9.13. Health care center. A place where medical treatment or nursing, rehabilitative, or preventative care is offered. The term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, and rehabilitation facilities.
- 9.14. Instructional services. A place where instruction, training, or tutelage is offered in such areas as gymnastics, dance, art, music, and martial arts.
- 9.15. Landscape business. A place where a landscape contractor may establish a base of operation, which may include one or more of the following: retail sale of plant and landscape materials; office space; indoor and outdoor storage of materials, equipment, and machinery, such as trucks and heavy equipment; and shops for the repair of machinery and equipment owned by the operator.
- 9.16. Professional services. A place where services involving predominantly professional, clerical, or similar operations are performed and where customers may or could come on a regular basis. The term includes law offices, real estate offices, insurance offices, and travel agencies.
- 9.17. Tattoo establishment. A place where a licensed tattooist applies a tattoo to another individual.



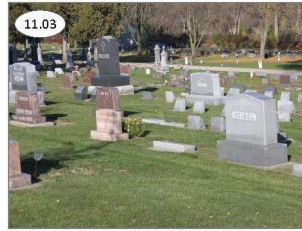
- 9.18. Veterinary clinic, general. A place where medical services for small and large animals, such as horses and livestock, are offered. This use may include office space, medical labs, appurtenant facilities, and indoor and outdoor enclosures for animals under the immediate medical care of a veterinarian.
- 9.19. Veterinary clinic, small animal. A place where medical services for small household animals are offered. This use may include office space, medical labs, appurtenant facilities, and indoor enclosures for animals under the immediate medical care of a veterinarian. The term includes pet clinics, dog and cat hospitals, and animal hospitals.

## **Recreation and Entertainment Uses**

- 10.01. Driving range. A place where golfers practice driving golf balls from a fixed central location. This use may include one or more buildings and other structures directly related to the operation of this use, such as an office, snack bar, and buildings for housing maintenance equipment, supplies, and related materials.
- 10.02. Golf course. A place where individuals, for a fee or other consideration, play golf outdoors. This use may include one or more buildings and other structures directly related to the operation of this use, such as an office, game room with snack bar, and buildings for housing maintenance equipment, supplies, and related materials.
- 10.03. Indoor entertainment. A place where indoor entertainment is offered. The term includes theaters, movie theaters, dance halls, and theaters for performing arts. The term does not include adult-oriented establishments.
- 10.04. Indoor recreation. A place where indoor recreational activities are offered. The term includes bowling alleys, skating rinks, billiard and pool halls, and arcades.
- 10.05. Outdoor entertainment. A place where outdoor, spectator-type uses or events are offered. The term includes race tracks, motocross courses, tractor-pulling events, and sports arenas.
- 10.06. Outdoor recreation. A place where outdoor recreational activities are offered. The term includes miniature golf, batting cages, water parks, and amusement parks. The term does not include driving ranges and golf courses.
- 10.07. Outdoor shooting range. An outdoor area where patrons shoot guns, such as pistols, rifles, and shotguns, and bow and arrows for target practice. The term includes archery ranges, trap and skeet clubs, and target ranges.

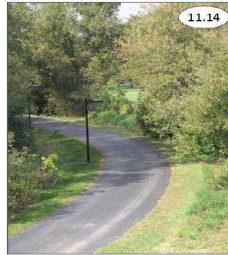
## **Government and Community Services**

- 11.01. Administrative government center. A place where government employees perform administrative functions on behalf of the public. The term includes administrative offices, post offices, and courthouses.
- 11.02. Animal shelter. A place where stray household pets are temporarily housed.
- 11.03. Cemetery. A place where human remains may be buried or interned. Accessory uses may include columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such area.



- 11.04. Civic use facility. A place where large gatherings of people may assemble for public purposes. The term includes zoos, arenas, stadiums, and fairgrounds.
- 11.05. Community center. A place where short-term and intermittent meetings or gatherings of individuals are held for purposes of sharing information, entertainment, social service, or similar activities. The term includes senior centers; neighborhood recreational centers; fraternal, social, or civic clubs; lodges; and union halls.
- 11.06. Community cultural facility. A place where people may gather for studying, reading, personal education, or viewing the visual arts. The term includes libraries, museums, art galleries, and observatories. The term does not include performing arts.
- 11.07. Community garden. A place where a group of unrelated individuals grows vegetables, fruits, and flowers for their personal use. A community garden can be divided into individual plots of land for the exclusive use of the person assigned each plot, or the entire garden may be a cooperative effort of any number of people, or a combination thereof.
- 11.08. Correctional facility. A place where individuals who are serving a comparatively long court-imposed sentence may be housed.
- 11.09. Educational facility, pre-K through 12. A place where primary and secondary educational opportunities are offered. The term includes preschools, elementary schools, junior high schools, and high schools.
- 11.10. Educational facility, post-secondary. A place where post-secondary educational opportunities are offered. The term includes colleges, universities, community colleges, and vocational schools.

- 11.11. Maintenance garage. A place where a municipal government maintains administrative offices, equipment, and supplies necessary for maintaining public roadways, parks, and other types of public facilities.
- 11.12. Park. A place where primarily outdoor recreational activities may occur. A park may be operated by a public entity for the benefit of the general public or by a homeowners' association for the benefit of its members. A park may be developed with recreational facilities or undeveloped. The term includes dog parks and neighborhood recreation centers.
- 11.13. Public safety facility. A place where public safety services are offered. The term includes ambulance services, fire stations, police stations, and jails. The term does not include correctional facilities.
- 11.14. Sidewalk. An off-road linear path dedicated to a single use or multiple uses. Examples include walking trails, bike paths, cross-country ski trails, and horse trails.



- 11.15. Unspecified public use. A place, whether in public or private ownership, that is used or intended for a public purpose that is not otherwise classified.
- 11.16. Worship facility. A place where people can regularly assemble for religious worship and associated activities and which is operated by an entity with tax-exempt status. The term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other on-site accessory buildings such as parsonages, friaries, convents, fellowship halls, and rectories. The term does not include day-care centers, community recreation facilities, dormitories, private educational facilities, emergency shelters, and health care facilities.

## **Telecommunications and Utilities**

- 12.01. Solar energy system. A freestanding solar energy system that constitutes the principal use of the property. (In contrast see "solar energy system, freestanding," Series 17.37.)



12.02. Stormwater management facility. A natural or man-made feature that collects, conveys, channels, holds, inhibits, or diverts the movement of stormwater.



12.03. Telecommunication facility, concealed. An antenna that a casual observer would consider a part of the structure to which it is attached or made a part of.

12.04. Telecommunication facility, unconcealed. An antenna that a casual observer would consider a separate and distinct structure that may be mounted on a tower or mounted on the ground.

12.05. Utility installation, major. A place, building and/or structure, or portion thereof, whether public or private, used or intended for providing basic infrastructure or utility services and which could potentially have a moderate to high impact on neighboring property. The term includes pipeline pumping stations, electric substations and water towers.



- 12.06. Utility installation, minor. A utility installation generally having low impact on neighboring property. The term includes public water system wells, without a tower, and stormwater pumping stations. The term does not include utility cabinets, which are classified as an accessory use (Series 17).
- 12.07. Utility installation, major sanitary. A utility installation specifically intended to provide sanitary sewer services, which could potentially have a moderate to high impact on neighboring property. The term includes, but is not limited to, sewage treatment plants, sewage storage tanks and any other aboveground sewage collection or treatment facilities.
- 12.08. Utility installation, minor sanitary. A utility installation specifically intended to provide sanitary sewer services generally having a low impact on neighboring properties. The term includes, but is not limited to, below-ground sewer lift stations.
- 12.09. Utility maintenance yard. A place where a public or private entity maintains administrative offices, equipment, and supplies necessary for maintaining the infrastructure it provides.

### **Transportation Facilities**

- 13.01. Airport. A place where airplanes, ultralights, helicopters, or similar aircraft may land and take off. This use may also include facilities for the housing and maintenance of the same and facilities for passenger ticket sales and accessory food service areas primarily intended for pilots and passengers.
- 13.02. Bus storage facility. A place where buses are parked when not in use and may include administrative offices and a building for the storage, care, and maintenance of buses in the fleet.



13.03. Marina. A place where pleasure watercraft may dock on a temporary or permanent basis, watercraft may be trailered or untrailered, or both, and related services may be provided, such as retail sale of fuel for watercraft and supplies and minor servicing and repair of watercraft. The term does not include boat yards.



13.04. Mass transit terminal. A place where passengers can board mass transit. This use may include facilities for ticket sales and accessory food service areas primarily intended for passengers.



13.05. Off-site parking lot. A place where motor vehicles associated with an off-site use may be parked for a short duration. It may be available to the public or reserved to accommodate parking for a specific purpose.

13.06. Parking structure. A place where motor vehicles may be parked in a multi-level structure for a short duration. The term does not include underground parking.

13.07. Park-and-ride lot. A designated place where people can park their motor vehicles for a short duration to board public transportation or to carpool or vanpool.



13.08. Railroad line. A permanent road with rails fixed to ties commonly in one or more pairs of continuous lines forming a track or tracks on which locomotives and cars run for the transportation of passengers and freight. The term does not include properties owned by a railroad company that are leased for use by others.

13.09. Street. A surfaced travelway for motor vehicles that is located within an easement or right-of-way.

## General Storage

14.01. Boat yard. A place where watercraft may be kept in dry storage during the off season or while not in use.



14.02. Bulk fuel storage. A place where liquid or compressed fuel products may be stored in bulk.



14.03. Personal storage facility. A place where individual storage units are offered for rent, lease, sale, or other arrangement. The term includes a tract of land used to store motor vehicles and watercraft.





14.04. Truck terminal. A place where goods carried by motor transport are received and temporarily stored until transferred to another truck for delivery.

14.05. Warehouse. A place where goods, merchandise, and other materials are temporarily stored for eventual shipment. The term includes moving and storage facilities. The term does not include bulk fuel storage.

### **Industrial Uses**

15.01. Artisan shop. A place where handmade craft items or works of art are made on a small scale and offered for retail sale. Examples of such items include paintings, textiles, photography, sculptures, pottery, leather products, handmade paper, jewelry, hand-blown glass, small wooden items, candles, soaps, and lotions.



15.02. Batching plant associated with a nonmetallic mine. An ancillary use to a nonmetallic mine where concrete is mixed.

15.03. Biofuels production plant. A facility where alcohol-based fuel products are produced from biomass and other materials. Various types of by-products may be produced as part of the production process.

15.04. Construction equipment repair. A place where construction equipment, such as dump trucks, excavators, graders, and scrapers, is typically left overnight for maintenance, service, or repair.

15.05. Construction equipment sales and rental. A place where new and used construction equipment, such as dump trucks, excavators, graders, and scrapers, is offered for rent, sale, lease, or exchange, or is taken on consignment. This use may include the repair of such equipment.





- 15.06. Contractor yard. A place where a contractor or builder may establish a base of operation, which may include one or more of the following: office space; indoor and outdoor storage of construction materials, equipment, and machinery, such as trucks and heavy equipment; and shops for the repair of machinery and equipment owned by the operator.
- 15.07. Industrial, heavy. A place where raw materials are processed or refined. The term includes batching plants, sawmills, foundries, and power plants. The term does not include a biofuels production plant which is listed as a separate land use in this series.



- 15.08. Industrial, light. A place where finished products or parts from previously prepared materials are manufactured, including processing, fabrication, assembly, treatment, packaging, incidental storage, and administrative offices. The term includes furniture production, metal fabrication, apparel manufacturing, printing, and publishing.
- 15.09. Nonmetallic mine. A place where nonmetallic minerals are removed from the ground by any method for use on site or off site. The following activities may be associated with a nonmetallic mine: excavating and transporting nonmetallic minerals, stockpiling of nonmetallic minerals, blending of nonmetallic minerals, blasting, grading, crushing, screening, scalping, and dewatering.
- 15.10. Salvage yard. A place where salvage materials, such as scrap metal, rubber tires, and used timber and lumber, may be bought, sold, exchanged, stored, baled, packed, disassembled, or handled. (In contrast, see "recycling center," Series 16.02.)

## **§610d Waste Facilities**

- 16.01. Composting facility. A place where vegetation (but not food wastes) may be collected and composted. The term includes the storage and manipulation of materials prior to, during, and following composting.
- 16.02. Recycling center. A place where recoverable materials, which have been previously removed from the waste stream, may be stored prior to shipment to others who use those materials to manufacture new products.
- 16.03. Solid waste landfill. A place where solid waste from municipal and/or industrial sources may be permanently buried consistent with environmental protection standards. Typically, the solid waste is spread in layers, compacted, and covered with a fresh layer of earth materials each day. The term does not include land application units, surface impoundments, injection wells, or waste piles.



- 16.04. Solid waste transfer station. A place where solid waste may be temporary stored prior to transport to a processing plant or to final disposal.

### **Accessory Uses**

- 17.01. Adult family home. A private residence licensed by the state under § 50.032(1m), Wis. Stats.
- 17.02. Amateur radio antenna. An antenna and related support structure used by a licensed user to send and receive telecommunications for noncommercial purposes.
- 17.03. Automated teller machine. An automated device for conducting financial transactions that is accessed from outside of a building.
- 17.04. Backyard chickens. A place where chickens are kept for the use and enjoyment of those living on the premises, but not for commercial purposes. The sale of a chicken as part of a 4-H or similar educational project shall not be considered a commercial purpose. (Also see "household livestock," which is considered a separate and distinct land use.)
- 17.05. Bed-and-breakfast. A single-family residence that offers overnight accommodations for a daily charge and that also serves as a primary residence of the operator or owner.

- 17.06. Beekeeping. The keeping of one or more honeybee colonies by a beekeeper.
- 17.07. Boat dock. A pier or wharf.
- 17.08. Boathouse. A building placed above or near a water body that is used for the noncommercial storage of one or more watercraft and related equipment.
- 17.09. Commercial truck parking. The parking of a commercial-type vehicle on a residential lot when such vehicle is owned or leased and operated by a person living in the dwelling unit.
- 17.10. Exterior communication device. An antenna used to capture wireless telecommunication signals.
- 17.11. Family day-care home. A private residence licensed as a day-care center by the state where care is provided for four to eight children.
- 17.12. Farm storage building. A building once used for agricultural purposes in which motor vehicles, construction equipment and vehicles, recreational vehicles, boats, and other related items may be stored. Minor repair and maintenance of those objects in storage is permitted, provided such activity is for noncommercial purposes.



- 17.13. Farmstead retail outlet. A place where food products are offered for retail that are predominantly produced on the farm on which it is located. The term includes wine tasting rooms.
- 17.14. Fence. A linear structure constructed for aesthetics, as a visual barrier, and/or to control entry or exit into an area. Typical materials include wood, concrete, metal, wire, masonry, stacked rocks, or logs.
- 17.15. Foster home and treatment foster home. A facility licensed by the state for the care of foster children and which is operated by a foster parent who lives with the children.
- 17.16. Garage, nonresidential. A building intended to house motor vehicles, yard equipment, and/or items related to the principal use of the premises.
- 17.17. Garage, off-site. A freestanding building intended to house motor vehicles, yard equipment, and household items belonging to the people that own the lot on which it is located.
- 17.18. Garage, residential. A building intended to house motor vehicles, yard equipment, and household items belonging to the people

occupying the principal residence on the lot. A residential garage may be detached or attached to a building with a residential use. A carport shall be considered to be a residential garage.

- 17.19. Garden. A plot for growing fruits, vegetables and flowers.
- 17.20. Greenhouse. A building intended for the propagation of delicate or out-of-season plants whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated.
- 17.21. Helipad. A designated place where helicopters can land and take off, and which has no related support services or facilities.
- 17.22. Home occupation, major. An occupation, profession, enterprise, or similar commercial activity that is conducted within a dwelling unit and/or an accessory building and that is compatible in size and scope in a residential setting. Clients may occasionally come to the home, but no more than two clients at a time and by appointment only. The term does not include hobbies or similar noncommercial activities.
- 17.23. Home occupation, minor. An occupation, profession, enterprise, or similar commercial activity that is conducted entirely within a dwelling unit and that is compatible in size and scope in a residential setting. A minor home occupation does not entail clients coming to the home. The term does not include hobbies or similar noncommercial activities.
- 17.24. Hot tub. An outdoor warm water reservoir usually with hydro-massage jets. A hot tub may be built in or portable.
- 17.25. Household livestock. A place where livestock are kept for the use and enjoyment of those living on the premises, but not for commercial purposes. The sale of an animal as part of a 4-H or similar educational project shall not be considered a commercial purpose. (Also see "backyard chickens," which is considered a separate and distinct land use.)
- 17.26. Indoor sales incidental to light industrial use. A place where items manufactured on site are offered as a subordinate use to the manufacturing operation.
- 17.27. Light industrial use incidental to indoor sales. A place where light repairs are made to products that are offered for retail or wholesale sale.
- 17.28. Outdoor display incidental to indoor sales. A place where a limited line of merchandise is displayed outside of a retail sales business over an extended period of time. Sales agents are not assigned to assist customers here and sales transactions occur inside the building.



17.29. Outdoor food and beverage service. An outdoor area with tables and chairs located on the same lot as a brewpub, restaurant, or tavern where customers can consume food and drink.

17.30. Outdoor furnace. An apparatus designed to burn solid or liquid combustible materials (e.g., corn, wood, wood pellets, coal, and fuel oil) to produce heat and/or hot water for a building in which it is not located.



17.31. Parking lot (on site). A parking lot located entirely on the parcel it is intended to serve.

17.32. Play structure. A playhouse and recreational equipment, such as swings, slides, basketball hoops, and jungle gyms, normally found in a residential setting.



17.33. Pond. Man-made body of water exceeding 100 square feet that is not required for the purposes of stormwater management.

17.34. Service window, drive-up. An opening in a building through which patrons are served while remaining in a motor vehicle.



17.35. Service window, walk-up. An opening in a building through which patrons are served while standing outside of the building.

17.36. Solar energy system, building-mounted. An installation of equipment mounted on a building or incorporated into the exterior building materials that uses sunlight to produce electricity or provide heat or water to a building.

17.37. Solar energy system, freestanding. An installation of equipment mounted on the ground that uses sunlight to produce electricity or provide heat or hot water to a building. (In contrast see "solar energy system," Series 12.01.)



17.38. Solar panel. A panel consisting of equipment that converts light from the sun into electricity or which heats water using the light from the sun.

17.39. Storage container. An enclosed metal container exceeding 900 cubic feet typically used to temporarily store merchandise.



17.40. Swimming pool. A structure, as defined by Village of Fox Crossing Municipal Code § 383-50A, that is placed on the ground surface or below-ground that is filled with water or capable of being filled with water for swimming.

17.41. (Reserved)<sup>53</sup>

17.42. Utility cabinet. A ground-mounted pedestal, junction box, cabinet, or similar feature that a service provider uses to provide telephone, electric, natural gas, cable television, cable internet, or similar public service. A utility cabinet may be located within a public right-of-way or on private property.



17.43. Yard shed. An accessory building designed to store yard furniture and tools, equipment, and supplies normally associated with lawn and garden care.

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**53.Editor's Note: See Series 4.08, Temporary shelter.**



**Temporary Uses**

18.01. Agricultural product sales, off-site. A place where agricultural products not produced on the premises are offered for sale at retail.



18.02. Agricultural product sales, on-site. A place where agricultural products produced exclusively on the premises are offered for sale at retail.



18.03. Earth materials stockpile. A place where an earth material, such as topsoil and gravel, derived from an on-site land development project, is piled and temporarily stored until taken to an off-site location.



18.04. Farmers' market. A place where agricultural producers gather on a regular basis to offer their agricultural products directly to retail consumers.





18.05. General outdoor sales. An outdoor area where merchandise is displayed for retail sales over a limited duration. The merchandise may be offered by one or more vendors and be displayed out of doors and/or within a nonpermanent structure, such as a trailer or tent. The term includes flea markets and bazaars. The term does not include seasonal product sales, rummage sales, agricultural product sales, or farmers' markets.

18.06. Model home. A residential dwelling in a residential development temporarily used as a sales office for other on-site and off-site residential dwellings and properties.



18.07. Off-site construction yard. A place where construction materials and equipment may be stored, prepped, or staged for an off-site construction project (e.g., highway reconstruction project or construction of an electric transmission line or pipeline).

18.08. On-site construction office. A portable building or enclosed trailer temporarily placed on a construction site for use by the contractor as a field office.





- 18.09. On-site construction yard. A place where construction materials, equipment, and the like may be stored, prepped, or staged for an on-site construction project.
- 18.10. Portable storage container. An enclosed metal container that is used to temporarily store household items and similar goods.



- 18.11. Relocatable building. A portable building or enclosed trailer temporarily placed on a parcel that may be used in conjunction with the principal use of the property. For example, relocatable buildings are used to house students during a construction project or accommodate enrollment in excess of the principal building's design capacity. A mobile home or manufactured home is not considered a relocatable building.
- 18.12. Seasonal product sales. An outdoor area where merchandise typically associated with a seasonal holiday or festival is displayed and offered for sale at retail immediately before the event. Examples of such merchandise include Christmas trees and wreaths for Christmas and pumpkins for Halloween.
- 18.13. Snow disposal site. A place where snow that accumulates on another site is stored and allowed to naturally melt.
- 18.14. Wind test tower. A tower on which equipment is attached that measures parameters needed to assess the site's suitability for a wind energy system.
- 18.15. Yard sale. A temporary event where used household items are offered for sale.



**ARTICLE 4**  
**Administrative Bodies**

DIVISION 1  
**Planning Commission**

**§ 435.4-01. Authority.**

- A. Right to enter property. The Commission, along with its individual members and authorized agents, may enter upon land, with proper identification, which is the subject of a pending application it has authority to act on.
- B. Text amendments. The Commission may recommend to the Village Board changes to the text of this chapter.
- C. Zoning Map amendments. The Commission shall review, hear and recommend to the Village Board changes to the Zoning Map.
- D. Conditional uses. The Commission shall review, hear, and make decisions regarding conditional uses.
- E. Planned unit development overlay districts. The Commission shall review, hear, and recommend decisions regarding planned unit development overlay districts to the Village Board



DIVISION 2  
**Zoning Board of Appeals**

**§ 435.4-02. Establishment.**

Pursuant to §§ 62.23(7)(e) and 61.35, Wis. Stats., a Zoning Board of Appeals (ZBA) is established to undertake the responsibilities as defined in this chapter and as allowed by state law.

**§ 435.4-03. Authority.**

- A. Administrative appeals. The Zoning Board of Appeals (ZBA) shall hear and decide administrative appeals consistent with the requirements in Article 7 of this chapter where it is alleged that the Zoning Administrator failed to act as required by this chapter; made an error in issuing a permit or in denying an application; made an error in enforcement; or made an error in an interpretation or any other determination. In exercising these powers, the ZBA may compel the administrative official to act as required or reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination being appealed and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.
- B. Variances. The Zoning Board of Appeals shall hear and decide variances consistent with the requirements in Article 7 of this chapter.
- C. Right to enter. The Zoning Board of Appeals, along with its individual members and authorized agents, may enter upon land, with proper identification, which is the subject of a pending application.
- D. Amendments to this chapter. The Zoning Board of Appeals may recommend amendments to this chapter to the Village Board as it deems advisable.

**§ 435.4-04. Authority of Chairperson.**

The Chairperson of the Zoning Board of Appeals or Acting Chairperson may administer oaths and compel the attendance of witnesses.

**§ 435.4-05. Composition and appointment of members.**

- A. Number and appointment. The Zoning Board of Appeals shall consist of five regular members appointed by the Village President with the approval of the Village Board.
- B. Alternates. The Village President with the approval of the Village Board shall appoint two alternates to the Zoning Board of Appeals for staggered three-year terms and annually appoint one of them as the first alternate and the other as the second alternate.

- C. Considerations in making appointments. Regular members and alternates of the Zoning Board of Appeals shall reside in the Village of Fox Crossing. A Village official, Village employee, or Planning Commissioner shall not serve as a regular member or as an alternate.
- D. Terms. Each regular member and alternate on the Zoning Board of Appeals shall be appointed to hold office for a period of three years, except those regular members first appointed as follows: one shall serve for one year, two for two years, and two for three years. Terms shall commence and expire on April 1 of the appropriate year. The incumbent members shall continue to serve until their term expires.
- E. Vacancies. Vacancies on the Zoning Board of Appeals shall be filled for the unexpired term of any member or alternate whose term becomes vacant.
- F. Removal. The Village President may remove a regular member or an alternate from the Zoning Board of Appeals for just cause.

#### **§ 435.4-06. Officers.**

The Zoning Board of Appeals shall choose a Chairperson from among its regular members.

#### **§ 435.4-07. Board procedures.**

The Zoning Board of Appeals may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other Village and county regulations, and state law and shall be filed in the office of the Village Clerk.

#### **§ 435.4-08. Meetings.**

Meetings of the Zoning Board of Appeals shall be open to the public unless conducted in closed session as authorized by state law. Meetings, except for site visits, shall be conducted at the Municipal Complex or in such other public place as may be selected by the ZBA.

#### **§ 435.4-09. Meeting minutes.**

The Zoning Board of Appeals shall keep minutes of its proceedings. Minutes, once approved by the ZBA, shall constitute a public record and shall be kept in the office of the Village Clerk. The ZBA may amend previously adopted minutes provided such revision is based on substantive evidence.

#### **§ 435.4-10. Schedule of meetings.**

Meetings shall be held at the call of the Chairperson and at such other times as the Zoning Board of Appeals may determine.

**§ 435.4-11. Voting and quorum.**

- A. Requirements for quorum. A quorum shall consist of four voting members.
- B. Requirements for voting. A decision of the Zoning Board of Appeals shall be by majority vote of the members present at a meeting in which a quorum is in attendance and voting.
- C. Disqualification or voluntary abstention. A member shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when:
  - (1) The member has a direct financial interest in the outcome of the matter at issue;
  - (2) The member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest;
  - (3) Participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
  - (4) Another law precludes participation.
- D. Voting by alternates. The first alternate may vote only when one of the regular members of the Zoning Board of Appeals is absent or is not able to vote on a pending matter. The second alternate may vote only when the first alternate is absent or is not able to vote or when more than one regular member is absent or is not able to vote.

**§ 435.4-12. Compensation of members.**

The regular members and alternates of the Zoning Board of Appeals may be compensated as determined by the Village Board.



DIVISION 3  
**Zoning Administrator**

**§ 435.4-13. Establishment.**

The position of Zoning Administrator is established to undertake the responsibilities as defined in this chapter and as allowed by state law.

**§ 435.4-14. Appointment of Zoning Administrator.**

The Director of Community Development shall be appointed to serve as the Zoning Administrator. The Zoning Administrator may not be removed from his or her position except for just cause.

**§ 435.4-15. Authority.**

The Zoning Administrator shall administer, supervise, and enforce the provisions of this chapter and in furtherance of those duties shall have the authority to:

- A. Authorize other department employees as designees to assist in the administration of this chapter;
- B. Meet with applicants to advise them of the requirements of this chapter;
- C. Issue administrative permits;
- D. Issue written interpretations relating to this chapter;
- E. Revoke or modify any administratively issued permit or interpretation with reasonable cause;
- F. Keep a written record of permits issued, interpretations made, inspections, work approved, enforcement activities, and other similar official actions;
- G. Prepare staff reports consistent with this chapter and make recommendations as may be required or deemed appropriate;
- H. Prepare meeting agendas for the Planning Commission and Zoning Board of Appeals and submit them to the appropriate Chairperson for review and approval;
- I. Investigate complaints regarding alleged violations of this chapter;
- J. Have access to premises, public or private, during reasonable hours to conduct inspections deemed necessary to ensure compliance with this chapter;
- K. Procure a special inspection warrant in accordance with § 66.0119, Wis. Stats., if a property owner does not give the Administrator permission to enter a property to verify compliance with this chapter;



- L. Issue violation notices;
- M. Issue stop-work orders;
- N. Initiate legal proceedings to correct violations;
- O. Develop, amend, and utilize application forms, checklists, and other forms he or she deems appropriate to administer the development review processes contained in this chapter;
- P. Recommend amendments to this chapter and to other chapters of the Municipal Code of the Village of Fox Crossing relating to land use and development; and
- Q. Undertake any other activity not enumerated in this section that is necessary to administer and enforce this chapter or any other section of the Municipal Code of the Village of Fox Crossing as may be appropriate.

**§ 435.4-16. Conflict of interest.**

The Zoning Administrator and/or authorized designee of the Zoning Administrator shall not perform work on a proposed or approved development project in which he or she has a conflict of interest.

**ARTICLE 5**  
**General Review Requirements**

DIVISION 1  
**Generally**

**§ 435.5-01. Legislative findings.**

The Village Board makes the following legislative findings:

- A. Development review processes should be easily understood and well-structured, and only involve those steps and requirements that are needed to properly review the application.
- B. The general public, property owners in the area, and affected agencies have a right to know about certain proposed development projects and have meaningful participation in the review process.
- C. Written findings should accompany adjudicative decisions to serve as a permanent record documenting the reasons for approval or denial and the conditions of approval, if any.
- D. Enforcing the rules and regulations contained in this chapter is an important function of government.

**§ 435.5-02. Purpose.**

The development review requirements and procedures in this chapter are intended to:

- A. Provide efficient and timely review of applications and ensure fairness and due process;
- B. Ensure that applications are reviewed consistently by establishing criteria in making recommendations and final decisions; and
- C. Ensure complete and timely compliance.

**§ 435.5-03. Authority to file application.**

Unless otherwise specified in this chapter, the owner of the property or a person having the power of attorney for the property owner shall sign the application submitted for review.

**§ 435.5-04. Permission to enter subject property.**

Submission of an application as may be required in this chapter authorizes Village officials and employees, or other designated agents, to enter the subject property to verify information in the application and to conduct other site investigations as may be necessary to review the application. Failure to allow access to the subject property is sufficient grounds to deny the application.

**§ 435.5-05. Burden of proof.**

- A. During application review process. During the application review process, the applicant has the burden of proof to show that the proposed development is consistent with this chapter.
- B. During appeal of an administrative decision. During an administrative appeal proceeding, the petitioner has the burden of proof to show that such decision is not consistent with this chapter.
- C. During enforcement proceedings. During enforcement proceedings, the Zoning Administrator or administrative unit taking enforcement action has the burden of proof to show that the action or development is in violation of this chapter.

**§ 435.5-06. Effect of outstanding violation.**

If the Zoning Administrator determines that a parcel is in violation of this chapter, no permit or approval of any kind shall be granted under this chapter that would benefit such parcel, except to correct the violation, or as may be required by state law.

**§ 435.5-07. Concurrent review.**

To the extent possible, when a development project requires multiple reviews, the reviews should be done concurrently. When one approval is a condition precedent to approval of another application, the approvals shall be issued in the requisite order.

**§ 435.5-08. Application fees and other charges.**

- A. Assessment of fees. As deemed necessary for the administration of this chapter, the Village Board may, by resolution, establish application fees and other charges, as set forth in the Village Fee Schedule.
- B. Timing for payment. Application fees shall be paid at the time the application is submitted for review.
- C. Doubling of application fee. If an activity which requires prior authorization under this chapter is started before the authorization is granted, the application fee is automatically doubled. Payment of such fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter.
- D. Refunds. Application fees are nonrefundable, except when the application and fee were accepted by the Zoning Administrator or Village staff in error.

**§ 435.5-09. Charge back of professional service fees.**

- A. Generally. The Village Board may require an applicant to be responsible for paying the professional service fees of individuals or private firms

the Village elects to hire to assist in the review of a submitted application. Such fees may cover time, materials, and other related expenses of attorneys, planners, engineers, and other specialists, and their support staff. Payment of fees is required whether the application is approved or not.

- B. Billing procedure. The Zoning Administrator shall prepare an itemized statement of the professional service fees to be charged and provide a copy to the applicant. Such statement shall be in writing and shall contain, at a minimum, the following information:
- (1) A statement that the applicant has a specified period of time, not less than 30 days, to pay;
  - (2) A statement that the applicant may appeal one or more of the itemized charges to the Village Board within 15 days of the date of the statement; and
  - (3) A statement that any unpaid charge will be assessed as a delinquent charge against the subject property.
- C. Appeal of charges. To appeal one or more charges, the applicant shall submit a written appeal to the Zoning Administrator within the appeal period stated on the statement. The Village Board shall consider the matter at its next regular meeting, provided the date of the meeting is 10 days or more from the date the appeal is received. The Village Board shall have the power to approve the charges as assessed or reduce the amount of charges in whole or in part with cause.
- D. Nonpayment. If the applicant does not appeal the charges within the time period specified in the statement, the Village Treasurer shall automatically charge any unpaid amount as a delinquent tax against the property as provided by state law. In the event the applicant submits an appeal as provided in this section, no charges shall be placed on the tax roll unless and until such time as the Village Board approves the charges against the tax roll in whole or in part. When a charge becomes delinquent, if it is too late to put the charge on the current year's tax bill, then the delinquent charge shall be extended to the following year's tax roll.

**§ 435.5-10. Nonconfidentiality of submitted information.**

All written information that an applicant submits to Village staff during a pre-submittal meeting or at any point in the review process is considered part of the public record subject to state and local law.

**§ 435.5-11. Nature of staff comments.**

Statements and recommendations that are made by the Zoning Administrator, other Village staff, and other representatives prior to or during the application review process shall not be binding on the decision-making body responsible for making the final decision.

**§ 435.5-12. Withdrawal of application.**

- A. Timing of withdrawal. An applicant may withdraw an application anytime after submittal but prior to a final decision.
- B. Effect of withdrawal. A request to withdraw an application terminates the review process and no decision shall be rendered.
- C. Retention of application materials. A withdrawn application and related review documents shall be kept as a permanent public record.

**§ 435.5-13. Appeals.**

- A. Commencement of work prior to end of appeal period. If a development project is approved under this article, the applicant may, upon receipt of the decision notice and satisfaction of all precedent conditions of approval, commence with the work as authorized under the approval with the understanding that another qualified party may file an appeal with the appropriate review body. Prior to the end of the appeal period, all such work proceeds at the risk of the applicant.
- B. Effect of appeal on approval. If a qualified party appeals a decision granting approval, the approval shall be stayed and all work authorized by the approval shall cease until the reviewing body issues a final ruling relating to the approval.

**§ 435.5-14. Application review schedule.**

- A. Authority. The Zoning Administrator shall from time to time prepare a schedule establishing deadlines for submitting the various types of applications.
- B. Publication of schedule. The Zoning Administrator shall make the current review schedule available to the public and may post it on the Village's website.

**§ 435.5-15. Application forms.**

The Zoning Administrator shall prepare application forms and may amend them from time to time.

**§ 435.5-16. Other approvals.**

It is the responsibility of those undertaking development projects within the Village to obtain all applicable permits and other approvals as may be required elsewhere in the Village of Fox Crossing Municipal Code and from federal, state, and local authorities as may be required.

**§ 435.5-17. Building permit.**

A building permit for the construction of a new building or the expansion of an existing building shall not be issued until such time as a zoning permit has been issued or a written determination is made that one is not required.



DIVISION 2  
**Notice Requirements**

**§ 435.5-18. Generally.**

The type of notice that is given for each of the various procedures outlined in this article is dictated by the nature of the decision. Administrative decisions, such as a zoning permit, involve very little discretion. Either the proposed development meets the standards in this chapter or it does not. In contrast, there are other decisions that involve more discretion and judgment based on particular circumstances. The review of a conditional use application, for example, involves discretion on the part of those involved in making recommendations and final determinations on whether the application should be approved or not. As a general rule, notice for an application is not given for administrative decisions. More notice is given when a proposed action could potentially affect other parties, including nearby property owners, other governmental bodies, and the general public. This division outlines when notice is to be given and the nature of the notice when it is required.

**§ 435.5-19. When notice is required.**

Notice shall be provided as shown in Exhibit 5-1.

<b>Exhibit 5-1. Notice</b>				
<b>Type of Action</b>	<b>Class 2 Public Notice</b>	<b>Property Owner Notice</b>	<b>Agency Notice</b>	<b>Meeting Agenda</b>
Code amendment — map amendment — landowner initiated	X <sup>1</sup>	X	X	X
Code amendment — map amendment — Village initiated	X <sup>1</sup>	X	X	X
Code amendment — text amendment	X <sup>1</sup>	—	X	X
Planned development overlay district establishment	X	X	X	X
Conditional use	X	X	X	X
Determination of unsafe conditions	X	X	—	X
Termination of approval	X	X	—	X
Variance	X	X	X	X
Administrative appeal	X	X	X	X



<b>Exhibit 5-1. Notice</b>				
<b>Type of Action</b>	<b>Class 2 Public Notice</b>	<b>Property Owner Notice</b>	<b>Agency Notice</b>	<b>Meeting Agenda</b>
Building, site, and operation plan upon appeal	—	—	—	X

Key: An "X" means that the indicated notice is required; a dash "—" means that the indicated notice is not required.

Note 1: If the proposed amendment would have the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the Village Clerk.

**§ 435.5-20. Content of required notice.**

Notices shall include the information as listed in Exhibit 5-2.

<b>Exhibit 5-2. Content of Notice</b>			
	<b>Public Notice</b>	<b>Property Owner Notice</b>	<b>Agency Notice</b>
Applicant name	X	X	X
Subject property address or legal description by which the public can locate the subject property	X	X	X
Nature of the application	X	X	X
A description of the proposed project	X	X	X
Name of body or official who will consider the application	X	X	X
Date, time and location of the public hearing	X	X	X
If the action is administrative, the date by which an administrative decision will be made (no sooner than 21 days from the date of the notice)	—	X	X

<b>Exhibit 5-2. Content of Notice</b>			
	<b>Public Notice</b>	<b>Property Owner Notice</b>	<b>Agency Notice</b>
If the action is administrative, a statement that interested parties may request the reviewing entity conduct a public hearing to accept public input	—	X	—
Location where the public can view the application	X	X	X
The criteria that will be used to evaluate the proposal	—	X	X
General location map	X	X	X

Key: An "X" means that the indicated information is required; a dash "—" means that the indicated information is not required.

**§ 435.5-21. Cost to provide notice.**

Using proceeds from the application fee, the Village shall pay the costs related to the provision of notice required under this division.

**§ 435.5-22. Public notice.**

When required, the Zoning Administrator shall place public notice in the official newspaper consistent with the following provisions:

- A. Time requirements. A Class 2 notice shall be published once each week for two consecutive weeks, the last one occurring at least seven days before the meeting or hearing.
- B. Content. The notice shall include the information listed in Exhibit 5-2.
- C. Affidavit of mailing. The Administrator shall prepare an affidavit of mailing to certify that a notice was mailed as described in this section.

**§ 435.5-23. Property owner notice.**

When required, the Zoning Administrator shall mail a notice to each owner of record of property located in the Village of Fox Crossing within 300 feet of the subject property involved in the application consistent with the following provisions:

- A. Time requirements. The notice shall be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.

- B. Content. The notice shall include the information listed in Exhibit 5-2.
- C. Source of names and addresses. The names and addresses of property owners shall be deemed to be those listed on the tax records maintained by Winnebago County.
- D. Failure to notify owner. The failure of an owner of record to receive notice shall not invalidate or otherwise have any effect upon a public hearing or other action taken on the application.
- E. Additional notice. When the applicant also owns the land adjoining the subject property involved in the application, the Administrator shall mail a notice to those property owners within 300 feet of such property.
- F. Affidavit of mailing. The Administrator shall prepare an affidavit of mailing to certify that a notice was mailed as described in this section.

**§ 435.5-24. Agency notice.**

When required, the Zoning Administrator shall mail a notice to affected agencies consistent with the following provisions:

- A. Time requirements. The notice shall be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.
- B. Content. The notice shall include the information listed in Exhibit 5-2.
- C. Failure to notify owner. The failure of an agency to receive notice shall not invalidate or otherwise have any effect upon a public hearing or other action taken on the application.
- D. Affidavit of mailing. The Administrator shall prepare an affidavit of mailing to certify that a notice was mailed as described in this section.

**§ 435.5-25. Meeting agenda notice.**

When required, the body responsible for acting on the application shall place the item on its meeting agenda.

**§ 435.5-26. Affidavit of mailing.**

An affidavit of mailing provides documentary evidence that a mailing as required in this chapter was mailed. An affidavit of mailing shall be kept as a public record.

DIVISION 3  
**Public Hearings**

**§ 435.5-27. Legislative findings.**

The Village Board makes the following legislative findings:

- A. Public hearings should be conducted in an orderly, timely, and efficient manner.
- B. Public input is important and should be encouraged.

**§ 435.5-28. General requirements.**

- A. Meetings to be public. All public hearings shall be conducted in the Village Municipal Complex or in such other public place as may be selected by the body conducting the hearing.
- B. Notice of meetings. Notice of public hearings shall be given as provided for in Division 2 of this article.

**§ 435.5-29. General procedure.**

The presiding officer conducting the public hearing shall follow this procedure as a general guideline:

- A. Ask for a motion and a second to open the public hearing.
- B. Announce the purpose and subject of the public hearing.
- C. Determine whether public notice as required by this chapter has been provided. If notice has not been provided, the hearing shall be postponed until such time as proper notice has been provided.
- D. Ask if any member of the body conducting the public hearing has a conflict of interest in regard to the matter being discussed and excuse those who do.
- E. Ask the staff to present a staff report.
- F. Ask the applicant to describe the proposal.
- G. Allow members of the body conducting the public hearing to direct questions to the applicant and staff, if present.
- H. Ask for statements from the public.
- I. Read aloud any written statements which were submitted by those who could not be in attendance.
- J. Announce that the body may not accept any additional comment from the applicant or any member of the public once the public hearing is closed.

K. Ask for a motion and second to close the public hearing.

**§ 435.5-30. Continuances.**

- A. Prior to start of public hearing. In the event the applicant or the applicant's agent is not present for the public hearing, the body conducting the public hearing may authorize a continuance.
- B. During a public hearing. Prior to the close of the public hearing, the applicant may request a continuance and the body conducting the public hearing may agree to the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a continuance, but the applicant is not required to grant such request. If the applicant does not grant a continuance, the body shall act on the information at its disposal.
- C. Effect. A continuance stops the time clock for making a decision.
- D. Notice requirements. A public hearing may be continued to a later date without again providing public notice, provided the time and date for the continued hearing are announced at the time of the continuance.

**§ 435.5-31. Public comment.**

- A. Time limitations on public comment. The presiding officer may impose a time limit on members of the public who wish to address the body conducting the public hearing to assure completion of the agenda in a timely manner. Under no circumstance shall such time limit be less than three minutes.
- B. Written comment. Prior to the close of the public hearing, members of the public may submit written comments to the body conducting the public hearing. A copy of such comments shall be provided to each member of the body conducting the public hearing or such comments shall be read aloud into the record.

**ARTICLE 6**  
**Specific Review Procedures And Requirements**

DIVISION 1  
**Text and Zoning Map Amendments**

**§ 435.6-01. Generally.**

From time to time, it may be necessary or desirable to amend the text of this chapter and the Zoning Map as established in Division 2 of Article 7. This division describes the procedures and requirements to amend this chapter and the Zoning Map.

**§ 435.6-02. Initiation.**

Any of the following may submit an application to amend the text of this chapter or the Zoning Map as established in Division 2 of Article 7:

- A. A property owner in the area to be affected by the proposed amendment;
- B. The Planning Commission; and
- C. Any member of the Village Board.

**§ 435.6-03. Application and review procedure.**

The general steps outlined below shall be used to amend the text of this chapter and the Zoning Map.

- A. Submittal of application materials. The applicant shall submit a complete application to the Zoning Administrator along with the application fee as may be established by the Village Board.
- B. Staff review. Within 10 working days of submittal, if the application is deemed complete, the Zoning Administrator shall schedule a date for the public hearing with the Planning Commission or, if the application is deemed incomplete, shall notify the applicant of any deficiencies. Failure to submit a fee or a fee in the correct amount shall not be considered an application. If the application is incomplete, the applicant has three months to resubmit the application or forfeit the application fee. The Zoning Administrator shall take no further steps to process the application until the deficiencies are remedied.
- C. Special notice to Outagamie and Winnebago Counties. If the proposed amendment includes land that is in the Outagamie County Airport Overlay District and/or the Winnebago County Shoreland Overlay Districts, the applicant is responsible for contacting the respective county or counties.
- D. General notice. Notice shall be provided consistent with Division 2 of Article 5.

- E. Staff report preparation and distribution. The Zoning Administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Planning Commission and the applicant. The Zoning Administrator shall also provide a copy to interested people upon request.
- F. Public hearing. Allowing for proper notice, the Commission shall conduct a public hearing consistent with Division 3 of Article 5.
- G. Planning Commission recommendation. The Commission shall make a written recommendation to the Village Board to:
  - (1) Deny the proposed amendment;
  - (2) Approve the proposed amendment without revision;
  - (3) Approve the proposed amendment with revisions; or
  - (4) Refer the decision to the next regular Commission meeting if the Commission determines that additional information is needed to make a decision on the application.
- H. Transmittal of determination. If the Commission action is favorable, it shall cause an ordinance to be drafted effectuating its determination and shall forward the proposed ordinance along with its recommendation to the Village Board. If the Commission action is not favorable, the Commission shall report its determination to the Village Board including its reasons for denial. Proof of publication of the public notice and proof of the giving of notice to the Village Clerk of the public hearing shall be attached to either report.
- I. Village Board decision. After reviewing the proposed ordinance and the Commission's report, the Village Board may:
  - (1) Enact the proposed amendment as drafted or with revisions;
  - (2) Deny the proposed amendment; or
  - (3) Refuse to deny the amendment as recommended by the Commission in which case it shall refer the petition back to the Commission with directions to draft an ordinance to effectuate the proposed amendment and report the ordinance back to the Village Board which may then enact or reject the ordinance.
- J. Required vote with protest of airport. If a proposed amendment would make any change in an airport affected area [as defined under § 62.23(6)(am)1b, Wis. Stats.] and the owner or operator of the airport protests against the proposed amendment, no ordinance which makes such change may be approved except by the affirmative vote of 2/3 of the members of the Village Board voting on the proposed change.

- K. Notification of decision. Within a reasonable time following the Village Board' decision, the Zoning Administrator shall notify the applicant of its decision.
- L. Administrative steps. If the Zoning Map is amended, the Zoning Administrator shall cause a new Zoning Map to be prepared consistent with Division 2 of Article 7.

**§ 435.6-04. Effective date of adopted ordinance.**

This ordinance amendment shall take effect and be in full force 24 hours after publication or posting by the Village Clerk.

**§ 435.6-05. Basis of decision.**

- A. Text amendment. If a proposed amendment would revise the text of this chapter, the Planning Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:
  - (1) Whether the amendment is consistent with the Village's Comprehensive Plan;
  - (2) Whether the amendment is consistent with other planning documents adopted by the Village Board;
  - (3) Whether the code with the amendment is internally consistent; and
  - (4) Any other factor not specifically or generally listed but deemed appropriate by the Planning Commission or Village Board given the particular circumstances.
- B. Zoning Map amendment. In reviewing a proposed Zoning Map amendment, the Planning Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:
  - (1) Whether the amendment is consistent with the Village's Comprehensive Plan, including any future land use maps or similar maps;
  - (2) Whether the amendment is consistent with other planning documents adopted by the Village Board;
  - (3) The extent to which the lot and structures on the subject property conform to the dimensional standards that apply to the proposed zoning district; and
  - (4) Any other factor not specifically or generally listed but deemed appropriate by the Commission or Village Board given the particular circumstances.

**§ 435.6-06. Imposition of conditions.**



- A. Generally. The Planning Commission may recommend and the Village Board may impose one or more conditions of approval as may be necessary to grant approval.
- B. Mandatory conditions of approval relating to certain existing land uses. If a proposed amendment would revise the Zoning Map and is initiated by a property owner and the subject property hosts a land use that at the time of application is not permitted in the proposed zoning district, such use shall be removed as a condition of approval. If the subject property hosts a land use that at the time of application is classified as a conditional use permit in the proposed zoning district, the property owner shall as a condition of approval submit a conditional use permit application and obtain approval for that land use or, if conditional use permit approval is not granted, remove such use.

**§ 435.6-07. Application content.**

- A. Map amendment. An application for a Zoning Map amendment shall include the following:
  - (1) An application form as may be provided by the Village;
  - (2) A project map prepared at an appropriate scale depicting the information listed in Appendix A;<sup>54</sup> and
  - (3) Other supporting information the applicant deems appropriate.
- B. Other amendments. For all other types of amendments, the application shall include the following:
  - (1) An application form as may be used by the Village; and
  - (2) Other supporting information the applicant deems appropriate.

**§ 435.6-08. Staff report content.**

The staff report shall contain the following:

- A. A summary of the comments received from agency review, if applicable;
- B. Preliminary findings concerning the decision criteria listed in this division;
- C. A recommendation to approve the proposed amendment, approve the proposed amendment with revisions, or deny the proposed amendment;
- D. A preliminary list of revisions, if appropriate, whether the staff recommendation is for approval or denial; and
- E. Other information deemed necessary.

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54. Editor's Note: Appendix A is included as an attachment to this chapter.

**§ 435.6-09. Appeal.**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§ 435.6-10. Informational brochures.**

The Zoning Administrator is authorized to prepare and update from time to time informational brochures describing the application process and submittal requirements for a zoning code text or map amendment, a conditional use permit, a variance, an administrative appeal to the Zoning Board of Appeals, and an appeal of a decision made by the Planning Commission and/or the Village Board relating to the administration and enforcement of this chapter.



## DIVISION 2

**Planned Development District****§ 435.6-11. Generally.**

A planned development district is a special zoning district that allows for more flexibility in the development of land while ensuring substantial compliance with the basic intent of this chapter and the Village's Comprehensive Plan.

**§ 435.6-12. Initiation.**

The owner of the subject property may submit an application for the establishment of a planned development district.

**§ 435.6-13. Where allowed.**

A planned development district shall only be established in those zoning districts in which they are specifically authorized.

**§ 435.6-14. Ownership.**

At the time of establishment, all land within a planned development district shall be under single ownership or control.

**§ 435.6-15. Development agreement.**

Depending on the nature of the planned development district, the developer and the Village may enter into a development agreement that specifies the duties and obligations of both parties with respect to development in the district.

**§ 435.6-16. Application and review procedure.**

The general steps outlined below shall be used in the review of an application for the establishment of a planned development district.

- A. Pre-submittal meeting. Before submitting an application, the applicant or the applicant's agent shall meet with the Zoning Administrator to review applicable regulations and procedures, applicable sections of the Village's Comprehensive Plan, and the proposal. The Zoning Administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary.
- B. Submittal of application materials. The applicant shall submit a completed application and other required materials to the Zoning Administrator along with the application fee as may be established by the Village Board.
- C. Staff review. Within five working days of submittal, the Zoning Administrator shall distribute copies to Village department heads for review and comment. Within 10 working days of submittal, the Zoning

Administrator shall either schedule a date for the public hearing allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has three months to resubmit the application or forfeit the application fee. The Zoning Administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.

- D. General notice. Consistent with Division 2 of Article 5, the Zoning Administrator shall provide for public notice, property owner notice, agency notice, and meeting agenda notice.
- E. Staff report preparation and distribution. The Zoning Administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Planning Commission, the applicant, and to the Village Clerk. The Zoning Administrator shall also provide a copy to interested people upon request.
- F. Public hearing. Allowing for proper notice, the Planning Commission shall conduct a public hearing to review the application consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the Planning Commission may request a continuance consistent with Division 3 of Article 5.
- G. Planning Commission recommendation. After the public hearing has been closed, the Commission shall make a recommendation to the Village Board based on the decision criteria contained in this division to approve the creation of the district, approve the creation of the district with conditions, or deny the creation of the district.
- H. Village Board decision. The Village Board shall review the recommendation of the Planning Commission and make a decision based on the decision criteria contained in this division to approve the creation of the district, approve the creation of the district with conditions, or deny the creation of the district.
- I. Preparation of decision notice. Based on the action of the Village Board, the Zoning Administrator shall prepare a decision notice consistent with this division.
- J. Applicant notification. Within a reasonable time following the Village Board's decision, the Zoning Administrator shall mail the decision notice to the applicant by regular mail.
- K. Acceptance by property owner required. If an approval includes one or more conditions of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the Zoning Administrator. The decision notice shall become effective upon the property owner's signature.

- L. Preparation of new Zoning Map. If the district is approved and accepted by the property owner, the Zoning Administrator shall cause a new Zoning Map to be prepared consistent with Division 2 of Article 7.
- M. Public records. If the district is approved, the Zoning Administrator shall keep a duplicate copy of the approved project plan and development agreement, if any, as a permanent record.

**§ 435.6-17. Basis of decision.**

The Planning Commission in making its decision shall consider the following factors:

- A. Size of the parcel on which the proposed use will occur;
- B. Whether development in the proposed district is consistent with the Village's Comprehensive Plan and any other long-range plans;
- C. The effects of development in the proposed district on traffic safety and efficiency and pedestrian circulation, both within and outside of the district;
- D. Whether the proposed plan for development in the district is compatible and properly coordinated with the existing and anticipated land uses on properties in the immediate vicinity and surrounding areas;
- E. The impacts of development within the proposed district on the natural environment;
- F. The effects of development in the proposed district on public services and facilities;
- G. Whether adequate water and sanitary sewer facilities can be provided to development in the proposed district; and
- H. Any other factor not listed above, but which relates to the public health, safety, or welfare.

**§ 435.6-18. Imposition of conditions.**

- A. Generally. The Planning Commission may impose conditions as may be necessary to grant approval. Such conditions may relate to any of the factors it considered in reaching its decision. In addition, the Commission may require the provision of off-site exactions that may be necessary to approve the establishment of the planned development district.
- B. Effect on contracts with another party. The Planning Commission shall not condition or withhold approval based upon the property owner entering into a contract, or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.

**§ 435.6-19. Application form and content.**

The application submittal shall include the following:

- A. An application form as may be provided by the Village;
- B. A master development plan prepared at an appropriate scale depicting the information listed in Appendix A;<sup>55</sup>
- C. A preliminary draft of covenants (if any are to be imposed); and
- D. A development schedule (if the project is to be constructed in phases), which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

**§ 435.6-20. Staff report content.**

The staff report shall contain the following:

- A. A summary of the comments received from the interdepartmental/agency review;
- B. Preliminary findings regarding the decision criteria listed in this division;
- C. A recommendation to approve the application, approve the application with conditions, or deny the application;
- D. A preliminary list of conditions of approval whether the staff recommendation is for approval or denial; and
- E. Other information as deemed necessary.

**§ 435.6-21. Effect of approval.**

If the planned development district is established, the approval shall run with the land and be binding on all subsequent property owners.

**§ 435.6-22. Effect of approved planned development district on land division standards.**

Development in a planned development district shall be subject to the land division regulations of Chapter 419, Land Division, of the Village of Fox Crossing Municipal Code to the extent applicable, except that the Planning Commission may waive a development standard in the land division regulations as provided therein.

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55. Editor's Note: Appendix A is included as an attachment to this chapter.

**§ 435.6-23. Review of actual development within approved planned development district.**

Once a planned development district is established, proposed development in the district shall be reviewed consistent with the requirements of this article, as may apply, and with Chapter 394, Development Standards and Site Plan Review, of the Village of Fox Crossing Municipal Code.

**§ 435.6-24. Amendment of approved planned development district.**

Following establishment of a planned development district, the Planning Commission shall review all proposed changes to the project plan that was approved at the time of approval of the district. If in the opinion of the Commission the proposed change constitutes a minor alteration, the Commission may approve the requested change at a regular or special meeting of the Commission. If the proposed change constitutes a major alteration, the full application and review procedure in this division shall be followed.

**§ 435.6-25. Revocation or modification of approval.**

Following a public hearing, the Planning Commission may revoke or modify an approval if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**§ 435.6-26. Expiration of approval.**

If any area of a planned development district that can be developed remains substantially undeveloped three years after the creation of the district, the Planning Commission shall have the authority to unilaterally rezone such area to a suitable classification. Upon written petition and with good cause, the Commission may grant a one-time extension not to exceed three years.

**§ 435.6-27. Appeal.**

- A. Appeal relating to procedural requirements. An aggrieved person who claims the required procedural requirements were not followed, in whole or in part, may file a written appeal with the Zoning Board of Appeals prior to issuance of a final decision or within 30 days of issuance of a final decision. If an appeal is filed with the Zoning Board of Appeals prior to issuance of a final decision, the Zoning Administrator, at his or her discretion, with concurrence of the applicant, if not the appellant, may suspend the review process until such time as the deficiency is remedied. The Zoning Board of Appeals shall only consider the procedural requirements and may not alter the decision of the Planning Commission. If the Zoning Board of Appeals determines that a procedure, in whole or in part, was not followed as required, the review process shall not progress until such time as the deficiency has been



remedied or the decision shall be stayed until such time as the deficiency and subsequent steps have been completed.

- B. Appeal relating to Zoning Board of Appeals decision or relating to the substantive decision. An aggrieved person may appeal the final decision of the Zoning Board of Appeals or the final decision of the Planning Commission to a court of competent jurisdiction within 30 days of the final decision.

DIVISION 3  
**Conditional Use Permit**

**§ 435.6-28. Generally.**

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as "conditional uses" and are listed in Table 7-1 in Division 3 of Article 7.<sup>56</sup> This division describes the requirements and procedures for reviewing a conditional use permit (CUP), including an amendment of an approved conditional use permit.

**§ 435.6-29. Initiation.**

The owner of the subject property may submit an application for the establishment of a conditional use permit.

**§ 435.6-30. Application and review procedure.**

The general steps outlined below shall be used in the review of an application for a conditional use permit.

- A. Pre-submittal meeting. Before submitting an application, the applicant or the applicant's agent shall meet with the Zoning Administrator to review applicable regulations and procedures, applicable sections of the Village's Comprehensive Plan, and the proposal. The Zoning Administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary.
- B. Submittal of application materials. The applicant shall submit a completed application and other required materials to the Zoning Administrator along with the application fee as may be established by the Village Board.
- C. Staff review. Within five working days of submittal, the Zoning Administrator shall distribute copies to Village department heads for review and comment. Within 10 working days of submittal, the Zoning Administrator shall either schedule a date for the public hearing with the Planning Commission allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. Failure to submit a fee or a fee in the correct amount shall not be considered an application. If the application is incomplete, the applicant has three months to resubmit the application or forfeit the application fee. The Zoning Administrator shall take no further steps to process the application until the deficiencies are remedied.

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**56.Editor's Note: Table 7-1 is included as an attachment to this chapter.**

- D. General notice. Consistent with Division 2 of Article 5, the Zoning Administrator shall provide for a Class 2 public notice, property owner notice, agency notice, and meeting agenda notice.
- E. Staff report preparation and distribution. The Zoning Administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Planning Commission, the applicant, and to the Village Clerk. The Zoning Administrator shall also provide a copy to interested people upon request.
- F. Public hearing. Allowing for proper notice, the Planning Commission shall conduct a public hearing consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the Commission may request a continuance consistent with Division 3 of Article 5.
- G. Planning Commission decision. After the public hearing has been closed, the Commission shall make a decision based on the decision criteria contained in this division to approve the CUP, approve the CUP with conditions, deny the CUP, or refer the decision to the next regular Commission meeting if the Commission determines that additional information is needed to make a decision on the application.
- H. Preparation of decision notice. Based on the action of the Commission, the Zoning Administrator shall prepare a decision notice consistent with this division.
- I. Applicant notification. Within a reasonable time following the Commission's decision, the Zoning Administrator shall mail the decision notice to the applicant by regular mail.
- J. Acceptance by property owner required. The property owner shall sign the decision notice to acknowledge the imposition of conditions and return the same to the Zoning Administrator. The decision notice shall become effective upon the property owner's signature.
- K. Public record copy. A duplicate copy of the decision notice shall be retained as a public record.

**§ 435.6-31. Basis of decision.**

The Planning Commission in making its decision shall consider the following factors:

- A. The size of the parcel on which the proposed use will occur;
- B. The presence of other uses on the subject property;
- C. The location of the proposed use on the subject property (e.g., proximity of the proposed use to other existing or potential land uses);
- D. Effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on site and off site;

- E. The suitability of the subject property for the proposed use;
- F. Effects of the proposed use on the natural environment;
- G. Effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
- H. Effects of the proposed use on the normal and orderly development of the surrounding property for uses permitted in the zoning district and adjoining zoning districts;
- I. Whether the proposed use is consistent with the Village's Comprehensive Plan and any other long-range plans; and
- J. Any other factor not listed above, but which relates to the public health, safety, or welfare.

**§ 435.6-32. Imposition of conditions.**

- A. Generally. The Planning Commission may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, and operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, or general welfare. Conditions which are imposed shall be achievable.
- B. Limitation on imposing conditions. A condition of approval shall not lessen a development standard or other requirement contained in this chapter.
- C. Effect on contracts with another party. The Planning Commission shall not condition or withhold approval based upon the property owner entering into a contract, or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.
- D. Special condition for business as property owner. As a condition of approval of a conditional use permit, the property owner, if it is a business entity, such as a limited liability company or a corporation, shall for the life of the conditional use permit continuously maintain a registered office in the State of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.

**§ 435.6-33. Application form and content.**

The application submittal shall include an application form as may be utilized by the Village and a project map prepared at an appropriate scale depicting the information listed in Appendix A.<sup>57</sup>

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**57. Editor's Note: Appendix A is included as an attachment to this chapter.**

**§ 435.6-34. Staff report content.**

The staff report shall contain the following:

- A. A summary of the comments received from the interdepartmental/agency review;
- B. Preliminary findings for the decision criteria listed in this division;
- C. A recommendation to approve the application, approve the application with conditions, or deny the application;
- D. A preliminary list of conditions whether the staff recommendation is for approval or denial; and
- E. Other information as deemed necessary.

**§ 435.6-35. Content of decision notice.**

- A. Approval. If the application for a conditional use permit is approved, the decision notice shall include the following:
  - (1) A statement that the application is approved;
  - (2) A description of the conditional use;
  - (3) A description of the project, including acreage and proposed use characteristics;
  - (4) Findings for the decision criteria listed in this division;
  - (5) A list of conditions of approval imposed by the Village that must be satisfied prior to the establishment of the conditional use or complied with during the life of the conditional use, or both;
  - (6) A statement indicating that the property owner must sign the decision notice and return it to the Zoning Administrator to acknowledge acceptance of the same if one or more conditions of approval are imposed;
  - (7) A statement that an aggrieved third party may appeal the decision to a court of competent jurisdiction and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (8) Other information the Planning Commission or Zoning Administrator deems appropriate;
  - (9) The signature of the Zoning Administrator on behalf of the Planning Commission; and
  - (10) The date of the decision.
- B. Denial. If the application for a conditional use permit is denied, the decision notice shall include the following:

- (1) A statement that the application is denied;
- (2) A description of the project, including acreage and proposed use characteristics;
- (3) Findings for the decision criteria listed in this division;
- (4) A statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration;
- (5) A statement that the decision may be appealed as provided for in this division;
- (6) Other information the Planning Commission or Zoning Administrator deems appropriate;
- (7) The signature of the Zoning Administrator on behalf of the Planning Commission; and
- (8) The date of the decision.

**§ 435.6-36. Effect of approval.**

When a conditional use permit approval authorizes the construction of a new structure eligible for assessment for real property tax purposes, the approval shall run with the land and be binding on all subsequent property owners.

**§ 435.6-37. Revocation or modification of approval.**

Following a public hearing, the Planning Commission may revoke or modify an approval if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**§ 435.6-38. Expiration of approval.**

- A. Non-establishment of use. If the Zoning Administrator determines that substantial work as authorized by a conditional use permit approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 6 of this article. Upon written petition and with cause, the Zoning Administrator may grant a one-time extension not to exceed six months.
- B. Cessation of use. If the Zoning Administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 6 of this article.

**§ 435.6-39. Amendment of approved conditional use permit.**

Following approval of a conditional use permit, the Planning Commission shall review all proposed changes to the approval. If in the opinion of the Commission the proposed change constitutes a minor alteration, the Commission may approve the requested change in writing at a regular or special meeting of the Commission without following the application and review procedure in this division. If the proposed change constitutes a major alteration, the application and review procedure in effect at the time of submittal shall be followed.

**§ 435.6-40. Violation of condition of approval.**

If a property owner does not comply with one or more conditions of approval, such action shall be deemed a violation of this chapter and cause for termination of the approval consistent with Division 6 of this article.

**§ 435.6-41. Appeal.**

- A. Appeal relating to procedural requirements. An aggrieved person who claims the required procedural requirements were not followed, in whole or in part, may file a written appeal with the Zoning Board of Appeals prior to issuance of a final decision or within 30 days of issuance of a final decision. If an appeal is filed with the Zoning Board of Appeals prior to issuance of a final decision, the Zoning Administrator, at his or her discretion, with concurrence of the applicant, if not the appellant, may suspend the review process until such time as the deficiency is remedied. The Zoning Board of Appeals shall only consider the procedural requirements and may not alter the decision of the Planning Commission. If the Zoning Board of Appeals determines that a procedure, in whole or in part, was not followed as required, the review process shall not progress until such time as the deficiency has been remedied or the decision shall be stayed until such time as the deficiency and subsequent steps have been completed.
- B. Appeal relating to Zoning Board of Appeals decision or relating to the substantive decision. An aggrieved person may appeal the final decision of the Zoning Board of Appeals or the final decision of the Planning Commission to a court of competent jurisdiction within 30 days of the final decision.

## DIVISION 4

**Conditional Use Permit for Specified Livestock Operations****§ 435.6-42. Generally.**

This division describes the procedural requirements relating to the review of new or expanded livestock operations that will have 500 or more animal units.

**§ 435.6-43. Initiation.**

The owner of the subject property may submit an application for the establishment of a livestock operation.

**§ 435.6-44. Application and review procedure.**

The general steps outlined below shall be used in the review of an application for a conditional use permit for a new or expanded livestock operation.

- A. Pre-submittal meeting. Before submitting an application, the applicant or the applicant's agent may meet with the Zoning Administrator to review applicable regulations and procedures and the proposed livestock operation.
- B. Submittal of application materials. The applicant shall submit four copies of the completed application form and worksheets prescribed by § ATCP 51.30, Wis. Adm. Code, to the Zoning Administrator along with the application fee as may be established by the Village Board.
- C. Determination of completeness. Within 45 days of submittal, the Zoning Administrator shall determine whether the application is complete or incomplete. If the Zoning Administrator determines that the application is incomplete, he or she shall send the applicant a written notice that describes the reason or reasons why the application is incomplete. If the Zoning Administrator determines that the application is complete, he or she shall send a written notice to the applicant within 14 days of such determination.
- D. Staff report preparation and distribution. The Zoning Administrator shall prepare a written staff report as described in this division and provide a copy of it to the Planning Commission and the applicant. The Zoning Administrator shall also provide a copy to interested people upon request.
- E. Notice to adjacent property owners. Within 14 days of a determination of completeness, the Zoning Administrator shall mail a completed notice as in Ch. ATCP 51, Wis. Adm. Code, to the recorded owner of each parcel of land that is adjacent to the proposed livestock facility. Such notices shall be mailed by first-class mail. Failure to comply with the notice requirement under this subsection does not invalidate the approval of a proposed livestock facility, or create a cause of action by a



property owner against the Village of Fox Crossing or any Village committee, Village board, or employee.

- F. General notice. Consistent with Division 2 of Article 6, the Zoning Administrator shall provide for meeting agenda notice in addition to the special notice sent to the adjoining property owners in the previous step.
- G. Meeting. Allowing for proper notice, the Planning Commission shall consider the application at a regular or special meeting.
- H. Decision. The Planning Commission shall approve the application, approve the application with conditions, or deny the application based on the decision criteria contained in this division. The Planning Commission may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 90 days after the Zoning Administrator determines the application is complete unless the applicant agrees to an extension of a specified duration. The Planning Commission may, with or without the consent of the applicant, extend the review period with good cause, including a determination that it needs more time to obtain additional information needed to act on the application, the applicant materially modified the application following a determination of completeness, or the applicant requested an extension. If the review period is extended, the Zoning Administrator shall provide the applicant with a written notice of such decision that contains a date by which the Planning Commission will act on the application.
- I. Preparation of decision notice. Based on the action of the Planning Commission, the Zoning Administrator shall within 15 days of such decision prepare a decision notice consistent with this division and give a copy to the applicant.
- J. Recordation of approval. If the application is approved, the applicant may record such decision in the office of the Register of Deeds.
- K. DATCP notification of decision.
  - (1) The Zoning Administrator shall send a copy of the decision notice, within 30 days of such decision, to the Wisconsin Department of Agriculture, Trade and Consumer Protection by mail or fax as follows:

Mail: Wisconsin Department of Agriculture, Trade and  
Consumer Protection

Agricultural Resource Management Division

Bureau of Land and Water Resources

PO Box 8911

Madison, WI 53708-8911

Fax: (608) 224-4615

(2) Failure to comply with this notice requirement shall not invalidate such decisions.

L. Compilation of public record. The Zoning Administrator shall compile all of the materials specified in § 435.6-54.

**§ 435.6-45. Basis of decision.**

The Planning Commission, in making its decision, shall consider whether the application complies with the standards set forth Division 7 of Article 7 and other provisions of this chapter as may be applicable.

**§ 435.6-46. Imposition of conditions.**

The Planning Commission may impose one or more conditions of approval provided they are limited to those actions required to comply with the standards related to livestock operations.

**§ 435.6-47. Application form and content.**

The application submittal shall include the application shown in Appendix A of Ch. ATCP 51, Wis. Adm. Code, along with any related worksheets, maps, or other material.

**§ 435.6-48. Staff report content.**

The staff report shall contain the following:

- A. Preliminary findings based upon the decision criteria listed in this division;
- B. A recommendation to approve the application, approve the application with conditions, or deny the application; and
- C. Other information deemed necessary by the staff.

**§ 435.6-49. Content of decision notice.**

A. Approval. If an application for a livestock operation is approved, the decision notice shall include the following:

- (1) A statement that the application is approved;
  - (2) Conditions of approval as described in this division, if any;
  - (3) Written findings of fact supported by evidence in the record that the approval is warranted;
  - (4) A statement that an aggrieved person may appeal the decision to the Zoning Board of Appeals or the Wisconsin Livestock Facility Siting Review Board and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (5) Other information the Planning Commission or Zoning Administrator deems appropriate;
  - (6) The signature of the Zoning Administrator on behalf of the Planning Commission;
  - (7) The date of the decision; and
  - (8) A duplicate copy of the approved application, including all worksheets, maps, and other documents (other than engineering specifications) included in the application, marked "approved."
- B. Denial. If an application for a livestock operation is denied, the decision notice shall include the following:
- (1) A statement that the application is denied;
  - (2) Written findings of fact supported by evidence in the record that the denial is warranted;
  - (3) Findings based upon the decision criteria listed in this division;
  - (4) A statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration;
  - (5) A statement that the decision may be appealed as provided for in this division;
  - (6) Other information the Planning Commission or Zoning Administrator deems appropriate;
  - (7) The signature of the Zoning Administrator on behalf of the Planning Commission; and
  - (8) The date of the decision.

**§ 435.6-50. Effect of approval.**

An approval granted under this division shall run with the land and be binding on all subsequent property owners.

**§ 435.6-51. Revocation or modification of approval.**

- A. Following a public hearing, the Planning Commission may revoke or modify an approval if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.
- B. Notification required for termination of approval.
- (1) If an approval is terminated under this section, the Zoning Administrator shall send a copy of the notice, within 30 days of such decision, to the Wisconsin Department of Agriculture, Trade and Consumer Protection by mail or fax as follows:
- Mail: Wisconsin Department of Agriculture, Trade and  
Consumer Protection
- Agricultural Resource Management Division
- Bureau of Land and Water Resources
- PO Box 8911
- Madison, WI 53708-8911
- Fax: (608) 224-4615
- (2) Failure to comply with this requirement shall not invalidate such decision.

**§ 435.6-52. Expiration of approval.**

If the Zoning Administrator determines that the livestock operator has not begun to populate the approved livestock facility within two years of approval and the operator has not begun construction on every new or expanded livestock housing structure and every new or expanded waste storage structure proposed in the application within two years of approval, he or she shall initiate the process to terminate the approval pursuant to Division 6 of this article. Termination of an approval does not prevent a livestock operator from submitting a new application for review. If an aggrieved person appeals an approval, the date of approval shall be the date the appeal is concluded if the court does not overturn the approval.

**§ 435.6-53. Amendment of approval.**

- A. Generally. At any time following approval of a livestock operation, the livestock operator may submit a written request to the Zoning Administrator proposing an amendment to the approval. So long as the proposed amendment complies with the required standards, the Planning Commission may allow the amendment without following the review procedures in this division. If the Planning Commission approves the proposed amendment, such decision shall be documented in writing and contain the signature of the Chairperson of the Planning

Commission or the Zoning Administrator. Each approved amendment shall be sequentially identified (i.e., First Amendment, etc).

- B. Recordation of approval. If the amendment is approved, the livestock operator may record the decision document in the office of the Register of Deeds.

**§ 435.6-54. Record of decisionmaking.**

The Zoning Administrator shall compile the following materials and retain them for at least seven years after the date the Planning Commission makes a decision to approve or deny an application:

- A. The application and all subsequent additions or amendments to the application which were made by the applicant prior to the Commission's final decision.
- B. A copy of the notice sent to the applicant stating that the application was deemed incomplete or complete.
- C. Copies of any other notices or correspondence that the Zoning Administrator or Planning Commission issued in relation to the application.
- D. A record of any public hearing related to the application. The record may be in the form of an electronic recording, a transcript prepared from an electronic recording, or a direct transcript prepared by a court reporter or stenographer. The record shall also include any documents or evidence submitted by hearing participants.
- E. Copies of any correspondence or evidentiary material that the Planning Commission considered in relation to the application.
- F. Minutes of all Planning Commission meetings when the application was considered.
- G. The written decision as required under this division.
- H. Other documents that the Planning Commission prepared to document its decision or decisionmaking process.
- I. A copy of any local ordinance cited in the Planning Commission's decision.

**§ 435.6-55. Violation of condition of approval.**

- A. Generally. If a property owner does not comply with the terms of the approval, such action shall be deemed a violation of this chapter and cause for termination of the approval consistent of this article.
- B. Considerations in pursuing enforcement. The Zoning Administrator and Planning Commission should exercise sound judgment in deciding whether to take compliance action under this section. The following

factors should be considered: whether adverse weather conditions may have affected an operator's ability to comply, the nature and seriousness of the violation, whether the violation was intentional or accidental, the operator's compliance history, consistency of enforcement, and whether the problem can be resolved without formal enforcement. Before taking compliance action, the Village should give the operator notice and a reasonable opportunity to demonstrate compliance.

**§ 435.6-56. Appeal.**

- A. Appeal to Zoning Board of Appeals. Because the decision of the Planning Commission to approve or deny an application is considered an administrative matter, an aggrieved person, as defined in this section, may appeal the final decision of the Commission to the Zoning Board of Appeals within 30 days of such decision.
- B. Appeals to Livestock Facility Siting Review Board. As provided under the Wisconsin Livestock Siting Law,<sup>58</sup> an aggrieved person may appeal the decision of the Zoning Board of Appeals to approve or deny an application to the Wisconsin Livestock Facility Siting Review Board within 30 days of such decision.
- C. Definition of aggrieved person. For the purpose of this division, an "aggrieved person" includes the applicant and any person who resides or owns land within two miles of the proposed livestock facility.

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**58. Editor's Note: See § 93.90, Wis. Stats.**



## DIVISION 5

**Determination of Unsafe Conditions****§ 435.6-57. Generally.**

There may be instances where a land use has become unsafe through neglect or lack of maintenance and has become a threat to the public health, safety, or welfare. This division describes the requirements and procedures for terminating an unsafe situation.

**§ 435.6-58. Initiation and process.**

Only the Zoning Administrator may initiate the process for a determination of unsafe conditions. If the Zoning Administrator, in consultation with Village staff, determines that a land use authorized under this chapter is unsafe, the Zoning Administrator shall mail a written notice to the property owner by certified mail. Such notice shall state the reasons why the Zoning Administrator believes the use is unsafe; contact information for the Zoning Administrator, including telephone number; and other information deemed appropriate by the Zoning Administrator.

**§ 435.6-59. Content of Zoning Administrator decision notice.**

If a permit or other approval is revoked or suspended on account of the determination of unsafe conditions, the decision notice shall include the following:

- A. A statement that the permit or other approval is revoked or suspended and a date when the revocation or suspension must be complied with;
- B. Reasons for the revocation or suspension;
- C. Conditions that must be satisfied to reinstate the approval if the permit or other approval is suspended;
- D. A statement that the decision may be appealed as provided for in this division;
- E. The signature of the Zoning Administrator;
- F. Any other information the Zoning Administrator deems appropriate; and
- G. The date of the decision.

**§ 435.6-60. Appeal to Planning Commission.**

The person having a development interest in the original development order may appeal a final decision made by the Zoning Administrator to the Planning Commission pursuant to this division within 30 days of the final decision.



**§ 435.6-61. Planning Commission appeal process.**

The general steps outlined below shall be used in an appeal of a Zoning Administrator decision to terminate an unsafe land use authorized under this chapter.

- A. Staff review. Within 30 days of submittal of the appeal, the Zoning Administrator shall schedule a date for a public hearing allowing for proper public notice.
- B. Special notice to property owner. The Zoning Administrator shall mail a written notice to the property owner by certified mail at least 21 days prior to the date of the public hearing.
- C. General public notice. Consistent with Division 2 of Article 5, the Zoning Administrator shall provide for a Class 2 public notice, property owner notice, and meeting agenda notice.
- D. Public hearing. Allowing for proper notice, the Planning Commission shall conduct a public hearing consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the Commission may request a continuance consistent with Division 3 of Article 5.
- E. Decision. After the public hearing has been closed, the Commission shall approve or deny the appeal. The Commission may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the public hearing.
- F. Preparation of decision notice. Based on the action of the Commission, the Zoning Administrator shall prepare a decision notice consistent with this division.
- G. Applicant notification. Within a reasonable time following the Commission's decision, the Zoning Administrator shall mail the decision notice by regular mail to the property owner.
- H. Public record copy. A duplicate copy of the decision notice shall be retained as a public record.

**§ 435.6-62. Basis of decision.**

The Planning Commission in making its decision shall consider the following factors:

- A. The type and nature of unsafe conditions;
- B. Potential remedies to correct unsafe conditions; and
- C. Any other factor not listed above, but which relates to the public health, safety, or welfare.

**§ 435.6-63. Staff report content.**

The staff report to the Planning Commission shall contain the following information:

- A. The type and nature of the unsafe conditions;
- B. Potential remedies to correct the unsafe conditions; and
- C. Other information as is deemed necessary.

**§ 435.6-64. Content of Planning Commission decision notice.**

The decision notice shall include the following:

- A. A statement that the permit or other approval is revoked or suspended and a date when the revocation or suspension must be complied with, or a statement that the Zoning Administrator's decision has been overturned and that the land use can be reinstated;
- B. Reasons for the revocation or suspension, or reinstatement;
- C. Conditions that must be satisfied to reinstate the approval if the permit or other approval is suspended;
- D. A statement that the decision may be appealed as provided for in this division;
- E. The signature of the Zoning Administrator on behalf of the Planning Commission;
- F. Other information the Planning Commission or Zoning Administrator deems appropriate; and
- G. The date of the decision.

**§ 435.6-65. Appeal.**

The person having a development interest in the original development order may appeal a final decision made by the Planning Commission pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**§ 435.6-66. Other remedies.**

In addition to the revocation or modification of the development order, the Village Board may seek other remedies allowed by law.



DIVISION 6  
**Termination of Approval**

**§ 435.6-67. Generally.**

- A. There are certain situations when the approval for a land use may be terminated. These are as follows:
- (1) When the property owner desires to terminate a previously issued conditional use permit approval for his or her property;
  - (2) When the Zoning Administrator determines that the land use authorized by a conditional use permit approval has ceased to operate for more than 12 months; and
  - (3) When the property owner is in violation of one or more conditions of approval for a conditional use permit.
- B. This division describes the requirements and procedures for terminating an approved use.

**§ 435.6-68. Initiation.**

- A. Termination of a conditional use permit approval by property owner. The property owner, and no other, is authorized to submit an application to terminate a conditional use permit approval for his or her own property, except as authorized in this section.
- B. Termination of a conditional use permit approval due to cessation. The Zoning Administrator, and no other, is authorized to submit an application to terminate a conditional use permit approval when he or she determines the land use authorized by such approval has ceased to operate for more than 12 months.
- C. Termination of a conditional use permit approval due to violation. The Zoning Administrator, and no other, is authorized to submit an application to terminate a conditional use permit approval when he or she determines that the property owner has violated one or more conditions of approval and action has not been taken to correct the violation.

**§ 435.6-69. Application and review procedure.**

The general steps outlined below shall be used in the review of an application to terminate the approval of a land use authorized under this chapter.

- A. Submittal of application materials. The applicant, if not the Zoning Administrator, shall submit a completed application and other required materials to the Zoning Administrator along with the application fee as may be established by the Village Board.

- B. Staff review. Within 30 days of submittal, the Zoning Administrator shall either schedule a date for the public hearing allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has three months to resubmit the application or forfeit the application fee. The Zoning Administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- C. Special notice to property owner. If the Zoning Administrator is the applicant, he or she shall mail a written notice to the property owner by certified mail at least 21 days prior to the date of the public hearing. Such notice shall state the reasons why the Zoning Administrator has submitted an application to terminate the specified use; the date and time of the public hearing; contact information for the Zoning Administrator, including telephone number; and other information deemed appropriate by the Zoning Administrator. If the action is intended to terminate a conditional use permit for a violation, the notice shall state the alleged violation along with supporting evidence. If the action is intended to terminate an inactive land use, the notice shall state the time period when the land use was not in use along with supporting evidence.
- D. General public notice. Consistent with Division 2 of Article 5, the Zoning Administrator shall provide for a Class 2 public notice, property owner notice, and meeting agenda notice.
- E. Public hearing. Allowing for proper notice, the Planning Commission shall conduct a public hearing consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the Commission may request a continuance consistent with Division 3 of Article 5.
- F. Decision. After the public hearing has been closed, the Commission shall approve or deny the application. The Commission may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the public hearing.
- G. Preparation of decision notice. Based on the action of the Commission, the Zoning Administrator shall prepare a decision notice consistent with this division.
- H. Applicant notification. Within a reasonable time following the Commission's decision, the Zoning Administrator shall mail the decision notice by regular mail to the property owner.
- I. Public record copy. A duplicate copy of the decision notice shall be retained as a public record.
- J. Administrative steps. If the application is approved, the Zoning Administrator shall update any Village records to indicate that the use as specified in the application has been terminated.

**§ 435.6-70. Basis of decision.**

The Planning Commission in making its decision shall consider the following factors:

- A. The nature of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located;
- B. Effects of the existing use on surrounding properties, including detriment to the full and complete use of such properties and potential for concerns related to possible nuisances;
- C. Effects of the existing use on the normal and orderly development and improvement of the surrounding property for those uses permitted in the zoning district in which they are located; and
- D. Any other factor not listed above, but which relates to the public health, safety, or welfare.

**§ 435.6-71. Application form and content.**

The application submittal shall include an application form as may be used by the Village. The application form shall request the following information:

- A. The subject property location;
- B. A description of the original approval, including conditions of approval, if any;
- C. Verification that the property owner is voluntarily seeking termination of a conditional use permit approval or evidence supporting the assertion that the use may be involuntarily terminated consistent with this division;
- D. A description of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located; and
- E. Other information deemed necessary.

**§ 435.6-72. Content of decision notice.**

- A. Approval. If the application to terminate an approval is approved, the decision notice shall include the following:
  - (1) A statement that the specified use is terminated;
  - (2) A description of the land use being terminated;
  - (3) Findings for the decision criteria listed in this division;

- (4) Requirements for the removal of any building or other structure, if any, on the subject property that is related to the terminated use and that is not otherwise permitted in the zoning district in which the subject property is located;
  - (5) A statement that the decision may be appealed as provided for in this division;
  - (6) Other information the Planning Commission or Zoning Administrator deems appropriate;
  - (7) The signature of the Zoning Administrator on behalf of the Commission; and
  - (8) The date of the decision.
- B. Denial. If the application to terminate an approval is denied, the decision notice shall include the following:
- (1) A statement that the specified use continues to be an approved use;
  - (2) A description of the land use;
  - (3) Findings for the decision criteria listed in this division;
  - (4) A statement that the decision may be appealed as provided for in this division;
  - (5) Other information the Planning Commission or Zoning Administrator deems appropriate;
  - (6) The signature of the Zoning Administrator on behalf of the Commission; and
  - (7) The date of the decision.

**§ 435.6-73. Appeal.**

The property owner or other person having a development interest in the terminated use may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

## DIVISION 7

**Variance****§ 435.6-74. Generally.**

Recognizing that there may be situations where a zoning regulation if enforced would cause unnecessary hardship to individual landowners, the State Legislature established a mechanism to allow the Village to issue a variance in those instances where a minor deviation would be appropriate to alleviate such hardship without circumventing or undermining the intent of the Village's zoning regulations. This division describes the requirements and procedures for reviewing variance applications.

**§ 435.6-75. Initiation.**

The owner of the subject property may submit an application for a variance.

**§ 435.6-76. Application and review procedure.**

The general steps outlined below shall be used in the review of a variance application.

- A. Submittal of application materials. The applicant shall submit a completed application and other required materials to the Zoning Administrator along with the application fee as may be established by the Village Board.
- B. Staff review. Within 30 days of submittal, the Zoning Administrator shall either schedule a date for the public hearing with the Zoning Board of Appeals allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has three months to resubmit the application or forfeit the application fee. The Zoning Administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- C. General notice. Consistent with Division 2 of Article 5, the Zoning Administrator shall provide for Class 2 public notice, property owner notification, agency notification, and meeting agenda notice.
- D. Staff report preparation and distribution. The Zoning Administrator shall prepare a written staff report as described in this division and provide a copy to each member of the Zoning Board of Appeals and the applicant. The Zoning Administrator shall also provide a copy to interested people upon request.
- E. Public hearing. Allowing for proper notice, the Zoning Board of Appeals shall hold a public hearing consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the Zoning Board of Appeals may request a continuance consistent with Division 3 of Article 5.



- F. Decision. After the public hearing has been closed, the Zoning Board of Appeals, after considering the comments and the staff report, shall make a decision based on the decision criteria contained in this division to approve the variance, approve the variance with conditions, or deny the variance. The Zoning Board of Appeals may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 days after the public hearing unless the applicant agrees to an extension of a specified duration.
- G. Preparation of decision notice. Based on the action of the Zoning Board of Appeals, the Zoning Administrator shall prepare a decision notice consistent with this division.
- H. Applicant notification. Within a reasonable time following the Zoning Board of Appeals' decision, the Zoning Administrator shall mail the decision notice to the applicant by regular mail.
- I. Acceptance by property owner required. If the Zoning Board of Appeals grants the variance with one or more condition of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the Zoning Administrator. The decision notice shall become effective upon the property owner's signature.
- J. Public record copy. A duplicate copy of the decision notice shall be retained as a public record.
- K. Additional procedural steps. If the Zoning Board of Appeals grants the variance, the applicant shall then follow other review procedures as may be required.

**§ 435.6-77. Basis of decision.**

When making its decision, the Zoning Board of Appeals shall make an affirmative finding for each of the following:

- A. The requirement from which a variance is being sought is an unnecessary hardship.
- B. The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with this chapter.
- C. The granting of the variance will not be contrary to or harm the public interest.

**§ 435.6-78. Limitations on issuing variance.**

- A. Dimensional variance. The following actions shall not be allowed by a dimensional variance:
  - (1) Expansion of a nonconforming use (e.g., expansion of area, increase in operational characteristics, etc.); or

- (2) Modification to lot size density requirements so as to increase the permitted density or intensity of use.
- B. Use variance. The Zoning Board of Appeals may not issue a use variance.

**§ 435.6-79. Imposition of conditions.**

In approving a variance, the Zoning Board of Appeals may impose such conditions and restrictions as may be necessary to grant approval.

**§ 435.6-80. Application form and content.**

The application submittal shall include an application form as may be used by the Village and a project map prepared at an appropriate scale depicting the information listed in Appendix A.<sup>59</sup>

**§ 435.6-81. Staff report content.**

The staff report shall contain the following:

- A. A summary of the comments received from the interdepartmental/agency review;
- B. Preliminary findings for the decision criteria listed in this division;
- C. A recommendation to approve the application, approve the application with conditions, or deny the application;
- D. A preliminary list of conditions whether the staff recommendation is for approval or denial; and
- E. Other information deemed necessary.

**§ 435.6-82. Content of decision notice.**

- A. Approval. If the application for a variance is approved, the decision notice shall include the following:
  - (1) A statement that the variance is approved;
  - (2) A description of the variance;
  - (3) Findings for the decision criteria listed in this division;
  - (4) Conditions of approval, if any;
  - (5) If one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision notice and return it to the Zoning Administrator to acknowledge acceptance of the same;

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**59. Editor's Note: Appendix A is included as an attachment to this chapter.**

- (6) A statement that the approval will automatically expire 12 months after the date of approval unless substantial work as authorized by the approval has commenced and continues in good faith to completion and that the Zoning Board of Appeals may with cause grant a one-time extension not to exceed six months;
  - (7) A statement that the applicant may appeal the decision to a court of competent jurisdiction;
  - (8) A statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (9) Other information the Zoning Board of Appeals or Zoning Administrator deems appropriate;
  - (10) The signature of the Chairperson of the Zoning Board of Appeals; and
  - (11) The date of the decision.
- B. Denial. If the application for a variance is denied, the decision shall include the following:
- (1) A statement that the variance request is denied;
  - (2) A description of the proposed variance;
  - (3) Findings for the decision criteria listed in this division;
  - (4) A statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration provided there is a substantial change in the circumstances relating to the application;
  - (5) A statement that the decision may be appealed as provided for in this division;
  - (6) Other information the Zoning Board of Appeals or Zoning Administrator deems appropriate;
  - (7) The signature of the Chairperson of the Zoning Board of Appeals; and
  - (8) The date of the decision.

**§ 435.6-83. Effect of approval.**

An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed. The variance runs with the land.

**§ 435.6-84. Revocation or modification of approval.**

Following a public hearing, the Zoning Board of Appeals may revoke or modify a variance approval if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**§ 435.6-85. Effect of denial.**

If the Zoning Board of Appeals denies a variance application, the Zoning Board of Appeals will not rehear the same, or essentially the same, application unless there has been substantial change in the circumstances relating to the application.

**§ 435.6-86. Expiration of approval.**

If the Zoning Administrator determines that substantial work as authorized by a variance did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 6 of this article. Upon written petition and with cause, the Zoning Board of Appeals may grant a one-time extension not to exceed six months.

**§ 435.6-87. Appeal.**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.



DIVISION 8  
**Administrative Appeal**

**§ 435.6-88. Generally.**

Recognizing that there may be situations where a property owner or another party believes that the Zoning Administrator made an error in administering a zoning code, the State Legislature established a mechanism to allow a review of the alleged error by the Zoning Board of Appeals. This division describes the requirements and procedures for reviewing an alleged administrative error.

**§ 435.6-89. Initiation.**

Any person aggrieved by a final decision of the Zoning Administrator may file an appeal with the Zoning Board of Appeals consistent with this division.

**§ 435.6-90. Application and review procedure.**

The general steps outlined below shall be used in the review of an administrative appeal.

- A. Submittal of appeal. The applicant shall submit a written appeal to the Village Clerk within 30 days of the date of the administrative decision being appealed, except that an appeal of an interpretation issued under the authority of this chapter may be appealed at any time without limitation.
- B. Notification of appeal. The Village Clerk shall provide a duplicate copy of the appeal to the Zoning Board of Appeals and the Zoning Administrator.
- C. Compilation and submittal of record. The Zoning Administrator shall compile a complete and accurate record relating to the action being appealed and transmit it to the Zoning Board of Appeals in a timely manner.
- D. Special notice. The Chairperson of the Zoning Board of Appeals shall give notice for the public hearing to the parties in interest, including the applicant and the Zoning Administrator.
- E. General notice. The Chairperson of the Zoning Board of Appeals shall provide a Class 2 public notice and meeting agenda notice consistent with Division 2 of Article 5.
- F. Public hearing. Allowing for proper notice, the Zoning Board of Appeals shall conduct a public hearing consistent with Division 3 of Article 5. Prior to the close of the public hearing, the applicant or the Zoning Board of Appeals may request a continuance consistent with Division 3 of Article 5.

- G. Decision. After the public hearing has been closed, the Zoning Board of Appeals shall make a decision to affirm the Zoning Administrator's decision, set aside the decision, or modify the decision. The Zoning Board of Appeals may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
- H. Notification of decision. Within a reasonable time following the Zoning Board of Appeals' decision, the Village Clerk shall mail the decision notice to the applicant by regular mail and provide a duplicate copy of the same to the Zoning Administrator and the Planning Commission.
- I. Public record copy. A duplicate copy of the decision notice shall be retained as a public record.

#### **§ 435.6-91. Basis of decision.**

- A. Generally. The Zoning Board of Appeals shall determine if the Zoning Administrator made an error in judgment as applied to the instance being appealed.
- B. Historic property. In an action involving a historic property, as defined in § 44.31(3), Wis. Stats., the Zoning Board of Appeals shall consider any suggested alternatives or recommendations submitted by the Landmarks Commission, if one has been established, or the Planning Commission.

#### **§ 435.6-92. Effect of appeal.**

An appeal shall stay all legal proceedings in furtherance of the action from which the appeal is made, unless the Zoning Administrator certifies in writing to the Zoning Board of Appeals that a stay would, in his or her opinion, 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 Zoning Board of Appeals or by a court of record on application, with notice to the Zoning Administrator from whom appeal is made.

#### **§ 435.6-93. Appeal.**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

DIVISION 9  
**Zoning Permit**

**§ 435.6-94. Permit required.**

- A. New development. No land use listed in Table 7-1, Land Use Matrix,<sup>60</sup> may be established or expanded without a zoning permit, except those that are specifically exempted in that table.
- B. Change in use. No existing nonresidential building or structure may be occupied by a different use without a zoning permit.

**§ 435.6-95. Initiation.**

The owner of the subject property may submit an application for a zoning permit.

**§ 435.6-96. Application and review procedure.**

The general steps outlined below shall be used in the review of an application for a zoning permit.

- A. Submittal of application materials. The applicant shall submit a completed application and other required materials to the Zoning Administrator along with the application fee as may be established by the Village Board.
- B. Staff review. Within 30 days of submittal, the Zoning Administrator shall either determine that the application is incomplete and notify the applicant, in writing, of any deficiencies or make a decision based on the decision criteria contained in this division to approve the application, approve the application with conditions, or deny the application. The Zoning Administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- C. Applicant notification. Within a reasonable time following his or her decision to approve or deny the application, the Zoning Administrator shall mail the decision notice to the applicant by regular mail.
- D. Public record copy. A duplicate copy of the decision notice shall be retained as a public record.

**§ 435.6-97. Basis of decision.**

In determining whether to issue a zoning permit or deny a zoning permit, the Zoning Administrator shall determine whether the proposed use is consistent with this chapter and other parts of the Village of Fox Crossing Municipal Code.

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**60. Editor's Note: Table 7-1 is included as an attachment to this chapter.**



**§ 435.6-98. Expiration of approval.**

- A. New development. For new development, a zoning permit shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the Zoning Administrator may grant a one-time extension not to exceed six months provided:
- (1) The permit holder requests the extension prior to the expiration of the permit;
  - (2) The permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same; and
  - (3) The project complies with this chapter in effect at the time the extension is granted.
- B. Change in use. For a change in use, the zoning permit shall automatically expire six months after the date of issuance if the applicant does not move into the vacant space.

**§ 435.6-99. Appeal.**

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals within 30 days of the final decision.

DIVISION 10  
**Building, Site, and Operation Plan**

**§ 435.6-100. Generally.**

Because certain land uses have the potential to affect other properties in the vicinity of such land use, they must be reviewed with regard to the layout of such use, design of buildings, and operational characteristics of such use. This division describes the procedural requirements and applicable requirements.

**§ 435.6-101. Initiation and process.**

The owner of the subject property shall submit a building, site, and operation plan application as per Chapter 394, Development Standards and Site Plan Review, of the Village of Fox Crossing Code. The approval process shall follow that outlined in Chapter 394 of the Village of Fox Crossing Municipal Code.

**§ 435.6-102. Effect of approval.**

If the Zoning Administrator approves the building, site, and operation plan, the approval shall run with the land and be binding on all subsequent property owners.

**§ 435.6-103. Revocation or modification of approval.**

The Zoning Administrator may revoke or modify an approval if he or she determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered his or her decision to approve the application or the conditions of approval which were or were not imposed.

**§ 435.6-104. Expiration of approval.**

The approval of a building, site, and operation plan shall automatically expire 12 months after the date of issuance unless substantial work as authorized by the approval has commenced and continues in good faith to completion. Upon written petition and with cause, the Zoning Administrator may grant a one-time extension not to exceed six months.

**§ 435.6-105. Amendment of approved building, site, and operation plan.**

Following approval of a building, site, and operation plan, the Zoning Administrator shall review all proposed changes to the approval. If in the opinion of the Zoning Administrator the proposed change constitutes a minor alteration, he or she may approve the requested change in writing without following the application and review procedure in this division. If

the proposed change constitutes a major alteration, the application and review procedure shall be followed.

**§ 435.6-106. Appeal.**

An aggrieved person may appeal the final decision of the Zoning Administrator that is made pursuant to this division by filing an appeal with the Planning Commission within 30 days of the final decision. Following the final decision of the Commission, an aggrieved person may appeal such decision to a court of competent jurisdiction within 30 days of such decision.

DIVISION 11  
**Code Interpretation**

**§ 435.6-107. Generally.**

From time to time, there may be instances where a person may have a question concerning a provision of this chapter or the application of a provision of this chapter. The Zoning Administrator may, at his/her discretion, choose to issue an oral or written interpretation. This division describes the procedures and requirements to issue a written interpretation.

**§ 435.6-108. Initiation.**

Any person, including the Zoning Administrator, may submit a question for interpretation.

**§ 435.6-109. Responsibility for interpretation.**

The Zoning Administrator shall be responsible for rendering a written interpretation.

**§ 435.6-110. Limitations on interpretations.**

The responsibility for interpretation shall not be construed as overriding the responsibilities specifically given to any commission, Village board, or official named in other parts of this chapter.

**§ 435.6-111. Application and review procedure.**

The general steps outlined below shall be used to render an interpretation.

- A. Submittal of question. The individual requesting the interpretation shall submit the question in writing to the Zoning Administrator and the application fee as may be established by the Village Board.
- B. Decision. The Zoning Administrator shall make a written decision within 30 business days of receiving the request.
- C. Notification of decision. Within a reasonable time following completion of his or her interpretation, the Zoning Administrator shall mail a duplicate copy of the interpretation by regular mail to the individual requesting the interpretation and provide a copy of the same to the Planning Commission and those Village employees involved in the administration of this chapter, as appropriate.
- D. Public record copy. A duplicate copy of the interpretation shall be retained as a public record.

**§ 435.6-112. Basis of decision.**

In consultation with the Village Attorney, Village staff and others as appropriate, the Zoning Administrator shall evaluate the section of this chapter in question and those which are related, consider the overall intent of this chapter, consider the findings and purpose statements as appropriate, and consider other applicable interpretations that have previously been made and make a decision consistent with this division giving this chapter its most reasonable application. If the Zoning Administrator cannot make a reasonable interpretation, he or she shall make such a determination.

**§ 435.6-113. Repeal or revision of interpretation.**

The Zoning Administrator or the Planning Commission may rescind or modify an interpretation if such interpretation is deemed to be incorrect in whole or in part.

**§ 435.6-114. Interpretation content.**

An interpretation shall be in writing and contain the following:

- A. The name of the person posing the question;
- B. The section number of this chapter in question;
- C. The question or alleged ambiguity;
- D. The factors that were considered in making the interpretation;
- E. The interpretation;
- F. Other information the Zoning Administrator deems appropriate;
- G. The signature of the Zoning Administrator; and
- H. The date of the decision.

**§ 435.6-115. Effect of interpretation.**

An interpretation once rendered shall have full effect as if set forth in this chapter. Where appropriate, interpretations should be addressed through the amendment process. If the Zoning Administrator determines that he or she is not able to make a reasonable interpretation, such decision shall not affect the validity of any section of this chapter.

**§ 435.6-116. Compilation of interpretations.**

The Zoning Administrator shall keep a written record of all interpretations in effect and make them available for public inspection.

**§ 435.6-117. Appeal.**

An aggrieved person may, without time constraint, appeal an interpretation made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals as provided for in this article.



**ARTICLE 7**  
**Land Use**

DIVISION 1  
**General Provisions**

**§ 435.7-01. Legislative findings.**

The Village Board of Trustees makes the following legislative findings:

- A. The use of land in the Village has a direct bearing on the public health, safety, and welfare.
- B. Standards are needed to ensure that new development is done in a coordinated and sustainable manner.
- C. The provisions contained in this article are adopted consistent with state statutes.
- D. Each parcel of land in the Village is intended to have a zoning designation.
- E. In some instances, state and federal law limit the Village's ability to regulate certain land uses.

**§ 435.7-02. Purpose.**

This article promotes the public health, safety, and welfare and is intended to:

- A. Promote a sound and sustainable development pattern by separating the Village into various districts where each has uniformly applicable development standards;
- B. Separate incompatible land uses to the greatest extent possible;
- C. Encourage the most appropriate and sustainable use of land throughout the Village;
- D. Regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of buildings, structures, and land;
- E. Provide for a variety of sustainable housing options;
- F. Allow different but compatible land uses (i.e., mixed uses) to occur in specified areas of the Village;
- G. Avoid or, as a less preferred alternative, minimize congestion;
- H. Avoid or, as a less preferred alternative, minimize environmental degradation; and



- I. Preserve prime agricultural lands and stabilize the economic base of farming in the Village while at the same time allowing for needed sustainable urban expansion.

## DIVISION 2

**Zoning Districts and Zoning Map****§ 435.7-03. Generally.**

The Village is divided into a number of base zoning districts so that each parcel of land is located in a district. For each of these districts, appropriate types of land uses are identified along with development standards when applicable. In addition to these zoning districts, the Village and Outagamie County have established overlay districts to accomplish specific purposes not generally applicable to the Village's base districts. Where the requirements of a base district and overlay district conflict, the most restrictive applies. The Zoning Map depicts the location of the base districts used in this chapter along with some of the overlay districts as may be appropriate.

**§ 435.7-04. Establishment and purpose of zoning districts.**

- A. Base zoning districts. Recognizing that different areas of the Village serve unique functions, the Village is divided into a number of base zoning districts. Even though some of the districts may share similar characteristics, they possess one or more unique qualities that set them apart from the other districts. Although these districts may not now possess each of the attributes in these descriptions, it is intended that as land uses change over time they more closely reflect the intended uses. Uses are allowed in the various districts consistent with the development standards in this article and development limitations as described in § 435.7-15. The base districts are as follows:
- (1) General Agriculture (A-2) District. This district is intended to accommodate both large- and small-scale farms and hobby farms. Although scattered residential lots are allowed, agriculture is the predominant land use.
  - (2) Rural Residential (R-1) District. This district is intended to accommodate single-family residences on scattered lots to foster and maintain the rural character and lifestyle of the surrounding area. Lots are generally served by on-site wastewater treatment systems.
  - (3) Low-Density Residential (R-2) District. This district is intended to accommodate low- and medium-density residential lots in a duly recorded and legally maintained subdivision. This district provides a "suburban" arrangement of amenities, services, and facilities. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
  - (4) Medium-Density Residential (R-3) District. This district is intended to accommodate two-family dwellings, twin homes, and single-family residences. This district provides a "suburban" arrangement of amenities, services, and facilities. Since the two-family dwelling

produces a divergent occupancy pattern from that of the traditional single-family dwelling, this district is generally adjacent to, but not within, a single-family neighborhood. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.

- (5) High-Density Residential (R-4) District. This district is intended to accommodate multifamily buildings and townhouses at urban densities. This district provides a "suburban" arrangement of amenities, services, and facilities. Lots are connected to a public sanitary sewer.
- (6) Manufactured/Mobile Home Park (R-8) District. This district is for the exclusive use and development of one or more manufactured/mobile home parks. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (7) Neighborhood Business (B-1) District. This district is intended to accommodate a single retail or service establishment or a small grouping of such establishments that primarily serve the daily needs of residents in the surrounding area. Because this district characteristically is near or within residential areas, standards are designed to ensure the commercial uses are compatible in appearance and character with the surrounding residential uses. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (8) Community Business (B-2) District. This district is intended to accommodate both large- and small-scale pedestrian- and auto-oriented commercial development that primarily serves the needs of the surrounding community, including professional offices, retail stores, service establishments, overnight lodging, entertainment facilities, and mixed-use housing. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (9) General Business (B-3) District. This district is intended to accommodate primarily larger-scale commercial projects of regional importance that require access to major road corridors. Multifamily buildings are allowed in this district, along with mixed-used housing. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
- (10) Mixed-Use (M-1) District. This district is intended to accommodate a wide range of compatible residential and nonresidential uses at densities and intensity typical of an urban area. Typically, this district is a minimum of five acres in area and is only located in those areas where the existing and planned land uses in the surrounding districts are compatible with those uses permitted in this district. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.

- (11) Light Industrial (I-1) District. This district is intended to accommodate those businesses and activities typically associated with manufacturing of finished products, storage, and wholesale operations. Uses permitted in this district characteristically occur inside of a building or other structure. Outdoor storage when allowed is clearly incidental to the primary use. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
  - (12) Heavy Industrial (I-2) District. This district is intended to accommodate industrial uses that handle or process raw materials and other large-scale uses often considered offensive or unique by nature. Handling and processing of materials may occur within a building or other structure or out of doors. Lots are connected to a public sanitary sewer system or have an on-site sewage disposal system.
  - (13) Planned development (PDD) districts. Planned development districts are a special type of zoning district and are initially proposed by a property owner who desires a mix of uses or flexibility in a project's overall design. Each district is unique and therefore has its own set of development standards that are documented in the general development plan and associated development agreement, if any. PDD districts are numbered sequentially (i.e., PDD-1, PDD-2, etc.).
- B. Overlay zoning districts. In addition to the base zoning districts enumerated above, the following overlay zoning districts are established to account for unique conditions or requirements:
- (1) Floodplain overlay districts. The floodplain overlay districts include those lands within the one-hundred-year and five-hundred-year floodplain as mapped by the Federal Emergency Management Agency (FEMA). These overlay districts are further divided into the flood-fringe and floodway. Each subdistrict has unique development standards based on flooding characteristics that are crafted to meet the minimum requirements as established by state law.
  - (2) Shoreland-Wetland Overlay District. In general, the Shoreland-Wetland Overlay District includes those wetlands of five acres or more and which are shown on the Wisconsin wetland inventory maps that have been prepared for Winnebago County. The provisions relating to this district are contained in Article 14 of this chapter. They are crafted to meet the minimum requirements as established by state law.
  - (3) Shoreland Zoning Overlay District. This district extends from the ordinary high-water mark of navigable streams inland for a distance of 300 feet or to the inland side of the floodplain, whichever is greater, and from the ordinary high-water mark of navigable lakes, ponds, or flowages inland for a distance of 1,000

feet. The provisions relating to this district are contained in Article 13 of this chapter. They are crafted to meet the minimum requirements as established by Ch. NR 115, Wis. Adm. Code.

- C. Outagamie County Airport Overlay Zoning District. Pursuant to the provisions of § 114.136, Wis. Stats., Outagamie County has established an Airport Overlay Zoning District which includes some lands within Fox Crossing. Lands within this district shall be subject to standards set forth in Chapter 10, Aviation, of the Outagamie County Code of Ordinances. The Village will make available the appropriate maps and standards for this overlay district.

#### **§ 435.7-05. Necessity of zoning district designation.**

It is the intent of this article that no land shall be without a zoning district designation, unless specifically noted on the Zoning Map. In the event a parcel of land is for any reason deemed to be without a designation, no land development shall occur until such time as the Village Board of Trustees has assigned the parcel an appropriate zoning classification.

#### **§ 435.7-06. Effect of boundary line relocation on zoning designation.**

Pursuant to Ch. 236, Wis. Stats., the property boundary line between adjoining parcels of land may be relocated in certain circumstances, potentially making one parcel larger and the other smaller. In those situations where the affected parcels are in different zoning districts, boundary line relocation shall not alter the location of the zoning district boundary until such time as the Zoning Map has been amended to reflect the new property boundary line.

#### **§ 435.7-07. Zoning Map.**

- A. Title. The map that depicts the location of the various zoning districts shall be titled "Fox Crossing Zoning Map."
- B. Official Zoning Map. The Village Clerk shall retain on file one paper copy of the Zoning Map as the Official Zoning Map which shall be signed by the Village President and attested by the Village Clerk. If there is a discrepancy between this Zoning Map and other maps as may be made available, including any maps online, the map maintained by the Village Clerk shall control in all instances.
- C. Availability. A copy of the Zoning Map shall be maintained by the Zoning Administrator and shall be available for public inspection upon request and distribution. The location and boundaries of the Village's zoning districts shall be included in Fox Crossing's geographic information system (GIS) mapping program and may be also be shown on online maps on the Fox Crossing and Winnebago County websites.

- D. Preparation of a new Official Zoning Map. In the event the Zoning Map maintained by the Village Clerk is damaged, lost, or destroyed and after each amendment, the Zoning Administrator shall prepare a new Zoning Map and submit it to the Village executive for certification and to the Village Clerk for attestation.
- E. History of amendment. The Zoning Map maintained by the Village Clerk may contain a descriptive history of recent amendments that have been made, indicating the ordinance number and date of action.
- F. Archive of superseded maps. The Village Clerk shall retain on file a permanent archive of superseded Zoning Maps that are created after March 31, 2013.
- G. Amendment. The procedure and requirements to amend the Zoning Map are provided in Article 6 of this chapter.



DIVISION 3  
**Allowable Land Uses**

**§ 435.7-08. Land uses generally allowed within zoning districts.**

- A. General purpose zoning districts. For the purposes of this chapter, land uses, as defined in Article 3 of this chapter, are classified as principal, accessory, or temporary. Table 7-1 lists principal land uses (Series 1 to 16), accessory uses (Series 17), and temporary uses (Series 18).<sup>61</sup>
- (1) Each of the land uses is designated as one of the following:
    - (a) Permitted in the zoning district by right provided that all other provisions of this chapter are met;
    - (b) Allowed in the zoning district as a conditional use provided that all other provisions of this chapter are met; or
    - (c) Not permitted in the zoning district.
  - (2) Any commercial or industrial land use that is shown as permitted that emits air contaminants, fugitive dust, or potentially offensive odors outside of the building; incinerates any substance; or handles radioactive materials, hazardous substances, hazardous waste, or regulated substances is considered a conditional use.
- B. Planned development districts. Land uses that are permitted in a planned development district are enumerated in the general development plan for the district, along with development standards, if any.

**§ 435.7-09. Similarity of land uses.**

Because the list of land uses cannot include every conceivable type of activity, those land uses that are listed in Table 7-1 shall be interpreted to include other land uses that are of a similar nature and have similar impacts to the listed use.

**§ 435.7-10. Land uses not listed.**

A land use that is not listed in Table 7-1 and which cannot be interpreted to be similar to any listed land use as provided for above is prohibited under authority of this chapter.

**§ 435.7-11. Project classified in more than one land use category.**

If a proposed project includes both an allowable land use and a prohibited land use, the prohibited portion of the project shall not occur in the zoning district.

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**61. Editor's Note: Table 7-1 is included as an attachment to this chapter.**



**§ 435.7-12. Establishment of accessory land use prior to principal use.**

- A. Generally. Unless specifically permitted in this section or in other sections of this chapter, an accessory use as allowed in the zoning district shall only be established when a principal use is present or is being established on the same lot.
- B. Exemption for a vacant lot adjoining another lot in same ownership. The Zoning Administrator may allow the establishment of an accessory use on a vacant lot provided the accessory use is allowed in the zoning district and such lot adjoins a lot in the same ownership that supports a principal use. If allowed, the property owner shall record an agreement and deed restriction with the Register of Deeds for Winnebago County that describes the authorized use and any conditions of approval. Such conditions of approval may relate to the use of the accessory use and the need to reestablish a principal use on the subject property within a specified time period.
- C. Exemption for a utility cabinet. For the purpose of this chapter, a utility cabinet may be established on a vacant lot prior to the establishment of a principal use.
- D. Exemption for storage building in A-2 District. In an A-2 zoning district, a storage building may be constructed prior to the establishment of a principal use provided the parcel is 5.0 acres or more. As a condition of approval, the property owner shall record an agreement and deed restriction, as approved by the Zoning Administrator, with the Register of Deeds for Winnebago County that describes the nature of the authorized use.

**§ 435.7-13. Removal of principal building while retaining accessory building.**

The Planning Commission may allow the removal of a principal building while retaining the accessory building when the Planning Commission determines that the principal building is dilapidated and the accessory building meets current building codes and serves a useful purpose. If allowed, the property owner shall record an agreement and deed restriction with the Register of Deeds for Winnebago County that controls the use of the accessory building and incorporates any requirement imposed by the Planning Commission as a condition of approval.

**§ 435.7-14. Special provisions for community living arrangements.**

In addition to the standards in this article, community living arrangements must also comply with § 62.23(7)(i), Wis. Stats.

**§ 435.7-15. Site restrictions.**

If the Zoning Administrator determines that a parcel of land, whether vacant, partially developed, or fully developed, contains one or more development constraints that would preclude the normal use of the parcel for a use that is otherwise permitted in the zoning district in which it is located, he or she shall render a written determination that states the best available facts related to the development constraint and other reasoning as may be appropriate. Examples of development constraints include unfavorable topography, rock formations, shallow depth to bedrock, unstable or otherwise unsuitable soils, stormwater runoff, inadequate drainage, and high groundwater. Once such a determination has been made, the Zoning Administrator, Building Official, or other governmental official or body shall not issue a development order or other approval authorizing the development in the area subject to the development constraint. Because a determination rendered by the Zoning Administrator pursuant to this section is an administrative decision, the property owner shall have the right to appeal such determination consistent with the procedures and requirements in Article 6 of this chapter. The Zoning Administrator may reconsider his or her determination at any time and render a new determination if new or additional facts become known or if the facts upon which the determination was made are not accurate.

**§ 435.7-16. Map of conditional uses.**

The Zoning Administrator is authorized to prepare a map showing those properties that have an active conditional use permit and to amend the same from time to time.



DIVISION 4  
**Dimensional and Related Standards**

**§ 435.7-17. Generally.**

Lots, buildings, and other structures not located within a planned development district shall conform to the dimensional standards specified in Table 7-4 to Table 7-15,<sup>62</sup> except as may be otherwise allowed in this division. The standards for lots, buildings, and other structures in a planned development district are enumerated in the general development plan for the zoning district.

**§ 435.7-18. Lot area.**

- A. Generally. Except as specified in this section, the size of lots shall comply with the standards specified in Tables 7-4 to 7-15.
- B. Exemptions. Parcels of land created by a land division under Chapter 419 of the Municipal Code of Fox Crossing to dedicate land to the public, for stormwater facilities and other types of development-related infrastructure, and for common open space areas, including internal walking or recreation trails, and other similar purposes are exempt from the specified lot size requirements.
- C. Measurement of lot area. Lot area is measured on the horizontal plane.
- (1) The lot area for lots created after March 31, 2013, shall not include any of the following features:
- (a) Stormwater basins up to the design capacity elevation;
  - (b) Lakes, streams, man-made ponds, and similar water bodies up to the elevation of the ordinary high-water mark;
  - (c) The area within the proposed right-of-way of a road so designated on the County's highway width map; or
  - (d) If the road on which the lot fronts is not located within a public road right-of-way, the area of the easement designated for public road purposes, or the area extending 33 feet from the center of the road if the road is not located within an easement.
- (2) For the purpose of this subsection, the location of the proposed right-of-way line is 1/2 the width of the proposed right-of-way as measured from the center of the existing road.
- D. Use of a lot not meeting specified dimensional standards. The use of a nonconforming lot is governed by requirements found in Article 11 of this chapter.

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**62. Editor's Note: Tables 7-4 to 7-15 are included at the end of Art. 7.**

- E. Change in lot. The location of the property boundary lines of a lot and/or the area of a lot containing a conditional use shall not be modified in any manner without the express authorization of the Planning Commission. If the Planning Commission determines that the proposed reconfiguration or change in lot area is substantive, the proposed change may only occur if the Planning Commission grants a new approval with the proposed lot consistent with the review procedures and requirements for a conditional use in effect at the time.

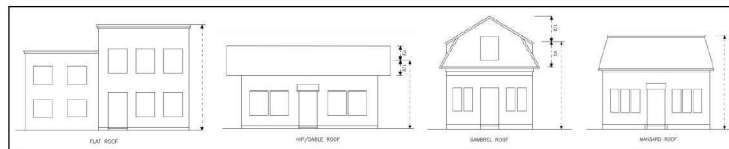
**§ 435.7-19. Floor area.**

- A. Generally. All buildings and building additions hereafter constructed shall comply with the floor area requirements as may be stated in Tables 7-4 to 7-15.
- B. Measurement of floor area. The floor area of a building is measured from exterior face to exterior face, excluding unenclosed porches, stoops, steps, and similar features. If a floor area requirement is specified on a per-unit basis and is located in a building with other similar or different uses, the floor area is measured from the center of the wall separating such other uses. If a building does not have an exterior wall, the floor area is the area under the horizontal projection of the roof.

**§ 435.7-20. Building and structure height.**

- A. Generally. Except as specified in this section, the height of structures shall comply with the standards specified in Tables 7-4 to 7-15.
- B. Measurement of building height. The height of a building is measured from the mean elevation of the finished lot grade along the street yard face of the building to the highest point of flat roofs, the mean height level between the eaves and the highest point of gable, gambrel, hip, and pitch roofs, or the decline of a mansard roof as generally depicted in Exhibit 7-1.

**Exhibit 7-1. Measurement of Building Height by Roof Type**



- C. Modifications. The height standards in Tables 7-4 to 7-15 are modified as follows:
  - (1) Essential services, such as utilities, water towers, transmission towers and lines, are exempt from the height limitation for the zoning district in which they are located.

- (2) The height of telecommunication towers is governed by the standards established under Division 7 of this article.
- (3) The height of buildings and other structures may be further regulated by Outagamie County pursuant to § 114.136, Wis. Stats., relating to the height of buildings in the vicinity of the Outagamie County Regional Airport. The location of these overlay districts may be shown on the face of the Zoning Map.
- (4) The Planning Commission may approve an exemption for spires, steeples, cupolas, and chimneys on institutional, commercial, and industrial buildings.

**§ 435.7-21. Yard setbacks.**

- A. Generally. Except as modified herein, the placement of a structure on a lot shall comply with the setback standards specified in Tables 7-4 to 7-15.
- B. Exceptions. The following may be located in a front yard, side yard, and rear yard setback area, provided they do not extend into or are not located within a utility easement, unless permission is received from the easement owner, or a required fire lane and they meet all other requirements of this chapter:
  - (1) Landscaping;
  - (2) Retaining walls;
  - (3) Fences;
  - (4) Freestanding mailboxes and newspaper boxes;
  - (5) Play equipment, except not in a front yard;
  - (6) Yard furniture, but not when located on a patio or deck;
  - (7) Gardens;
  - (8) Compost bins;
  - (9) Clotheslines;
  - (10) Boat docks and boathouses when located in a shore yard, but not closer than three feet to a side yard property boundary line;
  - (11) Specified building projections as provided for in Table 7-2;
  - (12) Components of a private on-site sewage system, including holding tanks (if allowed), absorption fields, and septic tanks, provided separation requirements in Chapter 16 of the General Code of Winnebago County are met;
  - (13) Water wells not located in a building or other structure, provided separation requirements in state law are met;

- (14) Those structures and uses where applicable development standards included in Division 7, Division 8, and Division 9 of this article either exempt or establish alternate setbacks requirements; and
- (15) Other structures and land uses when exempted by the Zoning Administrator provided such exemption is in keeping with the intent of this chapter.

<b>Table 7-2. Allowable Building Projections Into a Required Yard Setback</b>	
<b>Feature</b>	<b>Maximum Projection</b>
Sills, belt courses, buttresses, cornices, ornamental features, and the like	8 inches into a street, side, or rear yard setback
Chimneys and eaves	24 inches into a street, side, or rear yard setback
Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers	3 feet into a side or rear yard setback
Steps and uncovered porches, provided they are not higher than the ground floor elevation	8 feet into a street yard setback; 3 feet into a side yard setback
Facade-mounted solar energy systems	4 feet

- C. Reduction. No lot dimension shall be reduced so as to not meet any dimensional requirement contained in this chapter.
- D. Setback averaging for street yard setbacks. The street yard setback as specified in Tables 7-4 to 7-15 may be decreased in a residential, mixed-use, or commercial zoning district to the average of the existing street yards of the abutting principal buildings on each side but in no case shall the setback be less than 15 feet in a residential zoning district or 10 feet in a commercial or mixed-use zoning district. For the purpose of this subsection, the following rules shall apply:
  - (1) Building projections are not to be included.
  - (2) Setback reductions allowed by a variance shall not be included.
  - (3) If the setback of an existing structure is greater than the required setback, the required setback shall be used.
- E. Measurement of street yard setback. If the road on which the lot fronts is situated within a public right-of-way, the street yard setback is measured on a horizontal plane perpendicular to the front property boundary line along its entire length or perpendicular to the proposed

right-of-way as may be depicted on the highway width map, whichever yields the greatest setback. If the road on which the lot fronts is located within an easement, the street yard setback is measured on a horizontal plane perpendicular to the easement line along its entire length or perpendicular to the proposed right-of-way as may be depicted on the highway width map, whichever yields the greatest setback. If the road on which the lot fronts is not situated in a public right-of-way or an easement, the street yard setback is measured from the center of such road plus an additional 33 feet or perpendicular to the proposed right-of-way as may be depicted on the highway width map, whichever yields the greatest setback. For the purpose of this subsection, the location of the proposed right-of-way line is 1/2 the width of the proposed right-of-way as measured from the center of the existing road.

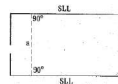
- F. Measurement of side yard setback. The side yard setback is measured on a horizontal plane perpendicular to the side property boundary line along its entire length.
- G. Measurement of rear yard setback. The rear yard setback is measured on a horizontal plane perpendicular to the rear property boundary line along its entire length.
- H. Measurement of shore yard setback. The shoreland setback is measured on a horizontal plane perpendicular to the ordinary high-water mark along its entire length.

**§ 435.7-22. Lot width.**

- A. Generally. A lot shall have a minimum width specified in Tables 7-4 to 7-15.
- B. Measurement. Lot width is a linear distance measured or calculated as indicated in Table 7-3.

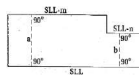
**Table 7-3. Average Lot Width**

- A. Parallel lot lines. Average lot width (ALW) = the distance of line a.



- B. Parallel lot lines, alternate.

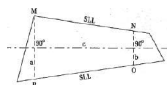
$$ALW = a \times \frac{m}{m+n} + b \times \frac{n}{m+n}$$



Use only that part of length n that, when added to area of m portion of lot, satisfies minimum lot area requirements.

- C. Nonparallel lot lines.

$$ALW = \frac{ab}{c}$$



Where the area of MNOP equals minimum lot area and line c bisects angle formed by lines MN and OP extended.



ALW = Average Lot Width; SLL = Side Lot Line

**§ 435.7-23. Road frontage.**

- A. Generally. A lot shall front on and have access to a public road for the minimum required distance specified in Tables 7-4 to 7-15.
- B. Measurement. If the road on which the lot fronts is situated within a public right-of-way, the length of road frontage is measured on a horizontal plane along the front property boundary line or along the proposed right-of-way line as may be depicted on the highway width map, whichever yields the longest distance. If the road on which the lot fronts is not situated within a public right-of-way, the length of road frontage is measured on a horizontal plane perpendicular to a line that is 33 feet from the center of such road. For the purpose of this subsection, the location of the proposed right-of-way line is 1/2 the width of the proposed right-of-way as measured from the center of the road.

**§ 435.7-24. Separation requirements for on-site sewage systems and water wells.**

On-site sewage systems and water wells shall comply with all separation requirements as may be established by Winnebago County or the State of Wisconsin.

DIVISION 5  
**General Standards**

**§ 435.7-25. County and Village licensing requirements.**

In addition to meeting the requirements contained in this article, all land uses shall also meet any requirements for licensing with the county and the Village, which may now exist or may be adopted.

**§ 435.7-26. Licensing by state agencies.**

If a land use or any related activity requires a license from the state, or its agent, to operate, such license shall be obtained prior to the establishment of such use and maintained for the life of the use or until the state, or its agent, no longer requires such license.

**§ 435.7-27. Number of principal buildings on parcel of land.**

There shall be no more than one principal building on a parcel of land, except as may be specifically allowed in this chapter. When this chapter allows more than one principal building on a lot, the reviewing authority may:

- A. Require a greater yard setback than what is normally required for the zoning district in which it is located;
- B. Require additional landscaping;
- C. Establish a minimum separation between principal buildings; and
- D. Impose any other condition necessary to account for concerns related to public health, safety, and welfare.

**§ 435.7-28. Shopping cart returns.**

- A. Applicability. Each retail project that provides on-site parking with 100 or more vehicle parking spaces shall provide one or more shopping cart returns as provided in this section.
- B. Number. A least one cart return shall be provided for each 100 vehicle parking spaces.
- C. Specifications. The cart return shall be at least 170 square feet in area, which is roughly the area of a parking space, and shall be constructed of durable materials that are compatible with the building and outdoor light poles and fixtures located in or around the parking lot.
- D. Placement. The cart return shall be located within the parking lot area in a central location. The cart return shall not be located within 25 feet of the primary entrance of the principal building, unless there is no other practicable location.

**§ 435.7-29. Outdoor speakers.**

Sound emanating from an outdoor speaker associated with a commercial or industrial establishment shall comply with the standards set forth in § 146-13, Beer gardens, of the Fox Crossing Municipal Code.

**§ 435.7-30. Special provisions for residential land uses.**

- A. On-site storage of a recreational vehicle. A recreational vehicle located on a residential property shall be owned by the owner of the property and licensed by the State of Wisconsin. A recreational vehicle shall not be stored in the vision clearance triangle as established for the zoning district in which the parcel is located.

**§ 435.7-31. Limitation on retail sale or rental of adult-oriented materials.**

Unless licensed under § 435.7-81 as an adult-oriented establishment, no more than 10% of an establishment's gross income may come from the sale or rental of books, magazines, motion pictures, prints, photographs, periodicals, video or audio recordings, novelties and devices which have as their primary or dominant theme matter depicting, illustrating, describing, or relating to specified sexual activities or specified anatomical areas, provided such material is kept in a location where it is not visible or available to patrons.

**§ 435.7-32. Compliance with building codes.**

A building shall comply with all applicable building codes for the intended use.

## DIVISION 6

**Special Site Design Principles and Architectural Standards****§ 435.7-33. Applicability.**

The following are subject to building, site, and operation plan review and as such shall comply with the requirements of this division as may be applicable:

- A. A multifamily building containing three or more dwelling units;
- B. The addition of one or more dwelling units to a multifamily building resulting in three or more dwelling units;
- C. A new industrial, commercial, and/or institutional use;
- D. The expansion of a commercial or institutional building when the floor area of such increase exceeds a cumulative total of 500 square feet occurring after March 31, 2013;
- E. The expansion of an industrial building when the floor area of such increase exceeds a cumulative total of 1,000 square feet occurring after March 31, 2013; and
- F. The expansion of an outdoor area related to a commercial, institutional, and/or industrial use when such increase exceeds a cumulative total of 1,000 square feet occurring after March 31, 2013.

**§ 435.7-34. Site design principles.**

- A. Legislative findings. The Village Board of Trustees makes the following legislative findings regarding site design requirements:
  - (1) The design and layout of a site, including principal and accessory buildings, parking areas and access drives, building service areas, docking and loading areas, and other elements, can have a substantial and long-lasting effect on the utility of the subject property and on surrounding properties and the overall character of a community.
  - (2) The requirements in this section are intended to provide meaningful guidance to applicants, design professionals, and public officials.
  - (3) The requirements in this section are intended to promote the public health, safety, and welfare and are reasonably related to the public purpose of achieving an attractive, functional, and prosperous community.
- B. Minimum requirements. Development subject to review under this division shall adhere to the following site design principles along with other requirements that may apply:

- (1) A building shall be arranged on the site so as to not impede traffic accessibility and circulation to or from adjacent streets and adjoining sites developed with similar nonresidential uses.
- (2) The front of the building shall be generally parallel to the street or a public area, such as a courtyard, plaza, or the like.
- (3) Cross accesses shall be provided between adjoining commercial parcels whenever it is feasible to do so.
- (4) A service area for a commercial or institutional building shall be easily accessible to service vehicles, separated from the on-site parking area, and designed to serve multiple establishments and tenants, when possible. Such service area shall not be readily visible from a public street, an on-site customer parking area, or an abutting property in a commercial or residential zoning district or in an agricultural zoning district that is designated for future commercial or residential development in an adopted Comprehensive Plan. Screening from view may be accomplished by integrating such area into the overall design of the building (e.g., inside of the building or use of architectural extension of a building wall) or using a fence, a berm, landscaping (above what is otherwise required in this chapter), other suitable feature, or any combination thereof.
- (5) A docking or loading area for a commercial, institutional, or industrial building shall be easily accessible to service vehicles, separated from the on-site parking area, and designed to serve multiple establishments and tenants, when possible. Such docking or loading area shall not be readily visible from a public street, an on-site customer parking area, or an abutting property in a commercial or residential district or in an agricultural zoning district that is designated for future commercial or residential development in an adopted Comprehensive Plan. Screening from view may be accomplished by integrating such area into the overall design of the building (e.g., inside of the building or use of architectural extension of a building wall) or using a fence, a berm, landscaping, above what is otherwise required in this chapter, other suitable feature, or any combination thereof (Exhibit 7-2).

Exhibit 7-2. A loading dock screened from view by a solid wall integrated into a building's design.



- (6) Existing natural resources and topographic features on the site shall be preserved to the greatest extent possible while affording a reasonable use of the property.

- (7) The project shall be designed with consideration to pedestrian and bicycle traffic and shall include appropriately located crosswalks and bike parking areas.
- (8) The project shall not create any hazard.
- (9) The project shall be designed to avoid existing hazards, whether man-made or natural, and if avoidance is not possible, to mitigate the effects of the hazard to a satisfactory level necessary to protect the public health, safety, and welfare.

**§ 435.7-35. Architectural standards.**

A. Legislative findings. The Village Board of Trustees makes the following legislative findings with regard to this section:

- (1) The outward design appearance of a building can have a substantial and long-lasting effect on surrounding properties and the overall character of a community.
- (2) Buildings and especially those within a largely developed area should fit into the context in which they occur.
- (3) Architectural design standards should allow for a variety of architectural styles and be flexible to the greatest extent possible.
- (4) The standards in this section are intended to provide meaningful guidance to applicants, design professionals, and public officials.
- (5) This section is not intended to limit or infringe upon reasonable accommodations to afford a person with disabilities equal opportunity to use and enjoy a building.
- (6) The standards in this section are intended to promote the public health, safety, and welfare and are reasonably related to the public purpose of achieving an attractive, functional, and prosperous community.

B. Minimum requirements. Buildings subject to review under this division shall adhere to the following architectural standards:

- (1) The scale of the building shall be compatible with the overall massing and the individual parts of adjacent buildings, especially existing and anticipated residential buildings in a residential zoning district or in an agricultural zoning district that is designated for future residential development in an adopted Comprehensive Plan.
- (2) A commercial or institutional building with two or more stories shall be designed to include a base, middle, and cap. For the purpose of this subsection, the base consists of one or more entryways and ground floor windows; the middle is set apart from the base by a molding, reveal, or other suitable feature, and may

consist of windows, balconies, or both; and the cap consists of a roof overhang, a parapet cornice, or other similar feature.

- (3) Windows, doors, and other openings must form a unified composition in proportion to the building elevation.
- (4) Principal buildings located in a commercial zoning district having a front elevation of more than 750 square feet in area shall be divided into distinct planes of 500 square feet or less. The following design features can be used to meet this provision:
  - (a) Canopies or awnings;
  - (b) Arcades;
  - (c) Porches;
  - (d) Vertical wall offsets having a minimum depth of eight inches and a minimum width of 10 feet;
  - (e) Horizontal offsets having a minimum depth of two feet;
  - (f) Pilasters having a minimum depth of eight inches, a minimum width of 12 inches, and a minimum height of 80% of the wall height;
  - (g) Recessed areas for entryways and the like having a minimum depth of eight inches; and
  - (h) Other suitable multidimensional design features.
- (5) Oversized fenestration elements which tend to create a monumental scale shall not be used unless specifically required by the type of building or relationship to its surroundings.
- (6) Building entrances must be clearly recognizable from parking lots and pedestrian circulation routes.
- (7) The appearance of a side or rear of a commercial or institutional building that is readily visible from a public street or an abutting property in a commercial or residential zoning district or in an agricultural zoning district designated for future commercial or residential development in the Village's Comprehensive Plan shall be the same as or similar to the front of such building.
- (8) Rooftop mechanical equipment shall be positioned so it is not readily visible from a public street or an abutting property in a residential zoning district. Rooftop mechanical equipment may be placed in an enclosure or screened from view provided such enclosure or screening is used as an element of the building's architecture.
- (9) Fencing shall complement the appearance of buildings on site.

- (10) The exterior building materials of an accessory building and other structure shall be the same as or similar to those used on the principal building.
- C. Special provisions for certain personal storage facilities. A personal storage facility when allowed in a commercial zoning district shall meet the following requirements:
- (1) Roof. The roof shall have a minimum pitch of four and 12.
  - (2) Door adjacent to a residential district. No door providing access to a storage cubicle shall be located on the outer perimeter of the building when abutting a residential district or a planned development district with a residential component.
  - (3) Placement of doors on a single-loaded building. When a personal storage facility is single-loaded (i.e., cubicle doors only on one side), the cubicle doors shall not face the outer perimeter of the site.
  - (4) Exterior material. At least 40% of the wall surface facing toward the outer perimeter of the site shall be brick, natural or cultured stone, decorative concrete block (e.g., ground face or split face), stucco, or a combination thereof.





## DIVISION 7

**Special Standards for Principal Land Uses****(Series 1 to 16 in Land Use Matrix)****Series****1.****Agricultural  
Uses****§ 435.7-36. Agriculture-related use.**

- A. Generally. Such use shall not be located in, or adjacent to, an existing or platted residential subdivision. If such use is established prior to March 31, 2013, the adjoining lands may be platted for residential subdivisions after that date.
- B. Long-term use. This use shall be located in an area that is planned to remain commercially viable for agricultural land uses over the long term.
- C. Setbacks. All buildings, structures, and outdoor storage areas shall be located at least 100 feet from all side and rear property boundary lines.

**§ 435.7-37. Agriculture, crop.**

- A. Setbacks. The raising of crops may occur within the setback of a street yard, side yard, and rear yard.
- B. Buildings. Buildings related to the raising of crops are only allowed in an agricultural zoning district.

**§ 435.7-38. Agriculture, general.**

- A. Legislative findings. The Village Board of Trustees makes the following legislative findings regarding large-scale animal agriculture:
  - (1) The State Legislature adopted § 93.90, Wis. Stats., (Livestock Facility Siting Law) to govern livestock facilities, which is implemented by administrative rule under Ch. ATCP 51, Wis. Adm. Code.
  - (2) The Livestock Facility Siting Law allows local jurisdictions to review livestock facilities with 500 animal units or more as a conditional use.
- B. Standards for livestock facilities with fewer than 500 animal units. There are no special standards that apply to general agriculture with fewer than 500 animal units.

- C. Standards for livestock facilities with 500 animal units or more. A livestock facility with 500 animal units or more shall comply with the following requirements:
- (1) Minimum lot area. The facility shall only occur on a parcel of land that is 40 acres or larger. Once this use is established, the parcel shall not be made smaller through a property boundary line relocation or other means, except as may be approved by the Planning Commission.
  - (2) Road access. Primary access to this use shall occur off of a road classified as a county trunk highway or state highway, unless otherwise prohibited.
  - (3) Location of livestock structures. A livestock structure approved after March 31, 2013, except for livestock waste storage structures, shall be located at least 100 feet from a public road right-of-way and 150 feet from a property boundary line, other than for a public road right-of-way.
  - (4) Location of livestock waste storage structures. A livestock waste storage structure approved after March 31, 2013, shall be located at least 350 feet from a property boundary. If any portion of an existing structure is closer than 350 feet to a property boundary line, such structure may be expanded, provided the expansion is not located any closer to the property boundary line than the existing structure. A single new livestock waste storage structure may be constructed closer than 350 feet if such structure is located on the same tax parcel as a livestock waste storage structure in existence before May 1, 2006, is not larger than the existing structure, is no further than 50 feet from the existing structure, and is no closer to the property boundary line than the existing structure. An existing structure that does not meet the setback standards in this subsection may be expanded, provided such expansion is not located any closer to the property boundary line than the existing structure.
  - (5) Wells. All water wells located within a livestock facility shall comply with Chs. NR 811 and 812, Wis. Adm. Code. New or substantially altered livestock structures shall be separated from existing wells by the distances required in Chs. NR 811 and 812, Wis. Adm. Code, regardless of whether the livestock facility operator owns the land on which the wells are located. A livestock structure in existence on May 1, 2006, may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

**§ 435.7-39. (Reserved)****Series****2.****Resource-  
Based  
Uses****§ 435.7-40. Dam.**

- A. State and federal compliance. A dam constructed after March 31, 2013, shall comply with all state and federal rules and regulations.
- B. Removal. A dam may be removed, provided the standards and requirements of Ch. 31, Wis. Stats., are met.
- C. Safety. The owner of the dam shall comply with the safety measures required in § NR 333.07(3), Wis. Adm. Code.
- D. Unsafe conditions. If the Zoning Administrator determines that a dam is unsafe or otherwise defective, the Administrator shall follow the procedure outlined in Article 6 of this chapter relating to unsafe conditions.
- E. Termination of use. If the Zoning Administrator determines that a dam has not been operational for a continuous period of 12 months, the Administrator shall follow the procedure outlined in Article 6 of this chapter relating to the termination of an approval.

**§ 435.7-41. Forestry.**

- A. Removal of trees and shrubs within a buffer yard. Trees and shrubs within a required buffer yard shall not be removed, except as follows:
  - (1) A dead or dying tree or shrub may be removed.
  - (2) An invasive tree or shrub may be removed. If a tree or shrub is removed and the tree or shrub is counted towards meeting a landscaping requirement contained in this chapter, a new plant shall be planted in the buffer yard to compensate for the loss.
- B. Removal of a tree or shrub within a defined open space area. Trees and shrubs within an area set aside as open space shall not be removed except as follows:
  - (1) A dead or dying tree or shrub may be removed.
  - (2) An invasive tree or shrub may be removed.
  - (3) The removal of trees and shrubs is done consistent with a landscape management plan as prepared by a registered landscape architect, an arborist, or a forester and as approved by the Zoning Administrator.

**§ 435.7-42. Hunting preserve.**

No special standards apply to hunting preserves.

**§ 435.7-43. Sewage sludge disposal.**

The land application of sewage sludge shall comply with § 283.82, Wis. Stats., Ch. NR 204, Wis. Adm. Code, and other applicable rules and regulations administered by the Wisconsin Department of Natural Resources.

**§ 435.7-44. Wildlife park.**

No special standards apply to wildlife parks.

**Series****3.****Residential  
Uses****§ 435.7-45. Mixed-use housing.**

No special standards apply to mixed-use housing.

**§ 435.7-46. Manufactured/mobile home park.**

- A. Minimum size. The minimum size of a manufactured/mobile home park established after March 31, 2013, shall be 20 acres.
- B. Uses. A recreational vehicle shall not be used for dwelling purposes. The following are permitted uses:
  - (1) One mobile home or manufactured home per designated space;
  - (2) One single-family dwelling for the park operator or caretaker;
  - (3) One or more community safe rooms;
  - (4) Service buildings, such as administrative offices, laundromats, and recreational buildings, provided that such uses are subordinate to the residential character of the park and are intended for use primarily by park residents;
  - (5) Accessory structures, such as storage sheds, porches, garages, and carports, as may be approved by the park operator, provided minimum setback requirements to the perimeter are maintained; and
  - (6) One or more play areas for children.
- C. Density. The maximum density shall be eight spaces per gross acre.
- D. Park access. The entrance to the manufactured/mobile home park shall be designed to minimize congestion and hazards and allow free

movement of traffic on adjacent roads. Each access to the development shall be off of a road classified as a minor arterial, major collector, or minor collector as depicted on the Zoning Map or a supplemental map.

- E. Interior access. Access to each manufactured/mobile home space shall be off of a paved private street internal to the project.
- F. Walkways. Pedestrian walkways shall be provided in the area around service buildings, along major streets, and in other locations of anticipated heavy foot traffic. Walkways shall be at least four feet wide and hard surfaced. In addition, each manufactured/mobile home stand shall be provided with a walkway from the stand to the street or parking space.
- G. Manufactured/mobile home space. An individual manufactured/mobile home space shall contain at least 3,000 square feet and shall have a minimum width, at the narrowest point, of 45 feet. The limits of each manufactured/mobile home space shall be clearly marked on the ground. Considering the orientation of principal windows in manufactured/mobile homes, manufactured/mobile home spaces should be arranged diagonally to the street (30° from perpendicular).
- H. Identification of manufactured/mobile home spaces. Each manufactured/mobile home shall be clearly identified in a uniform manner with a unique number or other approved designation for fire and police services. Such number or other approved designation shall be filed with the appropriate authorities by the licensee.
- I. Manufactured/mobile home pad. Within each designated manufactured/mobile home space, a manufactured/mobile home pad with minimum dimensions of 17 feet by 70 feet shall be provided for the placement of the manufactured/mobile home. The pad shall be hard surfaced with asphalt, concrete, or similar material and provide adequate drainage and support against settling and frost heave. It shall be equipped with tie-downs and anchors to secure the manufactured/mobile home against winds.
- J. Required separation between manufactured/mobile homes. Manufactured/mobile homes shall be separated from each other and from other buildings and structures by at least 10 feet. An accessory structure such as an awning, cabana, storage cabinet, carport, windbreak, or porch attached to the manufactured/mobile home shall, for purposes of separation requirements, be considered a part of the manufactured/mobile home. The basic unit shall not occupy in excess of 1/4 of the area of the lot and the complete unit including all accessory structures shall not occupy more than 1/2 of the area of the lot.
- K. Setback and buffer strips. Each manufactured/mobile home shall be located at least five feet from any manufactured/mobile home lot line. There shall be a minimum setback of the manufactured/mobile home of 20 feet from the front or main street side of the lot and of at least 10 feet from the rear of the lot. All manufactured/mobile homes shall be

located at least 25 feet from the perimeter of the site. Accessory buildings shall be located at least 10 feet from the perimeter of the site.

- L. Drainage and landscaping. The ground surface shall be graded and equipped to drain all surface water in a safe, efficient manner away from the manufactured/mobile home pad. Except for the manufactured/mobile home pad and other hard-surfaced areas, manufactured/mobile home spaces shall be sodded or seeded or otherwise landscaped.
- M. Skirting. Each manufactured/mobile home shall be skirted within 30 days of placement on the pad.
- N. Mail delivery. An off-street area for central mail delivery shall be provided.
- O. Solid waste collection. If the solid waste service provider does not provide individual pickup, a dumpster enclosure of sufficient size shall be provided.
- P. Common storage area for residents. An open, well-drained, dust-free storage area for the parking of boats, trailers, and outside vehicles owned by those living in the manufactured/mobile home park shall be provided. The minimum size of such area shall be 100 square feet per manufactured/mobile home space. The storage area shall be fenced to prevent access from outside the park.
- Q. Recreation area. A manufactured/mobile home park shall contain a recreation area consisting of 1/2 acre for each 100 manufactured/mobile home spaces. The minimum area in a park shall be 0.2 acre. Such area shall be located in a central area of the manufactured/mobile home park.
- R. Utilities. Utilities, including electrical, television, and telephone services, shall be placed underground.
- S. Lighting. Streetlights shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians at night and shall be effectively related to buildings, trees, walks, steps, and ramps.
- T. Fire hydrants. Fire hydrants shall be installed as required by the fire department serving the subject property.
- U. Sanitation. All appropriate state, county, and county sanitation regulations shall be strictly observed.
- V. Continuing maintenance. The owner of the manufactured/mobile home park shall maintain the park in a clean and sanitary manner and may adopt and enforce community rules.
- W. Community safe room. A new manufactured/mobile home park that contains 20 or more manufactured/mobile home spaces and existing manufactured/mobile home parks that expand the number of spaces to

20 or more spaces shall provide and maintain an on-site community safe room for the use of park residents during wind-related storm events. The shelter shall meet applicable building codes and shall comply with the design and construction guidance as contained in Design and Construction Guidance for Community Safe Rooms (FEMA 361, second edition), or later edition, as published by the Federal Emergency Management Agency, U.S. Department of Homeland Security.

- X. Local license. Prior to the establishment of a manufactured/mobile home park, the operator shall obtain a license from the Village of Fox Crossing pursuant to Chapter 276, Mobile Homes and Mobile Home Parks, of the Village Code and maintain such license for the life of the use or until the Village no longer requires such license.

**§ 435.7-47. Multifamily building, two units.**

- A. Number of principal buildings per parcel. More than one multifamily building with two dwelling units may be located on a parcel of land, provided the district standards are maintained.
- B. Design and construction. A multifamily building with two dwelling units shall meet the design and construction standards for a single-family dwelling under § 435.7-49C.

**§ 435.7-48. Multifamily building, three or more units.**

- A. Number of principal buildings per parcel. More than one multifamily building with three or more dwelling units may be located on a parcel of land, provided the district standards are maintained.
- B. Design and construction. A multifamily building with three or more dwelling units shall meet the design and construction standards set forth in the Wisconsin Commercial Building Code and the International Building Code.

**§ 435.7-49. Single-family dwelling.**

- A. Number of principal dwellings per parcel. No more than one principal residential building shall occupy any single parcel of land.
- B. Occupancy. A dwelling unit shall be occupied by no more than one family.
- C. Design and construction. A single-family dwelling shall meet the following standards:
  - (1) Suitable roof coverings include clay or ceramic tiles, wood shingles or shakes, metal, or fiberglass or asphalt shingles.
  - (2) Exterior wall surfaces shall be covered with stucco, wood siding, cement-fiber siding, vinyl siding, metal horizontal lap siding, wood shingles, or a masonry veneer.



- (3) An overhang shall extend at least 12 inches beyond the face of the exterior wall.
- (4) The building shall be set on and anchored to a continuous permanent foundation that extends around its perimeter.

**§ 435.7-50. Townhouse.**

- A. Lot area. No more than 70% of the lot area shall be occupied by a building.
- B. Utility service. Each dwelling unit shall have independent service connections to all utilities, including water, sewer, and electricity.
- C. Subsequent divisions. Individual townhouses shall not be further subdivided.
- D. Driveways. When more than one garage is located in the front of a townhouse, a common driveway shall be used whenever possible.
- E. Vertical offsets. When a building includes five or more dwelling units, there shall be a vertical offset of at least two feet between each adjoining dwelling unit.
- F. Accessory buildings. The floor area of accessory buildings, excluding garages and carports, shall not exceed 120 cumulative square feet.
- G. Front entrances. The front entrance to each dwelling unit shall be clearly visible from the street on which it fronts and accentuated by a porch or other architectural feature.

**§ 435.7-51. Twin home.**

- A. Fire separation. Each dwelling unit of a twin home shall be separated from the abutting unit by a minimum fire separation complying with § SPS 321.08, Wis. Adm. Code.
- B. General layout. The common wall between dwelling units in a twin home shall be approximately perpendicular to the front lot line.
- C. Water service. Dwelling units in a twin home shall have a separate water service with separate curb stops, lines, and meters.
- D. Gas and electric service. Dwelling units in a twin home shall have separate gas and electric meters.
- E. Sanitary sewer service. Dwelling units in a twin home shall have separate sanitary sewer service laterals and lines, subject to including a provision in a joint access and maintenance agreement that addresses emergency access to, and the responsibility for, sanitary sewer building blockage.
- F. Written agreement required. Dwelling units in a twin home shall be subject to a joint cross access and maintenance agreement as approved

by the Zoning Administrator. Such agreement shall be recorded with each lot in the office of the Register of Deeds for Winnebago County.

**Series**

**4.**

**Special**

**Care**

**Facilities**

**§ 435.7-52. Adult family home.**

An adult family home described in § 50.01(l)(b), Wis. Stats., shall not be established within 2,500 feet of another such facility or any community living arrangement. An agent of a proposed adult family home may apply for an exception to this requirement, and the Village Board at its discretion may grant the exception. An adult family home certified under § 50.032(1m)(b), Wis. Stats., is exempt from this provision.

**§ 435.7-53. Community living arrangement.**

A community living arrangement shall not be established within 2,500 feet of another such facility. An agent of a facility may apply for an exception to this requirement, and the Village Board at its discretion may grant the exception. Two community living arrangements may be adjacent if allowed by the Village Board and if both facilities comprise essential components of a single program. A foster home and a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under § 48.62, Wis. Stats., are exempt from this provision.

**§ 435.7-54. Foster home and treatment foster home (operated as a principal use).**

- A. Proximity to other such facility. A foster home or treatment foster home that is operated by a corporation, a child welfare agency, a religious association, as defined in § 157.061(15), Wis. Stats., an association, or a public agency shall not be established within 2,500 feet of another such facility. An agent may apply for an exception to this requirement, and the Village Board at its discretion may grant the exception.
- B. State license. Prior to the establishment of a foster home or treatment foster home, the operator shall obtain a license from the state as provided for in § 48.75, Wis. Stats., and maintain such license for the life of the use or until the state no longer requires such license.

**§ 435.7-55. Group day-care center.**

An outdoor activity area associated with a group day-care center shall not be located within 20 feet of an adjoining property in a residential zoning district.

**§ 435.7-56. Hospice care center.**

Prior to the establishment of a hospice care center, the operator shall obtain a license from the state as provided for in § 50.92, Wis. Stats., and maintain such license for the life of the use or until the state no longer requires such license.

**§ 435.7-57. Nursing home.**

- A. Required green space. A minimum of 30% of the gross site area shall be green space.
- B. Parking lot screening. When an off-street parking lot is located within 20 feet of a property in a residential zoning district, landscaping, fencing, a berm, or any combination thereof shall be used to effectively screen the parking area from the residential property.
- C. Setbacks. Principal buildings shall be located at least 35 feet from a property in a residential zoning district.

**§ 435.7-58. Retirement home.**

- A. Required green space. A minimum of 30% of the gross site area shall be green space.
- B. Parking lot screening. When an off-street parking lot is located within 20 feet of a property in a residential zoning district, landscaping, fencing, a berm, or any combination thereof shall be used to effectively screen the parking area from the residential property.
- C. Setbacks. Principal buildings shall be located at least 35 feet from a property in a residential zoning district.

**§ 435.7-59. Temporary shelter.**

No special standards apply to temporary shelters.

**Series****5.****Group****Accommodations****§ 435.7-60. Boardinghouse.**

The property owner or a property manager shall reside on the premises.

**§ 435.7-61. Campground.**

- A. Generally. In addition to the other applicable design and improvement requirements contained in this chapter, a campground shall comply with the provisions of this section and applicable state law.

- B. Minimum lot area. The minimum lot area for a campground is five acres.
- C. Continuing maintenance. The owner of the campground shall maintain the campground in a clean and sanitary manner.
- D. Accessory facilities. Accessory facilities (e.g., laundry and food sales) may be allowed as a service to the occupants of the campground but shall be designed, operated, and located to inhibit use by non-occupants.
- E. Density. The density shall not exceed 25 campground spaces per acre (gross).
- F. Recreation area. At least 8% of the gross site area or 2,500 square feet, whichever is greater, shall be dedicated for on-site recreational purposes and shall be easily accessible from all camping spaces.
- G. Access. Campground spaces shall be arranged to permit the safe and practical placement and removal of vehicles from a private roadway internal to the development.
- H. Setbacks from property boundary line. A campground space shall be no closer than 40 feet to the perimeter property boundary line of the site.
- I. Solid waste collection. An off-street area for the collection of solid waste shall be provided within a campground.
- J. Limitation on addition of features. Storage sheds, decks, patios, and similar structures, whether permanent or temporary, shall not be permitted within a camping space. Structural additions to a recreational vehicle, whether permanent or temporary, shall not be permitted.
- K. State license. Prior to the establishment of a campground, the operator shall obtain a license from the Wisconsin Department of Agriculture, Trade and Consumer Protection as required by state law and maintain such license for the life of the use or until the state no longer requires such license.
- L. Local license. Prior to the establishment of a campground, the operator shall obtain a license from the Winnebago County Health Department and maintain such license for the life of the use or until the Department no longer requires such license.

**§ 435.7-62. Group recreation camp.**

- A. Generally. In addition to the other applicable design and improvement requirements contained in this chapter, a group recreation camp shall comply with the provisions of this section and applicable state law.
- B. Minimum lot area. The minimum lot area for a group recreation camp is five acres.

- C. Continuing maintenance. The owner of the group recreation camp shall maintain the group camp in a clean and sanitary manner.
- D. Accessory facilities. Accessory facilities (e.g., laundry and food sales) may be allowed as a service to the occupants of the group recreation camp but they shall be designed, operated, and located to inhibit use by non-occupants.
- E. Density. If campground spaces are provided, the density shall not exceed 25 campground spaces per acre (gross).
- F. Access. If campground spaces are provided, they shall be arranged to permit the safe and practical placement and removal of vehicles from a private roadway internal to the development.
- G. Setbacks from property boundary line. If campground spaces are provided, they shall be no closer than 40 feet to the perimeter property boundary line of the site.
- H. Solid waste collection. An off-street area for the collection of solid waste shall be provided within a group recreation camp.
- I. Limitation on addition of features. Storage sheds, decks, patios, and similar structures, whether permanent or temporary, shall not be permitted within a camping space. Structural additions to a recreational vehicle, whether permanent or temporary, shall not be permitted.
- J. State license. Prior to the establishment of a group recreation camp, the operator shall obtain a license from the Wisconsin Department of Agriculture, Trade and Consumer Protection as required by state law and maintain such license for the life of the use or until the state no longer requires such license.
- K. Local license. Prior to the establishment of a group recreation camp, the operator shall obtain a license from the Winnebago County Health Department if so required and maintain such license for the life of the use or until the Department no longer requires such license.

**§ 435.7-63. Migrant labor camp.**

No special standards apply to a migrant labor camp.

**§ 435.7-64. Overnight lodging.**

- A. Local license. Prior to the establishment of the use, a hotel/motel license shall be obtained from the Village Clerk per Chapter 232 of the Fox Crossing Municipal Code.
- B. Health Department license. Prior to the establishment of the use, the operator shall obtain a license from the Winnebago County Health Department and maintain such license for the life of the use or until the Department no longer requires such license.

- C. Location of customer entrance. No customer entrance to the building shall be located within 100 feet of a property in a residential zoning district.
- D. Length of stay. No guest may stay longer than 60 days within any six-month period.

**§ 435.7-65. Resort.**

- A. Minimum lot area. The minimum lot area for a resort is five acres.

**Series**

**6.**

**Food  
and  
Beverage  
Sales**

**§ 435.7-66. Brewpub.**

- A. Local license. Prior to the establishment of a brewpub, the operator shall obtain a license from the Village, as may be required, and maintain such license for the life of the use or until the Village no longer requires such license.
- B. State license. Prior to the establishment of a brewpub, the operator shall obtain a license from the state, as may be required, and maintain such license for the life of the use or until the state no longer requires such license.
- C. Limitation on floor area devoted to production. No more than 40% of the floor area shall be devoted to the production of fermented malt beverages, including storage of raw materials and finished products.
- D. Limitation on production. Not more than 10,000 barrels (310,000 gallons) of fermented malt beverages may be manufactured in a calendar year.

**§ 435.7-67. Restaurant.**

Prior to the establishment of a restaurant, the operator shall obtain a license from the Winnebago County Health Department and maintain such license for the life of the use or until the Department no longer requires such license.

**§ 435.7-68. Tavern.**

- A. Local license. Prior to the establishment of a tavern, the operator shall obtain a license from the Village in which the use is located and maintain such license for the life of the use or until the license is no longer required.

- B. Compliance with state requirements. A tavern shall comply with requirements as may be adopted by the State of Wisconsin.

**Series  
7.  
Vehicle  
Rental,  
Sales,  
and  
Service**

**§ 435.7-69. Heavy vehicle sales and rental.**

Outdoor display areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a property in a commercial or mixed-use zoning district.

**§ 435.7-70. Truck stop.**

- A. Minimum lot area and location. A truck stop established after March 31, 2013, shall be located on a parcel containing at least 10 acres that is located within 2,000 feet of a U.S. highway or a state highway.
- B. Access. Each access to the parcel with a truck stop shall be off of a road classified as an arterial or a higher classification as depicted on the Zoning Map or a supplemental map.
- C. Rest room facilities. If a truck stop provides rest room facilities, the door to each rest room shall be accessed from within the interior of the building in which they are located.
- D. Pump island canopies. Pump island canopies shall not exceed 22 feet in height.
- E. Special setbacks. The following setbacks shall apply to a vehicle fuel station:
- (1) A fuel pump shall be located at least 50 feet from a property in a residential zoning district and at least 30 feet from a property in a nonresidential zoning district.
  - (2) A pump island canopy shall be located at least 18 feet from all property boundary lines.
- F. Location of parking areas. Areas designated or used for truck parking and other similar activity areas shall be designed and located so that noise levels at the property boundary line of a property in a residential zoning district do not exceed 60 decibels as measured on a dB(A) scale between the hours of 10:00 p.m. and 7:00 a.m.

**§ 435.7-71. Vehicle fuel station.**

- A. Rest room facilities. If a vehicle fuel station provides rest room facilities, the door to each rest room shall be accessed from within the interior of the building in which they are located.
- B. Pump island canopies. Pump island canopies shall not exceed 22 feet in height.
- C. Special setbacks. The following setbacks shall apply to a vehicle fuel station:
  - (1) A fuel pump shall be located at least 50 feet from a property in a residential zoning district and at least 30 feet from a property in a nonresidential zoning district.
  - (2) A pump island canopy shall be located at least 18 feet from all property boundary lines.

**§ 435.7-72. Vehicle repair shop.**

- A. Work area. Motor vehicles shall be not serviced or repaired outside of the principal structure intended for such use, except when located in an industrial zoning district.
- B. Vehicle storage. When a vehicle repair shop is located in a commercial zoning district, no more than 10 motor vehicles shall be stored out of doors overnight. When located in an industrial zoning district, there is no limitation on the number of motor vehicles that can be stored out of doors overnight. Storage of unlicensed vehicles is prohibited.

**§ 435.7-73. Vehicle sales and rental.**

- A. Show room. An indoor vehicle display area shall be provided that is at least 12 feet by 20 feet. If only motorcycles are sold, the indoor vehicle display area shall be large enough to display at least three motorcycles.
- B. State license. Prior to the establishment of this use, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license.
- C. Setback for display area. Display areas and other activity areas shall be located at least 30 feet from a property in a residential zoning district and 10 feet from a property in a commercial or mixed-use zoning district.

**§ 435.7-74. Vehicle service shop.**

No special standards apply to vehicle service shops.

**§ 435.7-75. Vehicle storage yard.**

- A. Buffer yard. In addition to the buffer yard requirements in Article 8 of this chapter, the reviewing authority may, as part of the site plan review



process, require additional buffer yard requirements deemed necessary to provide adequate screening between this use and adjoining properties.

- B. Setback requirements. Outdoor storage areas and other activity areas shall be located at least 40 feet from a property in a residential zoning district and 20 feet from a property in a commercial or mixed-use zoning district.
- C. Fence. A six-foot solid fence, subject to approval by the reviewing authority, shall be located around the perimeter of the area used to store the motor vehicles.
- D. Fence plan. As part of the site plan review application, the applicant shall submit a fence plan which specifies construction materials and specifications.

## **Series**

### **8.**

#### **General Sales**

##### **§ 435.7-76. Convenience retail sales.**

No special standards apply to convenience retail sales.

##### **§ 435.7-77. General retail sales.**

No special standards apply to general retail sales.

##### **§ 435.7-78. General retail sales, large format.**

- A. Legislative findings. The Village Board of Trustees makes the following legislative finding relating to large-format retail sales: abandoned buildings are a blighting influence on the community and large vacant stores are especially detrimental.
- B. Purpose. The provisions of this section are intended to prevent urban blight due to large vacant stores.
- C. Development agreement. Prior to issuance of a building permit for a large-format retail store, the property owner shall enter into a development agreement with the Village, to run with the land, that includes all of the following:
  - (1) A provision that prevents the owner from prohibiting or otherwise limiting, through contract or other legal device, the reuse of the building for retail or other legitimate purpose.
  - (2) A provision requiring long-term maintenance of the property including landscaping if the building is vacated.

- (3) A provision requiring the preparation of an adaptive reuse plan or a demolition plan by the property owner acceptable to the Village Board within 12 months of vacation.
  - (4) A provision stating that the property owner, within 24 months of vacation, shall either begin demolishing the building and restoring the site consistent with the approved demolition plan and continue in good faith to completion or begin implementing the approved adaptive reuse plan and continue in good faith to completion.
  - (5) Other provisions deemed necessary by the Village Board to address the particular circumstances related to the project.
- D. Vacation of existing buildings. When a large-format store is proposed as a replacement for another retail store already located in the Village, the applicant shall not prohibit or otherwise limit, through contract or other legal device, the reuse of its former building.

**§ 435.7-79. Outdoor sales.**

Items offered for sale shall not be located within the setbacks established for the zoning district in which the use is located.

**Series  
9.  
General  
Services**

**§ 435.7-80. Administrative services.**

No special standards apply to administrative services.

**§ 435.7-81. Adult-oriented establishment.**

- A. Legislative findings. The Village Board of Trustees makes the following legislative findings regarding adult-oriented establishments:
- (1) The Village Board of Trustees has become aware, based upon its own observations, studies and experiences, as well as testimony before the Board by legal counsel for the Village, and also the experiences of other communities, that adult-oriented establishments may and do generate deleterious secondary adverse effects which the governing body believes are detrimental to the public health, safety, welfare and morals of Fox Crossing.
  - (2) Specifically, the Village Board has reviewed evidence concerning adverse secondary effects on other communities found in, but not limited to, the cases of *Ben's Bar, Inc. v. Village of Somerset*, 316 F3d 702 (2003); *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986); *Barnes v. Glen Theater, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697 (1986); *California v. LaRue*, 409 U.S. 109 (1972); *City of Newport, KY v. Iacobucci*, 479 U.S. 92

(1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F3d 403 (6th Cir. 1997); *Kev, Inc. v. Kitsap County*, 793 F2d 1053 (9th Cir. 1986); *Hang On, Inc. v. City of Arlington*, 65 F3d 1248 (5th Cir. 1995); *South Florida Free Beaches, Inc. v. City of Miami*, 734 F2d 608 (11th Cir. 1984); *New York State Liquor Auth. v. Bellanca*, 452 US 714 (1981); *Blue Canary Corp. v. City of Milwaukee*, 251 F3d 1121; *MDK, Inc. v. Village of Grafton*, 345 F. Supp 2d 952 at page 957; *Daytona Grand, Inc. v. City of Daytona Beach, Florida* 490 F3d 860 (11th Cir. 2007); and a compilation of studies on various municipalities regarding the impact of adult-oriented business, and reports of harmful secondary effects occurring in and around adult-oriented establishments, including a publication of the American Planning Association compiled by Eric Damian Kelly and Connie Cooper titled "Everything You Always Wanted To Know About Regulating Sex Businesses XXX," Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, June 6, 1989, reports from studies in Phoenix, Arizona 1984 and 1995-1998; Minneapolis, Minnesota 1980; Houston, Texas 1997; Indianapolis, Indiana 1984; Amarillo, Texas 1977; Garden Grove, California 1991; Los Angeles, California 1977; Whittier, California 1978; Austin, Texas 1986; Seattle, Washington 1989; Oklahoma City, Oklahoma 1986; Cleveland, Ohio 1977; Dallas, Texas 1997; St. Croix County, Wisconsin 1993; Bellevue, Washington 1998; Newport News, Virginia 1996; and New York Times Square Study 1994.

- (3) As a result of the Board's own experiences, observations, studies, experiences of other communities and testimony, the Board finds that adult-oriented establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a causal nature, which may have a deleterious secondary effect on the existing and planned commercial and residential uses in the surrounding areas and result in downgrading of property values as well as causing an increase in criminal activity. Further, the service or presence of alcohol within an adult-oriented establishment is likely to heighten the potential occurrence of such deleterious secondary effects on the surrounding areas.
- (4) The establishment of adult-oriented establishments within 600 feet of each other can create especially deleterious secondary effects on existing and planned commercial and residential uses in the surrounding area.
- (5) The establishment of an adult-oriented establishment within 600 feet of certain land uses, including schools, worship facilities, libraries, parks, and other places where the public and children congregate, can conflict with those uses.
- (6) Concern over sexually transmitted diseases is a legitimate health concern of Fox Crossing which demands reasonable regulation of

adult-oriented establishments in order to protect the health, safety and welfare of its citizens.

- (7) Fox Crossing desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of surrounding neighborhoods, and deter the spread of blight.

B. Purpose.

- (1) It is the intent and purpose of this section to be passed pursuant to legitimate regulatory authority of the Village under its police powers and zoning powers, pursuant to Wisconsin Statutes, to promote the health, safety, welfare and morals of the citizens of Fox Crossing by establishing reasonable and uniform regulations to prevent the deleterious secondary effects associated with adult-oriented establishments.
- (2) The provisions of this section have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative or expressive materials or acts, including sexually oriented materials or acts. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented materials or acts protected by the First Amendment or to deny access by the distributors and exhibitors of sexual oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene materials as regulated by state law.
- (3) The regulations of this section are not aimed at the content of any speech. Rather, this section has the purpose and effect of controlling the deleterious secondary effects of adult-oriented establishments while avoiding the regulation of content.
- (4) This section is not intended to prohibit adult-oriented establishments from operating in Fox Crossing, but rather this section is intended to regulate their location and manner of operation while providing reasonable opportunity for such adult-oriented establishments to exist. This section is also intended to regulate the proximity of adult-oriented establishments to certain sensitive land uses.

C. Applicability. Upon any of the following events, an adult-oriented establishment shall comply with the provisions of this section:

- (1) The opening, commencement, or operation of an adult-oriented establishment;
- (2) The conversion of an existing business, whether or not an adult-oriented establishment, to an adult-oriented establishment;

- (3) The addition of an adult-oriented establishment to an adult-oriented establishment;
  - (4) The relocation of an adult-oriented establishment;
  - (5) The sale, lease, or sublease of an adult-oriented establishment;
  - (6) The transfer of securities which constitute a controlling interest in an adult-oriented establishment, whether by sale, exchange or other means of transfer; or
  - (7) The establishment of a trust, gift or some other legal instrument that transfers ownership or control of an adult-oriented establishment.
- D. Exclusions. This section does not apply to theaters, performing arts centers, civic centers, and dinner theaters where:
- (1) Live dance, ballet, music or dramatic performances of serious artistic merit are offered on a regular basis;
  - (2) The predominant business or attraction is not the offering of entertainment which is intended for sexual interests or titillation of customers; and
  - (3) The establishment is not distinguished by an emphasis on or the advertising or promotion of nude or seminude performances.
- E. License.
- (1) Except as provided in Subsection E(5) below, from and after the effective date of this section, no adult-oriented establishment shall be operated or maintained in any area subject to Fox Crossing zoning without first obtaining a license to operate issued by the Fox Crossing Village Board.
  - (2) A license may be issued for only one adult-oriented establishment located at a fixed and certain location per application filed. Any person, partnership, corporation or other entity or organization which desires to operate more than one adult-oriented establishment must have a license for each.
  - (3) No license or interest in a license may be sold, assigned, or otherwise transferred to any person, partnership, corporation or other entity or organization.
  - (4) It shall be unlawful for any entertainer, employee or operator of an adult-oriented establishment to knowingly work in or to knowingly perform any service directly related to the operation of any adult-oriented establishment that does not have a valid license pursuant to this section.
  - (5) Nothing in this section shall be construed so as to permit material or performances prohibited by § 944.21, Wis. Stats.

## F. Application for license.

- (1) Any person, partnership, corporation or other entity or organization desiring to secure a license shall submit an application for such license to the Fox Crossing Village Board. The application shall be filed with the Village Clerk.
- (2) The application for a license shall be submitted upon a form provided by Fox Crossing. An applicant for a license shall furnish the following information under oath:
  - (a) The full name and date of birth of the applicant and any partner or limited partner in a partnership applicant and any shareholder holding more than 10% of the stock of a corporate applicant and each corporate officer and director.
  - (b) Written proof that any person required to be named under Subsection F(2)(a) is at least 18 years of age.
  - (c) A detailed description of the activities to be conducted on the premises. If any booth, room or cubicle for private viewing of any sexually oriented entertainment is intended, a sketch or other description of the premises, which is acceptable to Fox Crossing, is required.
  - (d) The address of the adult-oriented establishment to be operated by the applicant.
  - (e) Whether any person required to be named under Subsection F(2)(a) of this section is currently operating, or has previously operated, in this or any other town, village, city, county or state, under an adult-oriented establishment license or similar business license or permit.
  - (f) Whether the applicant or any person required to be named under Subsection F(2)(a) has ever had an adult-oriented establishment license, or similar business license or permit, revoked or suspended. If so, the applicant must provide reasons therefor and the business entity or trade name under which the applicant or any person required to be named under Subsection F(2)(a) operated that was subject to revocation or suspension.
  - (g) If the applicant is a corporation, the application shall specify, without limitation, the name of the corporation, the date and state of incorporation, and the name and address of the registered agent.
- (3) Within 21 days of receiving an application for a license, the Fox Crossing Village Clerk shall notify the applicant whether the application has been approved or denied.

- (4) If an application is denied, the Fox Crossing Village Board shall advise the applicant in writing of the reason or reasons for the denial. The applicant may request a review of a denial pursuant to Ch. 68, Wis. Stats., as amended from time to time.
- (5) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or the applicant's refusal to submit to or cooperate with any investigation required by this section shall be grounds for denial of an application.

G. Standards for issuance of license.

- (1) To be eligible to receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:
  - (a) If the applicant is an individual:
    - [1] The applicant shall be at least 18 years old.
    - [2] The applicant shall not have been found to have previously violated this section within five years immediately preceding the date of application.
    - [3] The applicant shall not have been convicted of any offense involving moral turpitude, prostitution, obscenity, or any other offense of a sexual nature in any jurisdiction within five years immediately preceding the date of application, unless the person has been duly pardoned.
  - (b) If the applicant is a partnership, joint venture or any other type of organization:
    - [1] All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age.
    - [2] Neither the applicant nor any person having a financial interest in the organization shall have been found to have violated any provision of this section within five years immediately preceding the date of application.
    - [3] No applicant or person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of any offense involving moral turpitude, prostitution, obscenity, or other offense of a sexual nature in any jurisdiction within the five years immediately preceding the date of application, unless the person or applicant has been duly pardoned.
  - (c) If the applicant is a corporation:

- [1] All officers, directors, shareholders and agents required to be named under this section are at least 18 years of age.
  - [2] Neither the corporate applicant nor any officer, director, or shareholder required to be named under this section shall have been found to have previously violated this section within five years immediately preceding the date of application.
  - [3] No officer, director, shareholder or agent required to be named under this section, or the corporate applicant, shall have been convicted of any offense involving moral turpitude, prostitution, obscenity, or other offense of a sexual nature in any jurisdiction within the five years immediately preceding the date of the application, unless the person or applicant has been duly pardoned.
- (2) Prior to granting the license, the Fox Crossing Village Board shall determine whether the applicant complies with all applicable restrictions on location, this section, and has complied with all building, zoning, plumbing, electrical, fire, health and other codes and regulations.
- H. Fees. A license fee shall be submitted with the application for the license in the amount specified in the Village of Fox Crossing Fee Schedule.
- I. Display of license. The license shall be displayed in a conspicuous and public place in the adult-oriented establishment.
- J. Renewal of license.
- (1) Every license issued pursuant to this section will terminate at the expiration of one year from the date of issuance, unless sooner revoked or suspended, and must be renewed before operation is allowed in the following year. Any applicant or operator of an adult-oriented establishment desiring to renew a license shall make application to the Fox Crossing Village Board and file said renewal at least 60 days prior to the license expiration date. The application for renewal shall be filed in duplicate with the Fox Crossing Village Clerk. The application for renewal shall be on a form provided by the Village of Fox Crossing and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
  - (2) A license renewal fee in the amount specified in the Fox Crossing Fee Schedule shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty in an amount specified in the Fox Crossing Fee Schedule shall be assessed against the applicant who files for a renewal less than 60 days before the license expires.



- K. Revocation, suspension, and nonrenewal of license.
- (1) In addition to other reasons provided by Fox Crossing, a license issued under this section may be suspended or revoked by Fox Crossing for any of the following reasons:
    - (a) Discovery that false or misleading information or data was provided on any application or material facts were omitted from any application.
    - (b) The applicant, operator, entertainer, or any employee of the adult-oriented establishment violates any provision of this section or any rule or regulation adopted by the Fox Crossing Village Board pursuant to this section; provided, however, that in the case of a first offense by an applicant where the conduct was solely that of an employee or customer, the Fox Crossing Village Board may choose to suspend the license for 30 days if the Fox Crossing Village Board finds that the applicant or operator of the adult-oriented establishment had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
    - (c) The applicant or operator of the adult-oriented establishment becomes ineligible to obtain a license under this section.
    - (d) Any cost or fee or penalty required to be paid under this section is not paid.
    - (e) Any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises of the adult-oriented establishment.
    - (f) The applicant, operator of the adult-oriented establishment, any employee or entertainer sells, furnishes, gives, or displays or causes to be sold, furnished, given or displayed to any minor any sexually oriented entertainment or sexually oriented material.
- L. Proximity to another establishment of the same kind. An adult-oriented establishment shall not be located within 600 feet of another adult-oriented establishment.
- M. Proximity to specified zoning districts. An adult-oriented establishment shall not be located within 600 feet of a parcel of land in a residential zoning district or a planned development district that allows residential uses.
- N. Proximity to other specified land uses.
- (1) An adult-oriented establishment shall not be located within 600 feet of any of the following:

- (a) Public library;
  - (b) Public playground or park, including nature trails, pedestrian/bicycle paths, wilderness areas, or other public lands open for recreational activities;
  - (c) Educational facility, including K-12 and post-secondary, but not including facilities used primarily for another purpose and only incidentally as a school;
  - (d) State-licensed family day-care home, group day-care home, or day-care center;
  - (e) Church, synagogue or other worship facility;
  - (f) Any youth-oriented establishment;
  - (g) Tavern;
  - (h) Any commercial business holding a valid liquor license;
  - (i) Residential uses; or
  - (j) Farm dwellings.
- (2) If one of these specified uses locates within this area of separation after the adult-oriented establishment has been granted a building permit or certificate of use and occupancy, the adult-oriented establishment shall not be required to relocate.
- O. Measurement of distances. For purposes of this section, specified distances are measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure containing the adult-oriented establishment to the nearest property boundary line of the parcel with the specified use or to the specified zoning district. If an adult-oriented establishment is located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e., from the outer edge of the party wall or the outer wall). The presence of a city, village, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section.
- P. Sale of alcohol. An adult-oriented establishment must abide by Chapter 146, Alcohol Beverages, Article II, Sexually Oriented Businesses, of the Fox Crossing Municipal Code.
- Q. Building standards. All building openings, entries and windows of adult-oriented establishments shall be located, covered, or screened in such a manner so as to prevent the interior of such premises from being viewed from outside the establishment. There shall be no display windows in adult-oriented establishments.
- R. Special provisions. Adult-oriented establishments shall close no later than the closing time established for taverns and shall not be open

between the hours of 2:00 a.m. and 8:00 a.m., Monday through Friday, and 2:30 a.m. and 8:00 a.m. on Saturdays and Sundays.

- S. Special provisions for adult motion-picture theaters. The viewing screen of an adult motion-picture theater shall not be visible from a public park, road, street, highway, or residence. The premises shall be surrounded by a solid fence at least eight feet in height. All adult motion-picture theaters shall comply with § 134.46, Wis. Stats.
- T. Prohibitions. The property owner and the operator of an adult-oriented establishment shall ensure that minors, as defined by § 990.01(20), Wis. Stats., are not permitted on the premises of the adult-oriented establishment. Solicitation for purposes of prostitution shall be strictly prohibited on the premises of adult-oriented establishments.
- U. Physical contact with an entertainer. During a performance, an entertainer shall not have physical contact with another individual. To prevent such physical contact, performances shall occur on a stage or on a table that is elevated at least 18 inches above the immediate floor level and shall not be less than three feet from any areas occupied by any patron. Patrons shall not be closer than five feet to an entertainer during a performance, including, but not limited to, during the payment of a tip or gratuity. An adult-oriented establishment existing on the effective date of this section shall not have to reconstruct existing stages and tables to meet this requirement, but shall adhere to the prohibition against physical contact.
- V. Signage. Signs advertising an adult-oriented establishment shall conform with Article 10 of this chapter with the exception that no pole or portable signs or billboards shall be permitted on the premises, and with the further exception that signs will not depict specified sexual activities, specific anatomical areas, or both, and provided further that there shall be no flashing or traveling lights located outside of the building of the adult-oriented establishment.
- W. Special provisions related to review of application. As part of the review of a conditional use application for an adult-oriented establishment, the Zoning Administrator shall conduct an inventory of the surrounding area and population along with a study of the proposed development and plans for the area so as to enable the Planning Commission to make appropriate findings relating to the effect of the establishment of an adult-oriented establishment.
- X. Penalties and prosecution.
  - (1) Any applicant found to have violated this section shall have any license obtained hereunder revoked.
  - (2) In addition to the revocation of a license issued under this section, any applicant in violation of this section or any applicant who fails to obtain a license as required hereunder shall, upon conviction of such violation, be subject to a penalty as provided in Chapter A450,

Fines and Penalties, together with the costs of prosecution. Each violation and each day a violation continues or occurs shall constitute a separate offense and violation. Nothing in this section shall preclude the Fox Crossing Village Board from maintaining any appropriate action to enforce, prosecute, prevent or remove a violation of any provision of this section.

- Y. Severability. If a court of competent jurisdiction deems any provision of this section invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions of this section.
- Z. Enforcement. Officers and other personnel of the Village Police Department in which the adult-oriented establishment is located shall have the authority to enter any adult-oriented establishment to inspect the premises and enforce this section.
- AA. Discontinuance of operation. Any discontinuance in the operation of an adult-oriented establishment for a period of 12 months or more shall cause the license to lapse and become void. A license holder whose license has lapsed in this manner shall thereafter be subject to the procedures applicable to the issuance of a new license.
- BB. Effective date. This section shall take effect and be in force upon its passage and publication as required by law.

**§ 435.7-82. Body-piercing establishment.**

- A. Vocational standards. A body-piercing establishment shall not be located within 600 feet of another body-piercing establishment or a tattoo establishment. For the purpose of this section, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the body-piercing establishment to the outer wall of the building containing the other specified land use. If one or both of the specified land uses are located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e., from the outer edge of the party wall or the exterior wall). The presence of a city, village, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section.
- B. Sale of alcohol. A body-piercing establishment shall not also sell, distribute, or allow consumption of alcoholic beverages on the premises.
- C. Building standards. A patron who is being pierced shall not be visible from the exterior of the building through a window or entrance to the building.
- D. State license. Prior to the establishment of a body-piercing establishment, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or

until the state no longer requires such license. In addition, each practitioner shall obtain a license from the state as required by state law and maintain such license while at the establishment or until the state no longer requires such license.

**§ 435.7-83. Commercial kennel.**

No special standards apply to a commercial kennel.

**§ 435.7-84. Commercial stable.**

- A. Minimum lot area. The minimum lot area for a commercial stable is five acres.
- B. Review materials. As part of the building, site, and operation plan review process, the handling and disposal of animal waste generated by this use shall be addressed, along with required setbacks from adjoining properties and the maximum number of livestock that may be kept on the premises.

**§ 435.7-85. Equipment rental, large.**

Outdoor display and storage areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 10 feet from a property in a commercial or mixed-use zoning district.

**§ 435.7-86. Equipment rental, small.**

No special standards apply to small equipment rental.

**§ 435.7-87. Financial services.**

A payday loan business or auto title loan business shall not be located within 5,000 feet of another payday loan business or auto title loan business or within 150 feet of a single-family or two-family residential zoning district. For the purpose of this section, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the payday loan business or auto title loan business to the outer wall of the building containing the other specified land use or, as appropriate, to the nearest property boundary line of a parcel in the specified zoning district. The presence of a city, village, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section. If a payday loan business or auto title loan business is operating on March 31, 2013, and does not comply with the vocational standards in this section, such business may continue to operate at that location.

**§ 435.7-88. Funeral home.**

No special standards apply to funeral homes.

**§ 435.7-89. General repair.**

All activities related to this use shall occur within a building, except when the parcel of land is located in an industrial zoning district.

**§ 435.7-90. General services.**

No special standards apply to general services.

**§ 435.7-91. Health care clinic.**

No special standards apply to health care clinics.

**§ 435.7-92. Health care center.**

- A. Access requirements. The primary access to a health care center shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.
- B. Transition when allowed as a conditional use. When a health care center is allowed as a conditional use, an appropriate transition shall be required between this use and an adjoining use.

**§ 435.7-93. Instructional services.**

No special standards apply to instructional services.

**§ 435.7-94. Landscape business.**

Outdoor work areas, parking areas, and storage of equipment and materials related to a landscape business shall not be located within the setbacks established for the zoning district in which the use is located.

**§ 435.7-95. Professional services.**

No special standards apply to professional services.

**§ 435.7-96. Tattoo establishment.**

- A. Vocational standards. A tattoo establishment shall not be located within 600 feet of another tattoo establishment or a body-piercing establishment. For the purpose of this section, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the tattoo establishment to the outer wall of the building containing the other specified land use. If one or both of the specified land uses are located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e., from the outer edge of the party wall or the outer wall). The presence of a city, village, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section.

- B. Sale of alcohol. A tattoo establishment shall not also sell, distribute, or allow consumption of alcoholic beverages on the premises.
- C. Building standards. A patron who is being tattooed shall not be visible from the exterior of the building through any window or entrance to the building.
- D. State license. Prior to the establishment of a tattoo establishment, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license. In addition, each practitioner shall obtain a license from the state as required by state law and maintain such license while at the establishment or until the state no longer requires such license.

**§ 435.7-97. Veterinary clinic, general.**

The standards applicable to animal shelters apply to general veterinary clinics.

**§ 435.7-98. Veterinary clinic, small animal.**

The standards applicable to animal shelters apply to small animal veterinary clinics.

**Series  
10.  
Recreation  
and  
Entertainment  
Uses**

**§ 435.7-99. Driving range.**

No special standards apply to driving ranges.

**§ 435.7-100. Golf course.**

Clubhouses and maintenance buildings shall be located at least 300 feet from a property in a residential zoning district.

**§ 435.7-101. Indoor entertainment.**

No special standards apply to indoor entertainment.

**§ 435.7-102. Indoor recreation.**

No special standards apply to indoor recreation.

**§ 435.7-103. Outdoor entertainment.**

- A. Hours of operation. The reviewing authority may establish hours of operation for this use when the operation may negatively affect surrounding properties.
- B. Site design considerations. The site shall be designed to minimize the effects of outdoor lighting and noise on surrounding properties.

**§ 435.7-104. Outdoor recreation.**

- A. Hours of operation. The reviewing authority may establish hours of operation for this use when the operation may negatively affect surrounding properties.
- B. Site design considerations. The site shall be designed to minimize the effects of outdoor lighting and noise on surrounding properties.

**§ 435.7-105. Outdoor shooting range.**

- A. Hours of operation. An existing or new outdoor shooting range shall not operate between the hours of 11:00 p.m. and 6:00 a.m., except that this use restriction shall not apply to:
  - (1) A law enforcement officer as defined in § 165.85(2), Wis. Stats.;
  - (2) A member of the U.S. Armed Forces; or
  - (3) A private security person as defined in § 440.26(1m), Wis. Stats., who meets all of the requirements under § 167.31(4)(a)4, Wis. Stats.
- B. Incidental sales. An outdoor shooting range may offer items for sale or rental as listed in this subsection provided the totality of such sales and/or rental activity is clearly incidental to the overall operation of the shooting range. The following may be offered for retail sale:
  - (1) Targets;
  - (2) Ammunition;
  - (3) Devices for hearing and eye protection;
  - (4) Other items directly related to the shooting of firearms on the premises; and
  - (5) Pre-packaged food and drink items.
- C. Rentals. The following may be offered for rental for use on the premises:
  - (1) Devices for hearing and eye protection;
  - (2) Guns; and



- (3) Other items directly related to the shooting of firearms on the premises.

**Series**

**11.**

**Government  
and  
Community  
Services.**

**§ 435.7-106. Administrative government center.**

No special standards apply to administrative government centers.

**§ 435.7-107. Animal shelter.**

- A. Noise control. The building shall be designed and operated so that, to the greatest extent practicable, noise from the animals at the facility cannot be heard beyond the property boundary line of the parcel of land on which it is located.

**§ 435.7-108. Cemetery.**

- A. Minimum size. A cemetery shall be at least three acres.
- B. Location of burial plots. Burial plots shall not be located within 50 feet of a public street right-of-way, in a designated floodplain, or in a wetland area, nor shall interment occur below the groundwater table.
- C. Marker required. A permanent marker stating the name of the deceased and the birth and death dates, if known, shall identify the location of each occupied burial plot.
- D. Casket required. The deceased shall be enclosed in a casket or other durable container.
- E. Name required. The cemetery shall have a formal name, which shall be placed on a permanent sign located by the main entrance to the cemetery.
- F. Financial guarantee. Prior to the establishment of this use, the property owner shall submit a financial guarantee to the Village, consistent with any requirement the Village Board may adopt. This financial guarantee shall relate to the long-term upkeep and maintenance of the cemetery.

**§ 435.7-109. Civic use facility.**

The primary access to a civic use facility with a capacity of 600 people or more shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.

**§ 435.7-110. Community center.**

The primary access to a community center with a capacity of 600 people or more shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.

**§ 435.7-111. Community cultural facility.**

The primary access to a community cultural facility with a capacity of 600 people or more shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.

**§ 435.7-112. Community garden.**

No special standards apply to community gardens.

**§ 435.7-113. Correctional facility.**

No special standards apply to correctional facilities.

**§ 435.7-114. Educational facility, pre-K through 12.**

No special standards apply to pre-K through 12 educational facilities.

**§ 435.7-115. Educational facility, post-secondary.**

No special standards apply to post-secondary educational facilities. The primary access to a post-secondary educational facility shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.

**§ 435.7-116. Maintenance garage.**

Outdoor storage areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a property in a commercial or mixed-use zoning district.

**§ 435.7-117. Park.**

No special standards apply to parks.

**§ 435.7-118. Public safety facility.**

No special standards apply to public safety facilities.

**§ 435.7-119. Sidewalk.**

No special standards apply to sidewalks.

**§ 435.7-120. Unspecified public use.**

No special standards apply to unspecified public uses.

**§ 435.7-121. Worship facility.**

The primary access to a worship facility with 600 seats or more shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.

**Series****12.****Telecommunications****and****Utilities****§ 435.7-122. Solar energy system.**

No special standards apply.

**§ 435.7-123. Stormwater management facility.**

No special provisions apply to a stormwater management facility.

**§ 435.7-124. Telecommunication facility.**

A. Applicability. The provisions of this section apply to all telecommunication facilities, except for the following:

- (1) Supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, stormwater facilities, pump stations, and similar facilities with heights not exceeding 35 feet;
- (2) Antennas or towers located on property owned, leased or otherwise controlled by the governing authority, provided a license or lease authorizing such antenna or tower has been approved by the governing authority;
- (3) Structures for the support of amateur radio antennas that are owned and/or operated by a federally licensed amateur radio operator, provided that the antenna use constitutes ancillary or secondary use, not primary use, of the property;
- (4) An antenna or tower that is installed on an existing structure (such as a tower, building, sign, light pole, water tower, electric transmission and distribution structure, or other freestanding nonresidential structure) and provided the antenna or tower adds no more than 20 feet to the height of the structure;
- (5) Portable antennas that are used in broadcasting public information coverage of news events of a temporary nature; and
- (6) Handheld devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers, and similar devices.

- B. Federal requirements. A telecommunication facility shall comply with all applicable requirements of the Federal Communications Commission, the Federal Aviation Administration, and other federal agencies with authority to regulate telecommunication facilities. In the event of a conflict between federal law and this section, federal law shall prevail.
- C. Equipment buildings. The exterior of equipment buildings, shelters, and cabinets exceeding 200 cubic feet shall be covered with building materials typically used on buildings found in the area.

**§ 435.7-125. Telecommunication facility, mobile service and co-location.**

- A. Purpose. This section is to regulate the siting and construction of any new mobile service support structure and facilities and Class 1 and 2 co-location.
  - (1) Class 1 co-location includes a substantial modification of existing support structures and mobile service facilities.
  - (2) Class 2 co-location does not include the substantial modification of existing support structures and facilities.
- B. Application process.
  - (1) A Village zoning permit is required for the siting and construction of any new mobile service support structure and facility.
  - (2) A permit application must be completed by the applicant and submitted to the Village Zoning Administrator containing the following information:
    - (a) Name, business address and contact information for the applicant.
    - (b) Location of the proposed or affected support structure.
    - (c) Location of the proposed mobile service facility.
    - (d) Construction of new mobile service support structure shall include a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment to be placed on or around the new mobile service support structure and shall include an explanation of why the applicant chose the proposed location and why the applicant did not choose co-location, including a sworn statement from an individual who has responsibility over placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage and capacity; is

technically infeasible; or is economically burdensome to the mobile service provider.

- (e) A Class 1 co-location of an existing support structure shall include a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment associated with the proposed modifications.
  - (f) A Class 2 co-location is a permitted use but requires the issuance of a permit application which shall include only Subsection B(2)(a), (b) and (c) as shown above.
- (3) A Class 1 or Class 2 permit application will be provided by the Village upon request to any applicant.
  - (4) If an applicant submits to the Village an application for a permit to engage in an activity described in this section, which contains all of the information required under this section, the Village shall consider the application complete. If the Village does not believe the application is complete, the Village shall notify in writing the applicant for a Class 1 permit within 10 days and the applicant for a Class 2 permit within five days of receiving the application that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  - (5) Within 90 days of application for a Class 1 permit and within 45 days of application for a Class 2 permit the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the ninety-day period for a Class 1 permit or the forty-five-day period for a Class 2 permit:
    - (a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
    - (b) Make a final decision whether to approve or disapprove the application.
    - (c) Notify the applicant, in writing, of its final decision.
    - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - (6) The Village may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search

ring and provide the sworn statement described under Subsection B(2)(d).

- (7) If an applicant provides the Village with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
  - (8) The fees for permits are specified in the Village's adopted fee schedule and may not exceed the amount allowed by Wisconsin Statutes.
- C. Unsafe conditions. If the Zoning Administrator determines that a tower is unsafe or otherwise defective, the Administrator shall follow the procedure outlined in Article 6 of this chapter relating to unsafe conditions.
- D. Termination of approval. If the Zoning Administrator determines that all of the antennas on a tower have not been operated for a continuous period of 12 months, the Administrator shall follow the procedure outlined in Article 6 of this chapter relating to termination of the approval.
- E. Nonconformity. Towers that are constructed and antennas that are installed in accordance with the provisions of this section shall not be deemed to constitute an expansion of a nonconforming use or structure.

**§ 435.7-126. Utility installation, major.**

No special standards apply to major utility installations.

**§ 435.7-127. Utility installation, minor.**

A minor utility installation that also includes a security fence is considered a major utility installation.

**§ 435.7-128. Utility installation, major sanitary.**

- A. Distance to other land uses. Sewage treatment plants, sewage storage tanks or any other aboveground sewage collection or treatment facilities shall be isolated from properties used for residential, commercial or mixed-use purposes. The following separation distances shall be maintained:
- (1) 500 feet for mechanical treatment facilities, effluent holding and polishing ponds, seepage cells, ridge and furrow systems, and overland flow systems;
  - (2) 750 feet for aerated lagoons;

- (3) 1,000 feet for off-site sludge holding facilities, spray irrigation systems, and wastewater storage tanks with a capacity greater than 25,000 gallons; and
- (4) 1,500 feet for stabilization lagoons.

**§ 435.7-128.1. Utility installation, minor sanitary.**

No special standards apply to minor sanitary sewer utility installations.

**§ 435.7-128.2. Utility maintenance yard.**

Outdoor storage areas and other activity areas shall be located at least 100 feet from a property in a residential zoning district and 50 feet from a property in a commercial or mixed-use zoning district.

**Series**

**13.**

**Transportation  
Facilities**

**§ 435.7-129. Airport.**

All buildings, outdoor airplane or helicopter storage areas, and other activity areas shall be located at least 100 feet from the perimeter of the airport property.

**§ 435.7-130. Bus storage facility.**

Outdoor storage areas and other activity areas shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a property in a commercial or mixed-use zoning district.

**§ 435.7-131. Marina.**

No special standards apply to marinas.

**§ 435.7-132. Mass transit terminal.**

The primary access to a mass transit terminal shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.

**§ 435.7-133. Off-site parking lot.**

- A. Access requirements. The primary access to an off-site parking lot shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.
- B. Cut-through traffic. Access and vehicular circulation shall be designed so as to discourage cut-through traffic.

**§ 435.7-134. Parking structure.**

Snow chutes shall be placed in a location causing the least amount of impact on surrounding properties.

**§ 435.7-135. Park-and-ride lot.**

The primary access to a park-and-ride lot shall be located in close proximity to a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.

**§ 435.7-136. Railroad line.**

No special standards apply to railroad lines.

**§ 435.7-137. Street.**

No special standards apply to streets.

**Series  
14.  
General  
Storage****§ 435.7-138. Boat yard.**

Outdoor storage areas and other activity areas shall not be located within a yard setback for the zoning district in which the use is located.

**§ 435.7-139. Bulk fuel storage.**

No special standards apply to bulk fuel storage.

**§ 435.7-140. Personal storage facility.**

- A. Minimum lot size. The lot on which a personal storage facility is located shall be at least one acre in size.
- B. Access. The access to a cubicle shall not open directly onto a public road right-of-way.
- C. Surfacing of travelways. Driveways, interior aisles, and walkways shall be concrete or asphaltic concrete, except as may be allowed in this subsection. Consistent with the procedures and requirements of Article 6 of this chapter, the Planning Commission may allow gravel surfaces as a special exception and require, as a condition of approval, additional buffer yard and landscaping requirements deemed necessary to provide adequate screening between this use and adjoining properties.
- D. Storage of prohibited substances. No cubicle shall be used to store explosives, toxic substances, hazardous materials, or radioactive materials.



- E. Uses. Only uses that are accessory to storage shall occur. No portion of the site shall be used for fabrication, repair, or any similar use or for human habitation.
- F. Design. The personal storage facility shall be designed so as to minimize adverse visual impacts on nearby properties. The color, exterior materials, and orientation of proposed buildings and structures shall complement existing and anticipated development in the surrounding area. A personal storage facility in a commercial zoning district shall meet the special architectural requirements in Division 8 of this article.
- G. Fencing of outdoor storage area. An area used for outdoor storage of operational vehicles, watercraft, and the like shall be enclosed by a security fence.
- H. Setback of outdoor storage area. Outdoor storage areas shall comply with the building setback standards for the zoning district in which the use is located.

**§ 435.7-141. Truck terminal.**

- A. Setback of outdoor storage area. Outdoor storage areas and other activity areas shall be located at least 100 feet from a property in a residential zoning district.
- B. Control of fugitive dust. As part of the building, site, and operation plan review process, the control of fugitive dust generated by this use shall be addressed.

**§ 435.7-142. Warehouse.**

- A. Setback of outdoor storage area. Outdoor storage areas and other activity areas shall be located at least 100 feet from a property in a residential zoning district.
- B. Control of fugitive dust. As part of the building, site, and operation plan review process, the control of fugitive dust generated by this use shall be addressed.

**Series**

**15.**

**Industrial**

**Uses**

**§ 435.7-143. Artisan shop.**

When an artisan shop is located in a commercial or mixed-use zoning district, all materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

**§ 435.7-144. Batching plant associated with a nonmetallic mine.**

- A. Control of fugitive dust. As part of the building, site, and operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed.
- B. Prerequisite use. A batching plant in this instance shall only be allowed as an ancillary use to a nonmetallic mine that was previously approved under this chapter.
- C. Setback requirements. A batching plant shall be located at least 300 feet from a property in a residential zoning district and 200 feet from a property in a commercial or mixed-use zoning district.
- D. Termination of approval. If the Zoning Administrator determines that the nonmetallic mine with which the batching plant is associated is permanently closed, the Administrator shall follow the procedure outlined in Article 6 of this chapter relating to termination of the approval.
- E. Restoration plan. As part of the review process, the applicant shall prepare and submit a restoration plan and obtain the approval of the same. Such restoration plan shall identify those areas of the property that will be disturbed and how those areas will be restored following the cessation of the batching plant.
- F. Financial guarantee. Prior to the establishment of a batching plant, the property owner shall submit a financial guarantee in a form acceptable to the Zoning Administrator and in an amount equal to 110% of the estimated cost of site restoration identified in the restoration plan that is approved for the project. If the Village exercises its right to use the financial guarantee to restore the property and the amount of the financial guarantee does not cover such costs, the difference between the amount of the guarantee and the actual cost shall constitute a lien against the property as authorized by state law.
- G. Temporary batch plants. Temporary batch plants which are not operated for longer than six months shall be exempt from Subsections E and F above.

**§ 435.7-145. Biofuels production plant.**

- A. Access. The primary point of access to the subject property with a biofuels production plant shall be off of a public road classified as an arterial or a higher classification.
- B. Fugitive dust. Primary internal roads, as determined by the reviewing authority, shall be paved. Secondary internal roads, as determined by the reviewing authority, shall be treated to minimize the amount of fugitive dust generated on site.
- C. Fuel storage tanks. All fuel storage tanks shall be located within an impermeable containment levee system as may be required by state or federal rule or regulation.

**§ 435.7-146. Construction equipment repair.**

Outdoor storage areas and other activity areas related to this use shall be located at least 30 feet from a property in a residential zoning district and 10 feet from a property in a commercial or mixed-use zoning district. When allowed in a commercial zoning district, all repair work shall occur within an enclosed building. When allowed in an industrial zoning district, repair work may be conducted out of doors.

**§ 435.7-147. Construction equipment sales and rental.**

Display areas and other activity areas related to this use shall be located at least 30 feet from a property in a residential zoning district and 10 feet from a property in a commercial or mixed-use zoning district.

**§ 435.7-148. Contractor yard.**

- A. Lot size requirements. There are no minimum lot size requirements for a contractor yard.
- B. Limitations on equipment. There are no limitations on the number of trucks, trailers, or other heavy equipment.
- C. Storage of material. When a contractor yard is located next to a property in a residential, mixed-use, or commercial zoning district, exterior storage of construction materials, wastes, and the like shall be screened with a solid, six-foot fence and such materials shall not be placed higher than the height of the fence.

**§ 435.7-149. Industrial, heavy.**

- A. Distance to specified features. Outdoor storage areas and other activity areas related to this use shall be located at least 50 feet from a property in a residential zoning district and 25 feet from a property in a commercial or mixed-use zoning district.
- B. Material storage. No materials shall be stacked or otherwise stored so as to be visible over buffer yard screening elements from a property in a residential zoning district.

**§ 435.7-150. Industrial, light.**

- A. Location of materials and activities. All materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.
- B. Material storage. No materials shall be stacked or otherwise stored so as to be visible over buffer yard screening elements from a property in a residential or mixed-use zoning district.

**§ 435.7-151. Nonmetallic mine.**

- A. Exemptions. The following activities shall not be considered a nonmetallic mine:
- (1) Operations affecting less than five acres and for the exclusive on-site use of the property owner;
  - (2) Pre-mining activities, such as site surveying, coring, mapping and other functions necessary solely for proper preparation of the permit application;
  - (3) Excavation in conjunction with a utility installation, which is to be backfilled;
  - (4) Excavation within the limits of a public right-of-way in conjunction with road construction or reconstruction, when construction plans have been approved by the Wisconsin Department of Transportation or other governmental authority;
  - (5) Excavation which by nature is of limited duration, such as graves, septic tanks, and swimming pools;
  - (6) Agricultural drainage work incidental to agricultural operations and irrigation/stock watering ponds, if no material is removed from the property;
  - (7) Excavation for structures and parking areas;
  - (8) Stripping of up to 1.5 feet of topsoil for the development of subdivisions, following subdivision approval;
  - (9) Regrading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property;
  - (10) Dredging operations under the jurisdiction of the U.S. Army Corps of Engineers or other governmental authority;
  - (11) Ponds developed for wildlife purposes in conjunction with the Natural Resources Conservation Service or the Winnebago County Land and Water Conservation Department;
  - (12) Excavation related to sod farming;
  - (13) Any mining operation, the reclamation of which is required in a permit obtained under Ch. 293 or Subchapter III of Ch. 295, Wis. Stats., pertaining to metallic mining;
  - (14) Activities conducted at a solid or hazardous waste disposal site required to prepare, operate, or close a solid waste disposal facility under Ch. 289, Wis. Stats., or a hazardous waste disposal facility under Ch. 291, Wis. Stats., for the exception of mineral extraction operations conducted for the purpose of lining, capping, or covering such disposal site; and

- (15) Any other use determined to be exempt by the Planning Commission.
- B. Air quality. The operator of a nonmetallic mine shall comply with Ch. NR 415, Wis. Adm. Code, with regard to particulate emissions.
- C. Blasting. The operator of a nonmetallic mine shall comply with Ch. SPS 307, Wis. Adm. Code, when explosives are used for blasting.
- D. (Reserved)
- E. Minimization of noise, dust, and vibrations. Roads, machinery, and equipment shall be located, constructed, and used in such a manner as to minimize noise, dust, and vibrations.
- F. Hours of operation. A nonmetallic mine shall not be operated on Sunday and may be operated Monday through Saturday during the standard hours of operation specified in Table 7-16 based on the proximity of the site to a residence or commercial establishment open to the public. Upon written request, the Planning Commission may authorize specific activities past the standard hours of operation but no later than the hour specified in Table 7-16 for limited or temporary periods taking into account the proximity and nature of adjoining uses and the extent of noise, dust, and vibration associated with the activity. Such approval shall be in writing and shall specify the time period the extended hours of operation are in effect, the activities that are permitted, and conditions, if any, the Planning Commission may impose to address off-site effects.

**Table 7-16. Permissible Hours of Operation for a Nonmetallic Mine**

<b>Proximity of Site to Specified Uses</b>	<b>Day</b>	<b>Standard Hours of Operation</b>	<b>Extended Hours of Operation With Approval of Planning Commission</b>
Property boundary line of the site is located within 500 feet of a residence or commercial establishment open to the public	Monday through Friday	From 6:00 a.m. to 6:00 p.m.	From 6:00 p.m. to 10:00 p.m.
	Saturday	From 6:00 a.m. to 2:00 p.m.	From 2:00 p.m. to 7:00 p.m.

**Table 7-16. Permissible Hours of Operation for a Nonmetallic Mine**

<b>Proximity of Site to Specified Uses</b>	<b>Day</b>	<b>Standard Hours of Operation</b>	<b>Extended Hours of Operation With Approval of Planning Commission</b>
Property boundary line of the site is not located within 500 feet of a residence or commercial establishment open to the public	Monday through Friday	From 6:00 a.m. to 6:00 p.m.	From 6:00 a.m. to 10:00 p.m.
	Saturday	From 6:00 a.m. to 6:00 p.m.	From 6:00 a.m. to 10:00 p.m.

G. Setbacks. The following setback requirements shall apply to a nonmetallic mine:

- (1) No operations or activities, including berm construction, shall be conducted within 200 feet of any right-of-way line or within 200 feet of any exterior boundary of the site where a residence is located within 500 feet of the perimeter of the site.
- (2) The Planning Commission may authorize berm construction and related site preparation as a temporary activity, for a specific time period, to within 25 feet of the perimeter of the site for those operations lawfully existing before March 31, 2013. Exemptions may be authorized by the Commission for berms located closer than 25 feet to the perimeter of the site for those operations lawfully existing before March 31, 2013.
- (3) The Planning Commission may authorize continued vertical removal of materials to within 50 feet of the perimeter of the site for those operations lawfully existing before March 31, 2013.
- (4) In no event shall any operations or activities, except berm construction and related site preparation activities, be conducted within 50 feet of the perimeter of the site. In exercising its authority under this subsection, the Planning Commission may impose reasonable conditions including more stringent hours of operation, landscaping, and fencing.
- (5) The Planning Commission may authorize a reduction in the two-hundred-foot or the fifty-foot setback requirement where the extraction will not go below either the grade of the adjacent road or the adjoining property boundary line and where blasting is not used. In applying the provisions of this subsection, the Commission may reduce the setbacks as deemed appropriate and may impose

other operational requirements necessary to offset any potential effect of the reduced setback.

- (6) When a nonmetallic mine adjoins another nonmetallic mine, a setback as provided in this section is not required along the common property boundary line when both operators agree in writing and such agreement is submitted to and approved by the Zoning Administrator as to form and content.
- H. Plan of operation. A nonmetallic mine, including those that existed before March 31, 2013, shall prepare a plan of operation for the site that includes the following:
- (1) A statement of ownership of the parcel and control of the operations.
  - (2) A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right-of-way on or abutting the site; existing water bodies, watercourses and drainageways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.
  - (3) Cross sections of the site, drawn to scale, that show the vertical extent of existing and proposed excavations.
- I. Term of permit. A permit shall be issued for a term of six years, renewable for terms of six years. Any activity conducted in compliance with a lawfully issued permit which subsequently becomes noncompliant during the term of the permit by reason of surrounding development may continue for the remainder of the term of the permit.
- J. Transfer of permit. When an operator succeeds to the interest of another in an uncompleted site, Fox Crossing shall release the present operator of the responsibilities imposed by the permit only if:
- (1) Both operators are in compliance with the requirements and standards of this section; and
  - (2) The new operator assumes the responsibility of the former operator's permit requirements.
- K. Special standards for specified geologic formations. If the mining activity includes the base of the Platteville formation or the St. Peter sandstone formation, the operation of the mine shall not dewater these formations more than 100 feet beyond the excavation.
- L. Potential impacts to certain water wells. If a mine operation adversely impacts an off-site water supply well, the mine operator shall repair or replace the well to provide the same quantity and quality of groundwater obtained from the well prior to the mining operation. This

requirement applies to all water wells located within 1,320 feet of the outer extent of the excavation area which were completed prior to the approval of the mine operation or any expansion thereof.

- (1) If an eligible property owner believes that the operation of the mine is having an adverse impact on his or her water well (hereinafter referred to as the "claimant"), the claimant shall provide written notice to the mine operator and the Zoning Administrator explaining the nature and the extent of the alleged impact. Within 30 days of such notice, the mine operator shall send a written response to the claimant and the Zoning Administrator that either provides evidence rejecting the claimant's assertion of adverse impact resulting from the mine operation or an amount of financial compensation for repairing or replacing the well to provide the same quantity and quality of groundwater obtained from the well prior to the mining operation. The claimant shall have seven days to accept or reject the mine operator's response, including the amount of compensation, if an amount was offered.
  - (2) If the claimant rejects the mine operator's response, he or she may submit a written response to the mine operator and the Zoning Administrator that includes evidence supporting his or her assertion of adverse impact and the amount for repairing or replacing the well to provide the same quantity and quality of groundwater obtained from the well prior to the mining operation. If the claimant provides such response, the Planning Commission shall review the materials submitted by both the mine operator and the claimant at a public meeting within 45 days of receiving the claimant's response and render a decision within 30 days of such meeting.
  - (3) If the Commission determines that the mine operations are having an adverse impact on the claimant's well, it shall establish a cost for repairing or replacing the well to provide the same quantity and quality of groundwater obtained from the well prior to the mining operation. If the mine operator does not provide the specified amount of compensation in a timely manner, the Village may utilize the financial guarantee as required under this section for such purposes.
- M. Financial guarantee. Prior to the commencement of any on-site work, the mine operator shall provide a financial guarantee to the Village in a form acceptable to the Zoning Administrator and in an amount equal to \$3,200 for each domestic well that is located within 1,320 feet of the area to be mined and the estimated replacement cost for each nondomestic water well that is located within 1,320 feet of the area to be mined. If the Village exercises its right to use the financial guarantee for the work authorized in this section and the amount of the financial guarantee does not cover such costs, the difference between the amount of the guarantee and the actual cost shall constitute a lien against the property as authorized by state law.



- N. Supplemental application materials. In addition to the materials typically submitted for review, the following shall be provided as part of the application:
- (1) A topographic map of the subject property and the surrounding area, having a contour interval of four feet or less.
  - (2) A map depicting vegetation, soils, and existing conditions including on-site structures.
  - (3) A map depicting property boundary lines within 1,600 feet of the area to be mined and water supply wells within 1,320 feet of the area to be mined including the type of well (e.g., domestic, industrial, or agricultural), well depth, static water level if known, and owner name.
  - (4) A hydrologic study prepared by a qualified person if mining will occur below the groundwater level. Such study should describe anticipated dewatering effects on site and on adjoining properties and evaluate the potential of mining and associated dewatering to reach an arsenic rich horizon. For example, the base of the Platteville formation and the top of the St. Peter sandstone often contain high levels of arsenic.
  - (5) A proposed water well monitoring plan if the proposed excavation includes the Platteville formation or the St. Peter sandstone formation. Such plan shall be designed to determine if mine operations are affecting water levels more than 100 feet from the proposed mine area. On-site water supply wells or nearby private wells completed in the uppermost aquifer may also be used for monitoring purposes. Water levels should be measured in these wells on a quarterly basis for at least three years, and annually thereafter, to understand natural seasonal variation in water levels and to be able to differentiate the effects of natural variation from those related to mining operations.
  - (6) A proposed plan for measuring arsenic levels in surrounding water wells and water discharged to facilitate mining if the mining or dewatering has the potential to affect an arsenic rich horizon.
  - (7) One or more cross sections showing the extent of the nonmetallic deposits to be mined, the proposed depth of removal, and the location of the water table.
  - (8) The estimated volume of materials to be removed from the site.
  - (9) A description of the methods and equipment that will be used to extract, process, or otherwise handle earth materials.
  - (10) The location and operation of proposed processing and storage areas.
  - (11) The purpose and locations of any on-site ponds.

(12) A phasing plan, if the mine operation and reclamation will be completed in phases.

**§ 435.7-152. Salvage yard.**

- A. Proximity to other specified property. All buildings, structures, and outdoor storage areas and any other activity areas shall be located at least 600 feet from a property in a residential, mixed-use, or commercial zoning district.
- B. Hazardous materials. Hazardous materials shall not be stored or handled.
- C. Buffer yard. In addition to the buffer yard requirements in Article 8 of this chapter, the reviewing authority may, as part of the site plan review process, require additional buffer yard requirements deemed necessary to provide adequate screening between this use and adjoining properties.
- D. Fence. A six-foot solid fence, subject to approval by the reviewing authority, shall be located around the perimeter of the area used to store salvage materials.
- E. Fence plan. As part of the site plan review application, the applicant shall submit a fence plan which specifies construction materials and specifications.
- F. Compliance with state law. A salvage yard located within 1,000 feet of a right-of-way of an interstate or primary highway shall comply with the requirements of § 84.31, Wis. Stats., and any administrative rule adopted pursuant to that section.

**Series  
16.  
Solid  
Waste  
Facilities**

**§ 435.7-153. Composting facility.**

- A. Licensing. A composting facility shall comply with all local, state, and federal regulations.
- B. Distance to specified features. A composting facility shall not be located within 600 feet of a residential zoning district, a mixed-use zoning district, an educational facility, a worship facility, or any other place where the public congregates.
- C. Setbacks. All buildings, structures, and activity areas shall be located at least 100 feet from the perimeter of the site.

**§ 435.7-154. Recycling center.**

When located in an I-1 zoning district, all materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.

**§ 435.7-155. Solid waste landfill.**

- A. Access requirements. The primary access to a solid waste landfill shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.
- B. Compliance with other regulations. A solid waste landfill shall comply with all applicable state and federal rules and regulations governing this use.

**§ 435.7-156. Solid waste transfer station.**

- A. Road access requirements. The primary access to a solid waste transfer station shall be off of a road classified as a collector or a higher classification as depicted on the Zoning Map or a supplemental map.
- B. Location of materials and activities. All materials and activities, except loading and unloading, shall be conducted entirely within the confines of a building.
- C. Distance to specified features. A solid waste transfer station shall not be located within 600 feet of a residential zoning district, a mixed-use zoning district, an educational facility, a worship facility, or any other place where the public congregates.

## DIVISION 8

**Special Standards for Accessory Land Uses**

(Series 17 in Land Use Matrix)

**§ 435.7-157. Adult family home.**

Prior to the establishment of an adult family home, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license.

**§ 435.7-158. Amateur radio station.**

A. Legislative findings. The Village Board of Trustees makes the following legislative finding regarding amateur radio:

- (1) Amateur radio is an important private activity that allows for the exchange of noncommercial voice and data communications over the amateur radio spectrum. The wireless communication medium also provides direct significant benefit to the public and local, state and federal governments during natural disasters when other means of communication are not available.
- (2) Pursuant to § 59.69(4f), Wis. Stats., the regulations in this section constitute the least restrictive measures needed to promote community aesthetics, public health, and safety while allowing amateur radio communications.

B. Regulations for amateur radio antennas.

- (1) Only licensed amateur radio operators shall be authorized to have amateur radio antennas and shall provide proof of a license when requested.
- (2) Amateur radio antennas in excess of 100 feet in height shall require a zoning permit and shall provide information from the manufacturer on the wind loads appropriate for the area proposed for installation, base requirements and appropriateness of the location of the proposed support structure. Other restrictions on height may also apply, such as from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC).
- (3) If a tower is used to support the antenna, the tower shall have anti-climbing measures to prevent unauthorized climbing.

**§ 435.7-159. Automated teller machine.**

A. Security. An ATM shall be readily visible so as to maintain a proper level of safety for patrons.

- B. Lighting. Proper lighting levels shall be maintained 24 hours a day for security purposes.
- C. Location. An ATM shall not be located within a yard setback or buffer yard.

**§ 435.7-160. Backyard chickens.**

- A. Number. No more than four chickens may be kept.
- B. Roosters. The keeping of roosters is prohibited.
- C. Slaughter of chickens prohibited. The slaughter of chickens on the premises is prohibited.
- D. Enclosure requirements. Chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
- E. Setback requirements. The enclosure housing chickens shall be located at least 25 feet from any residential structure on an adjacent lot.
- F. Registration required. The owner, operator, or tenant shall register the premises where chickens are kept with the Wisconsin Department of Agriculture, Trade and Consumer Protection as required by state law and maintain such registration for so long as may be required.

**§ 435.7-161. Bed-and-breakfast.**

- A. Local license. Prior to the establishment of a bed-and-breakfast, the operator shall obtain a license from the Winnebago County Health Department and maintain such license for the life of the use or until the Department no longer requires such license.
- B. State license. Prior to the establishment of a bed-and-breakfast, the operator shall obtain a license from the state as may be required by state law and maintain such license for the life of the use or until the state no longer requires such license.
- C. Type of dwelling. A bed-and-breakfast shall only occur within a single-family dwelling.
- D. Number of allowable guest rooms. No more than six guest rooms shall be offered.
- E. Residency requirement. The operator of a bed-and-breakfast shall reside within the single-family dwelling and use such as his/her primary residence.
- F. Exterior character of the dwelling unit. The exterior appearance of the building shall not be altered from its single-family appearance.
- G. Food preparation. No food preparation or cooking shall be allowed in guest rooms.

- H. Meals. Meals shall only be offered to overnight guests.
- I. Maximum stay. The maximum stay for any occupants shall be 14 consecutive days.
- J. Record of guests. The operator shall keep a listing showing the names of all guests. This list shall be kept on file for a period of one year. Such list shall be available for inspection by Village officials at any time upon request.

**§ 435.7-162. Beekeeping.**

- A. Applicability. The requirements of this section apply to all properties within the Village where beekeeping of honeybees is permitted except those zoned agriculture.
- B. Number. The number of hives is limited as follows: one acre or smaller lot shall be limited to no more than two hives; larger than one acre lot shall be limited to no more than six hives; nucleus limited to one per hive.
  - (1) Exceptions:
    - (a) For properties five acres or larger where hives are situated at least 250 feet in any direction from all property lines, there shall be no limit to the number of hives.
    - (b) For beekeepers that serve the community by removing a swarm of bees from a location where they are not desired, it shall not be considered in violation of the maximum number, provided they are present for no more than 30 days from the date acquired.
- C. Water. The beekeeper shall ensure a convenient source of water is available to discourage bees from congregating at other sources of water where there may be human or animal contact.
- D. Flyway barrier. Any hive within 25 feet of a property line shall have a minimum six-foot-high flyway barrier that extends six feet beyond the outer edges of the hive in each direction parallel to the property line in question.
- E. Minimum setback requirements. These setbacks apply to hives and flyway barriers. Setback requirements shall be as follows:

**Table 7-18. Minimum Setback**

<b>Property Line</b>	<b>Distance (feet)</b>
Front	30
Side	10

<b>Table 7-18. Minimum Setback</b>	
<b>Property Line</b>	<b>Distance (feet)</b>
Rear	5
Abutting residential dwelling	25
Public sidewalk or trail	25

- F. Africanized honeybees avoidance practices. In any instance where a colony is found to exhibit aggressive behavior, it shall be the duty of the beekeeper to immediately destroy or re-queen the hive with certified European stock.
- G. Inspection. The Community Development Department is authorized to make inspections, during reasonable hours, to investigate any complaints or to inspect for compliance.
- H. Compliance. If any colony is found that is not being kept in compliance with this article, the Zoning Administrator shall have the right to order the hive removed from the premises.

**§ 435.7-163. Exterior communication device (receive-only antenna).**

- A. Number. No more than two exterior communication devices shall be located on a parcel of land.
- B. Requirements for satellite dish. A satellite dish shall not be larger than 36 inches in diameter. If ground mounted, the satellite dish shall not be mounted higher than six feet above the ground surface. If a satellite dish is mounted on a building, it shall not extend more than six feet above the roofline.
- C. Requirements for radio/television antenna. A ground-mounted radio/television antenna shall not exceed a height of 25 feet as measured from the ground surface. A building-mounted radio/television antenna shall not extend more than 15 feet above the roofline.

**§ 435.7-164. Family day-care home.**

Prior to the establishment of a family day-care home, the operator shall obtain a license from the state as may be required by state law and maintain such license for the life of the use or until the state no longer requires such license.

**§ 435.7-165. Farm storage building.**

- A. Outside storage prohibited. All storage shall occur within the farm building (i.e., no outside storage).

**§ 435.7-166. Farm residence.**

- A. General requirements. A farm residence shall comply with the standards for single-family dwellings in § 435.7-49.
- B. Number. No more than one farm residence may be located on land under common ownership that is primarily devoted to agricultural use.
- (1) For the purpose of this section, land is deemed to be primarily devoted to agricultural use if:
- (a) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use; or
  - (b) A majority of the land area is in agricultural use based on how the land is classified for tax purposes under Ch. Tax 18, Wis. Adm. Code.
- (2) For the purpose of this section, land is deemed to be under common ownership if:
- (a) Such parcels are owned by the same individual, a married couple, joint tenants, tenants in common, a corporation, a limited liability corporation, a partnership, an estate, or a trust; or
  - (b) Such parcels are owned by separate legal entities but those legal entities are all wholly owned by exactly the same person or persons.

**§ 435.7-167. Fence.**

- A. Applicability. The requirements of this section apply to any fence constructed or rebuilt after March 31, 2013, and which is located in a planned development district or on a parcel wholly or partially located in one of the following base zoning districts:
- (1) R-1 Rural Residential.
  - (2) R-2 Low-Density Residential.
  - (3) R-3 Medium-Density Residential.
  - (4) R-4 High-Density Residential.
  - (5) R-8 Manufactured/Mobile Home Park.
  - (6) B-1 Neighborhood Business.
  - (7) B-2 Community Business.
  - (8) B-3 General Business.
  - (9) M-1 Mixed-Use.
  - (10) I-1 Light Industrial.



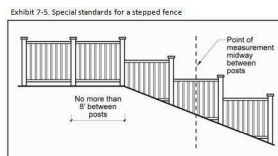
- (11) I-2 Heavy Industrial.
- B. Measurement of fence height. The height of a fence shall be measured from the adjoining ground surface to the top of the fence material (i.e., not the fence post, pole, or column).
- C. Construction specifications. A fence shall meet the following construction specifications:
  - (1) Width. With the exception of vertical supports, the width of a fence shall not exceed 14 inches.
  - (2) Height. The top of a fence shall not exceed the height listed in Table 7-17, provided a fence used to enclose horses shall not exceed a height of five feet. Where a fence is located on a slope and is stepped, each section shall not be wider than eight feet and the height shall be measured in the middle of the stepped section (Exhibit 7-5). Pursuant to the procedures and requirements in Article 6 of this chapter, the Planning Commission may approve a special exception to allow a fence in a commercial zoning district that is higher than the height specified in Table 7-17, but no more than 10 feet. The Zoning Administrator may allow a fence that does not meet the height requirements in this section when placed around a utility installation, telecommunication tower, or similar facility when required for security or related purposes. The Zoning Administrator may also allow a fence in a residential district in the rear yard that does not meet the height requirements in this section when the residential property abuts a commercial or industrial district, but in no case may it exceed more than eight feet in height.

**Table 7-17. Maximum Fence Height**

Location	Residential Zoning Districts	Mixed-Use Zoning Districts	Commercial Zoning Districts	Industrial Zoning Districts
Street yard	4 feet [1]	4 feet [1]	4 feet [1]	10 feet [1]
Side yard	6 feet	6 feet	8 feet	10 feet
Rear yard	6 feet	6 feet	8 feet	10 feet

**Notes:**

[1] Thirty feet from front property line or 30 feet on one side and 15 feet on the other for corner lots.



- (3) Orientation. All non-decorative posts, horizontal supports, cross-members, and the like shall be oriented inward to the lot on which the fence is located.
  - (4) Materials. A fence shall be constructed of building materials commonly used for fence construction in the region, except for those specifically prohibited in this section. A fence located in a street yard shall be a minimum of 50% open. All other fences may be solid from the ground to the maximum height. Snow fences constructed of wood or plastic shall be permitted only as temporary fences.
  - (5) Vertical supports. A vertical support, such as a post or column, shall not exceed 24 inches in width or extend more than 24 inches above the top of the highest point of the adjoining fence.
  - (6) Arbors. An arbor may extend above a pedestrian walkway provided it is not taller than nine feet, wider than five feet, or deeper than three feet.
  - (7) Trellises. A trellis may be incorporated into the overall design of a fence provided no part is taller than eight feet it and does not extend for more than 10% of the length of the side on which it is located.
- D. Location specifications. A fence shall meet the following location specifications:
- (1) A fence shall not be located in a shore yard setback.
  - (2) A fence may be placed up to a property boundary line, except that a fence shall not be closer than two feet to a public road right-of-way or other property boundary line when adjoining a public pedestrian walkway or the like.
  - (3) A fence may be placed within a utility easement, unless prohibited by the easement holder, with the understanding that the utility authority may remove such fence at the property owner's expense, is not liable for any damage to the fence, and is not responsible for the reconstruction of the fence.
  - (4) A fence shall not be located within a drainage easement.
- E. Special standards for fencing around a swimming pool. A fence may be located around a swimming pool provided it meets the standards in the most current edition of ANSI/IAF-8 as promulgated by the American National Standards Institute and Association of Pool and Spa Professionals that relate to barriers and fencing.
- F. Special standards for fencing around a sport court. A fence may be located around a sport court provided it meets the following standards:
- (1) The fence shall not exceed 12 feet in height.

- (2) The fence shall not be located within a setback line.
  - (3) Any portion of the fence above six feet in height shall be an open woven wire.
- G. Special standards for temporary construction fencing. A temporary fence may be placed around a construction site for the duration of the construction project with a valid building permit.
- H. Modification of stormwater flow. A fence shall not impede the natural flow of stormwater.
- I. Barbed wire fencing. Barbed wire fencing is prohibited except as follows:
- (1) Three or fewer courses of barbed wire may be installed above the top line of a six-foot high chain link fence when located in an industrial zoning district.
  - (2) Barbed wire may be used to contain livestock as may be allowed in the zoning district.
- J. Electric fencing. An electric fence is prohibited except as follows:
- (1) An electric fence may be used to contain livestock as may be allowed in the zoning district.
  - (2) An electric fence may be installed or used in an industrial zoning district provided it is no higher than 10 feet and is completely surrounded by a nonelectrical fence or wall that is not less than six feet high.
  - (3) An electrical fence installed in an industrial zoning district must be installed in conformance with the specifications set forth in International Electrotechnical Commission (IEC) Standard No. 60335-2-76.
  - (4) The energizer for an electrical fence must be driven by a commercial storage battery not to exceed 12 volts DC.
  - (5) The electric charge produced by an electric fence upon contact shall not exceed energizer characteristics set forth in Paragraph 22.108 and depicted in Figure 102 of IEC Standard No. 60335-2-76.
  - (6) Electrical fences shall be clearly identified with warning signs that read "Warning — Electric Fence" at intervals of not less than 60 feet.
- K. Maintenance. A fence shall be maintained in a structurally sound manner.

**§ 435.7-168. Foster home and treatment foster home (operated as accessory use).**

Prior to the establishment of a foster home or treatment foster home, the operator shall obtain a license from the state as provided for in § 48.75, Wis. Stats., and maintain such license for the life of the use or until the state no longer requires such license.

**§ 435.7-169. Garage, nonresidential.**

- A. Size. The footprint of the garage, whether attached or detached, shall not be larger than the gross floor area of the first floor of the building containing the primary use.
- B. Type of construction. A garage shall be of conventional wood-frame, metal-frame, or masonry construction. Soft-sided structures and canopies are specifically prohibited.
- C. Exterior materials. Exterior materials shall be the same as, or substantially the same as, those used on the principal building.

**§ 435.7-170. Garage, off-site residential.**

- A. Legislative findings. The Village Board of Trustees makes the following findings regarding off-site residential garages:
  - (1) There are preexisting residential lakefront lots in the Village that are too small or too narrow to allow the construction of a two-car garage.
  - (2) While not necessarily desirable, necessity dictates that special provisions should be made to allow the construction of an off-site garage so long as all of the standards in this section can be met.
- B. Minimum requirements for establishment of an off-site residential garage. An off-site residential garage may be established only if each of the following initial standards can be met:
  - (1) The lakefront lot is too small or too narrow to accommodate a two-car garage of approximately 576 square feet (24 feet by 24 feet).
  - (2) The lot with the off-site residential garage is located on the road providing access to the lakefront lot and is generally located across from the lakefront lot.
- C. Limitation on number of off-site residential garages associated with a lakefront lot. A lakefront lot shall not be associated with more than one off-site residential garage.
- D. Reduction of permissible accessory buildings on lakefront lot. The floor area of accessory buildings on the lakefront lot and the floor area of the off-site residential garage shall not exceed the total floor area of accessory buildings otherwise permitted on the lakefront lot.

Furthermore, the number of accessory buildings on the lakefront lot and the off-site residential garage shall not exceed the total number of accessory buildings otherwise permitted on the lakefront lot.

- E. Deed restriction required. Prior to the issuance of a zoning permit authorizing the construction of an off-site residential garage, the property owner shall file an agreement and deed restriction with the Register of Deeds for Winnebago County, as approved by the Zoning Administrator, that prohibits the sale of the lot with the off-site residential garage separately from the lakefront lot with which it is associated (i.e., both lots must be sold together).
- F. Outdoor storage prohibited. No items or material of any kind shall be stored out of doors on a lot with an off-site residential garage.
- G. Use as part of a home occupation. No portion of an off-site residential garage shall be used for a home occupation except to store related motor vehicles.
- H. Accessory buildings prohibited. No accessory buildings may be located on a lot with an off-site residential garage.

**§ 435.7-171. Garage, residential.**

- A. Location. A garage may be attached to the residence or detached.
- B. Type of construction. A garage shall be of conventional wood-frame, metal-frame, or masonry construction. Soft-sided structures and canopies are specifically prohibited.
- C. Exterior materials. Exterior materials shall be the same as, substantially the same as, or complement those materials used on the building that houses the residential use.

**§ 435.7-172. Garden.**

No special standards apply to gardens.

**§ 435.7-173. Greenhouse.**

A greenhouse may be established subject to limitations generally applicable to accessory buildings, except on land zoned A-2 where it may be established as a principal use.

**§ 435.7-174. Helipad.**

No special standards apply to helipads.

**§ 435.7-175. Home occupation, major.**

- A. Validity of use. The individual primarily responsible for operation of the major home occupation shall reside in a dwelling unit on the parcel.

- B. Location and space limitation. The major home occupation may occur within the dwelling unit or within an accessory building located on the lot, or both. The space specifically designated for use of the major home occupation shall occupy no more than 25% of the total floor area of the dwelling unit. A major home occupation may also be located in a residential garage located on the lot, provided at least one bay is reserved for parking a full-size motor vehicle. The establishment of a major home occupation does not authorize the property owner to construct a garage or other accessory building that does not otherwise comply with this chapter.
- C. Exterior character of building. The exterior character of the building housing the major home occupation shall not be altered to accommodate such use.
- D. Storage of materials. No exterior storage of materials or equipment is allowed.
- E. Limitation on number of on-site workers. The number of individuals working on site shall be limited to those individuals living in the dwelling unit and one individual not living in the dwelling unit.
- F. Limitation on clients. No more than two clients at a time, by appointment only, shall come to the home.
- G. Retail sales. On-site retail sale of merchandise is prohibited.
- H. Limitations on business vehicles. The use shall not involve the use of a commercial vehicle for more than occasional delivery of materials to or from the premises.
- I. Nuisance. A major home occupation shall not create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference, or any other nuisance not normally associated with the typical residential use in the zoning district.
- J. Prohibited uses. The following uses do not qualify as a major home occupation: veterinary services, health care clinics serving more than one patient at a time, animal boarding or grooming, barber or hair care with three or more chairs, restaurant, vehicle repair, motor vehicle body work, or other similar activities.
- K. Special exception for an operator with a disability. Consistent with the procedures and requirements of Article 6 of this chapter, the Planning Commission may approve a special exception to any of the requirements in this section when the operator has a temporary or permanent disability and the major home occupation is or would be his or her primary livelihood and such deviation is needed to facilitate the operation of the major home occupation in a reasonable manner.

- L. Multiple home occupations. Multiple home occupations may be permitted on a single lot provided all of the general requirements set forth in this section can be met based on an accumulation of activities.

**§ 435.7-176. Home occupation, minor.**

- A. Validity of use. The individual primarily responsible for operation of the minor home occupation shall reside in the dwelling unit on the parcel.
- B. Location and space limitation. The minor home occupation shall occur entirely within the dwelling unit. The space specifically designated for use of the minor home occupation shall occupy no more than 25% of the total floor area of the dwelling unit.
- C. Exterior character of building. The exterior character of the building housing the minor home occupation shall not be altered to accommodate such use.
- D. Storage of materials. Exterior storage of materials or equipment is prohibited.
- E. Limitation on number of on-site workers. The number of individuals working on site shall be limited to those individuals living in the dwelling unit.
- F. Limitation on clients. No clients shall come to the home.
- G. Retail sales. On-site retail sale of merchandise is prohibited.
- H. Limitations on business vehicles. The use shall not involve the use of a commercial vehicle for more than occasional delivery of materials to or from the premises.
- I. Nuisance. A major home occupation shall not create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference, or any other nuisance not normally associated with the typical residential use in the zoning district.
- J. Prohibited uses. The following uses do not qualify as a minor home occupation: veterinary services, medical offices, animal boarding or grooming, barber or hair care with three or more chairs, restaurant, vehicle repair, motor vehicle body work, or other similar activities.
- K. Special exception for an operator with a disability. Consistent with the procedures and requirements of Article 6 of this chapter, the Planning Commission may approve a special exception to any of the requirements in this section when the operator has a temporary or permanent disability and the minor home occupation is or would be his or her primary livelihood and such deviation is needed to facilitate the operation of the major home occupation in a reasonable manner.

- L. Multiple home occupations. Multiple home occupations may be permitted on a single lot provided all of the general requirements set forth in this section can be met based on an accumulation of activities.

**§ 435.7-177. Hot tub.**

- A. Location. A hot tub shall not be located in a street yard or in a setback of a side yard.
- B. Decking. Decking is considered an integral part of a hot tub and shall comply with all setback requirements.
- C. Draining of water. Water that is drained out of a hot tub shall not flow onto adjoining property, into a wetland, or into a sewer without the approval of the Public Works Director or equivalent.
- D. Area. The total area occupied by a swimming pool and hot tub combined shall not exceed 30% of the area of the parcel of land.
- E. Design specifications. A hot tub shall meet the most current standards published by the National Spa and Pool Institute (NSPI) and the American National Standards Institute (ANSI), including those for plumbing, electrical service, sanitation, fencing, security, and safety.

**§ 435.7-178. Household livestock.**

- A. Minimum lot size. No livestock shall be kept on a lot less than 2.5 acres.
- B. Building setback requirements. New barns, stables, and other similar buildings used to house or otherwise confine livestock shall observe the building setback standards established for the zoning district in which it is located plus an additional 10 feet.
- C. Enclosure required. Livestock shall be confined within a fence or other suitable enclosure.

**§ 435.7-179. Indoor sales incidental to storage or light industrial use.**

- A. Maximum floor area. The total floor area devoted to indoor sales shall not exceed 25% of the total floor area of the building.
- B. Required separation. The area devoted to retail sales shall be physically separated from those areas used for industrial purposes by an interior wall.

Exhibit 7-6. An example of indoor sales in conjunction with light manufacturing.





**§ 435.7-180. Light industrial use incidental to indoor sales/service.**

- A. Maximum floor area. The total floor area devoted to the light industrial activity shall not exceed 15% of the total floor area of the building or 5,000 square feet, whichever is less.
- B. Required separation. The area devoted to the light industrial activity shall be physically separated by a wall or partition from other activity areas.

**§ 435.7-181. Outdoor display incidental to indoor sales.**

- A. Maximum size of service area. The size of the display area shall not be more than 25% of the gross floor area of the principal building.
- B. Location of display area. The display area shall be located on the same parcel of land as the indoor sales or on an adjoining parcel. The display service area shall not be located in a public right-of-way, a required landscape area, a buffer yard, or the setback of a street yard, side yard, shore yard, or rear yard.

**§ 435.7-182. Outdoor food and beverage service.**

- A. Maximum size of service area. The size of the outdoor service area shall not be more than 50% of the floor area of the restaurant or tavern.
- B. Location of service area. The outdoor service area shall be located on the same parcel of land as the restaurant or tavern or on an adjoining parcel. The outdoor service area shall not be located in a public right-of-way, a required landscape area, a buffer yard, or the setback of a street yard, side yard, shore yard, or rear yard.
- C. Special restrictions when adjacent to residentially zoned parcels. Outdoor service areas shall comply with the standards set forth in § 146-13, Beer gardens, of the Fox Crossing Municipal Code.
- D. Consistency with state liquor license. No alcoholic beverages shall be served or consumed within the outdoor service area unless the liquor, beer, or wine license, whichever is applicable, as issued by the Village, explicitly states that consumption is permitted within the outdoor service area.
- E. Entrance to service area if alcoholic beverages are served. If alcoholic beverages are served, the entrance or entrances to the outdoor service area shall be exclusively through the restaurant or tavern, and a barrier such as a rope or fence shall be erected to prevent entry to the outdoor service area by any other means.
- F. Rest room requirements. The rest room facilities in the restaurant or tavern shall be of sufficient capacity to serve both the indoor and outdoor patrons. Temporary toilet facilities are not permitted.

**§ 435.7-183. Outdoor furnace.**

- A. Standards. Any outdoor furnace shall comply with the standards set forth in § 383-40, Solid-fuel-fired outdoor heating devices, and Chapter 218, Fires and Fire Prevention, of the Fox Crossing Municipal Code.
- B. Subsequent change in zoning designation. If a property owner submits an application to change the zoning designation of a parcel of land with an outdoor furnace to another designation that does not allow an outdoor furnace and the Village Board of Trustees approves the requested change, the outdoor furnace shall cease to operate upon enactment of the ordinance changing the designation.

**§ 435.7-184. Parking lot (on site).**

A parking lot shall comply with all requirements as may be established in Article 9 of this chapter.

**§ 435.7-185. Play structure.**

A play structure shall not be located in a street yard.

**§ 435.7-186. Pond.**

No special standards.

**§ 435.7-187. Rural accessory structure.**

The property owner shall comply with those requirements in Article 6 of this chapter and each of the conditions of approval as may be imposed.

**§ 435.7-188. Service window, drive-up.**

- A. Crosswalks. A pedestrian crosswalk shall be marked on the pavement when the lane for a drive-up service window is situated between on-site parking and a building entrance.
- B. Length of queue lane. The lane leading up to a drive-up service window shall be of sufficient length so that at the anticipated customer peak, all motor vehicles waiting in queue will be entirely on the premises.
- C. Curbing. Menu boards, canopy supports, and the like shall be separated from the vehicle use area by a raised curb.
- D. Location. A drive-up service window shall only be located to the side or rear of the building in which it is located and at least 60 feet from a property in a residential zoning district.

**§ 435.7-189. Service window, walk-up.**

A walk-up service window shall not be located within eight feet of a setback of a street yard, side yard, shore yard, or rear yard.

**§ 435.7-190. Solar energy system.**

No special standards apply.

**§ 435.7-191. Wind energy system.**

Wind energy systems shall comply with Chapter 430, Wind Energy Systems, of the Fox Crossing Municipal Code.

**§ 435.7-192. Storage container.**

- A. Location. A storage container on a commercially zoned parcel of land shall:
- (1) Not be located in a parking area required by this chapter;
  - (2) Only be located between the back of the building and rear property boundary line;
  - (3) Observe the setback requirements for the zoning district in which it is located; and
  - (4) Not be located in a buffer yard as may be required by this chapter.
- B. Stacking prohibited. Storage containers shall not be stacked one on top of another.
- C. Character. A storage container shall be structurally sound and in good repair.
- D. Signage. A storage container shall not be used for signage.

**§ 435.7-193. Swimming pool.**

Swimming pools shall comply with the standards set forth in § 383-50, Swimming Pools, of the Fox Crossing Municipal Code.

**§ 435.7-194. (Reserved)<sup>63</sup>****§ 435.7-195. Utility cabinet.**

- A. Number limited. No more than four utility cabinets shall be located on a parcel of land. Five or more utility cabinets on a parcel of land shall be considered a minor utility installation. A utility cabinet is considered an accessory use in all situations and may be placed on private property and public property, such as a public right-of-way.
- B. Setbacks. A utility cabinet is exempt from yard setback standards as may be established for the zoning district in which this use is located,

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63. Editor's Note: See § 435.7-59, Temporary shelter.

- C. Placement on public property. Prior to establishing a utility cabinet on public property under the jurisdiction of the Village, Winnebago County, or the State of Wisconsin, the operator shall obtain all approvals as may be required by the governmental entity having jurisdiction.
- D. Placement on private property. Prior to establishing a utility cabinet on private property, the operator and property owner shall establish a proper lease or easement governing the use of the property for this purpose and submit the same to the Zoning Administrator for his or her approval.
- E. Placement in a stormwater easement. Prior to establishing a utility cabinet within a stormwater management easement under the jurisdiction of the Village, the county, or the state, the operator shall obtain all approvals as may be required by the governmental entity having jurisdiction.

**§ 435.7-196. Yard shed.**

A yard shed may only be placed on a parcel with a principal structure.



## DIVISION 9

**Special Standards for Temporary Land Uses**

(Series 18 in Land Use Matrix)

**§ 435.7-197. Agricultural product sales, off-site.**

- A. Size limitation. If a structure or building is used, the ground area shall not exceed 100 square feet.
- B. Hours of operation. The sale of items shall not occur before 9:00 a.m. or after 30 minutes past sunset.
- C. Number. No more than one stand is allowed on any one premises.

**§ 435.7-198. Agricultural product sales, on-site.**

- A. Limitation on sales. Products offered for sale shall be produced on the premises.
- B. Use of structure. A structure may be used to store or display products and for sales, provided the following conditions are met:
  - (1) Term of use. The structure is only used from April 1 through November 30 and is removed no later than December 10.
  - (2) Floor area. The floor area of the structure shall not exceed 500 square feet.
  - (3) Structure height. The height of the structure shall not exceed 12 feet.
  - (4) Location. The structure shall be located at least 100 feet from a property in a residential zoning district. The structure may be located within the front yard setback area but no closer than 15 feet to the front property boundary line.

**§ 435.7-199. Earth materials stockpile.**

- A. Hours of operation. When the earth materials stockpile is located in a residential zoning district, equipment used to load, move, or process materials shall only be used between the hours of 7:00 a.m. and 7:00 p.m.
- B. Term of use. As part of the building, site, and operation plan review, the reviewing authority may establish the maximum length of time this use may operate.

**§ 435.7-200. Farmers' market.**

- A. Hours of operation. The display of products and sales shall only occur between the hours of 7:00 a.m. and 30 minutes past sunset.

- B. Removal and cleanup. Within 24 hours following the close of the farmers' market, all features solely associated with the farmers' market shall be removed and all trash and debris shall be removed.

**§ 435.7-201. General outdoor sales.**

- A. Duration of use. A parcel of land shall be used for general itinerant outdoor sales for no more than 12 days in a calendar year.
- B. Hours of operation. The display of products and sales shall only occur between the hours of 9:00 a.m. and 30 minutes past sunset.
- C. Removal and cleanup. Within 24 hours following the termination of the sale, all features associated with the sale shall be removed and all trash and debris shall be removed.

**§ 435.7-202. Model home.**

- A. Generally. A model home may be established when the residential project is developed by a single developer and the project will have more than 25 lots available for sale in the first two phases.
- B. Appearance. The building used as a model home shall be of the same type and character as the dwelling units being offered for sale within the development.
- C. Duration of use. The model home shall be closed when 80% of the dwelling units of the entire development have been sold.
- D. Limitation on use. The model home is intended to facilitate the sale of residential housing units in the development in which it occurs and off-site sales activity shall be clearly incidental. The sales staff shall be limited to two licensed real estate agents and one support staff. The model home may be furnished but shall not be occupied as a residence.

**§ 435.7-203. Off-site construction yard.**

- A. Restoration required. As part of the review process, the applicant shall prepare and submit a restoration plan and obtain the approval of the same. Such restoration plan shall identify those areas of the property that will be disturbed and how those areas will be restored following the cessation of this temporary use.
- B. Setback requirements. Outdoor storage areas and other activity areas shall be located at least 40 feet from a property in a residential zoning district and 20 feet from a property in a commercial or mixed-use zoning district.
- C. Financial guarantee. Prior to the establishment of an off-site construction yard, the property owner shall submit a financial guarantee in a form acceptable to the Zoning Administrator and in an amount equal to 110% of the estimated cost of site restoration

identified in the restoration plan that is approved for the project. If the Village exercises its right to use the financial guarantee to restore the property and the amount of the financial guarantee does not cover such costs, the difference between the amount of the guarantee and the actual cost shall constitute a lien against the property as authorized by state law.

**§ 435.7-204. On-site construction office.**

- A. Generally. An on-site construction office may be established for commercial and industrial construction projects and for a multifamily building of eight or more dwelling units.
- B. Duration of use. An on-site construction office shall be removed within 10 days after the date of issuance of the last certificate of use and occupancy for the building under construction.
- C. Location. An on-site construction office shall be placed in a location with the least impact to adjoining property owners.
- D. Limitation on use. The use of an on-site construction office shall be limited to construction management activities associated with the construction activities occurring on the parcel of land on which it is located.

**§ 435.7-205. On-site construction yard.**

- A. Generally. An on-site construction yard may be established for commercial and industrial construction projects and for a multifamily building of eight or more dwelling units.
- B. Duration of use. On-site project material storage shall be removed within 10 days after the date of issuance of the last certificate of use and occupancy for the building under construction.
- C. Location. On-site project material storage shall be placed in a location with the least impact to adjoining property owners.
- D. Size limitations. The area dedicated for on-site project material storage shall not exceed 10% of the gross area of the parcel.

**§ 435.7-206. Portable storage container.**

- A. Duration. A portable storage container shall not be located on a parcel of land for more than 90 days during any nine-month period.
- B. Location. A portable storage container shall not be located in the front or side yard setback established for the zoning district in which this use occurs, except when placed in a driveway.
- C. Maximum floor area. The cumulative floor area of one or more portable storage containers shall not exceed 250 square feet.



- D. Limitation on use. When located in a residential zoning district, a portable storage container shall only be used to store household goods during an on-site construction/remodeling project or when used to move household goods to another location.

**§ 435.7-207. Relocatable building.**

- A. Location. A relocatable building shall conform to all setback requirements.
- B. Building code. A relocatable building shall conform to all applicable building code requirements.
- C. Architectural review. A relocatable building shall not be subject to the architectural standards in Division 6 of this article.

**§ 435.7-208. Seasonal product sales.**

- A. Duration of use. Merchandise shall not be sold any sooner than 30 days prior to the date of the seasonal event. Cleanup and removal of all related items shall be completed within two days following the date of the seasonal event.
- B. Removal and cleanup. Within 24 hours following the termination of the sale, all features associated with the sale and trash and debris of all kinds shall be removed from the site.

**§ 435.7-209. Snow disposal site.**

Snow shall not be stored within 100 feet of a navigable body of water or within 75 feet of a wetland that is mapped on Winnebago County's online mapping system.

**§ 435.7-210. Special event.**

- A. Sanitation. The operator shall comply with sanitation requirements as may be established by the Winnebago County Health Department.
- B. Setbacks. No portion of the property within the setbacks established for the zoning district shall be used for a special event.

**§ 435.7-211. Special event camping.**

- A. Applicability. Special event camping shall only occur with a special event of regional significance as recognized by the Planning Commission.
- B. Duration of use. Special event camping shall be permitted no more than five days prior to the official start of the special event of regional significance and no later than five days after the official close of the event.

- C. Sanitation. The operator shall comply with sanitation requirements as may be established by the Winnebago County Health Department.
- D. Setbacks. No portion of the property within the setbacks established for the zoning district shall be used for camping purposes.
- E. Removal and cleanup. Within 24 hours following the termination of this use, all features associated with this use and trash and debris of all kinds shall be removed from the site.

**§ 435.7-212. Special event concessions.**

- A. Applicability. Special event concessions shall only occur with a special event of regional significance as recognized by the Planning Commission.
- B. Duration of use. Special event concessions shall be operated no more than eight hours prior to the official start of the special event of regional significance and no later than eight hours after the official close of the event.
- C. Sanitation. The operator shall comply with sanitation requirements as may be established by the Winnebago County Health Department.
- D. Setbacks. No activity related to special event concessions, including food preparation or service, seating areas, and sanitation, shall occur within the setbacks established for the zoning district in which this use is located.
- E. Removal and cleanup. Within 24 hours following the termination of this use, all features associated with this use and trash and debris of all kinds shall be removed from the site.

**§ 435.7-213. Special event parking.**

- A. Applicability. Special event parking shall only occur with a special event of regional significance as recognized by the Planning Commission.
- B. Duration of use. Special event parking shall be permitted no more than one day prior to the official start of the special event of regional significance and no later than one day after the official close of the event.
- C. Setbacks. No portion of the property within the setbacks established for the zoning district shall be used for parking purposes.
- D. Removal and cleanup. Within 24 hours following the termination of this use, all features associated with this use and trash and debris of all kinds shall be removed from the site.

**§ 435.7-214. Wind test tower.**

Pursuant to § 66.0401(3), Wis. Stats., there are no standards or requirements for the establishment of a wind test tower or similar testing facility. If the Planning Commission and/or the Village Board of Trustees determines that the anticipated or actual testing is detrimental to the public health, safety, or welfare, the Village may submit a written petition to the Public Service Commission requesting the imposition of reasonable restrictions on such use.

**§ 435.7-215. Yard sale.**

A yard sale shall not be operated for more than three consecutive days. There shall be at least 60 days between the last day of a yard sale and the first day of a subsequent yard sale.

**Table 7-4. Dimensional Standards by Zoning District**

<b>A-2 General Agriculture District</b>	<b>Residential</b>	<b>Farm</b>	<b>Nonresidential/ Nonfarm</b>
Lot size, minimum	5.0 acres	5.0 acres	5.0 acres
Lot size, maximum	None	None	None
Lot width, minimum	200 feet	200 feet	200 feet
Road frontage, minimum	200 feet	200 feet	200 feet
Separation between detached buildings, minimum	10 feet	10 feet	10 feet
Yard setback			
Street yard, minimum	30 feet	75 feet	30 feet
Side yard, minimum	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet on each side for a detached accessory building	15 feet	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet on each side for a detached accessory building
Rear yard minimum	25 feet for a principal building; 3 feet for a detached accessory building	50 feet	25 feet for a principal building; 3 feet for a detached accessory building

<b>Table 7-4. Dimensional Standards by Zoning District</b>			
<b>A-2 General Agriculture District</b>	<b>Residential</b>	<b>Farm</b>	<b>Nonresidential/ Nonfarm</b>
Building height			
Principal building, maximum	35 feet	The distance from the structure/ building to the closest property boundary line	35 feet
Accessory building, maximum	18 feet	The distance from the structure/ building to the closest property boundary line	18 feet
Floor area ratio, maximum	No limitation	No limitation	No limitation
Floor area			
Principal building, minimum	1,000 square feet	No limitation	No limitation
Accessory buildings, maximum	1,500 square feet plus 1% of the lot area in excess of 43,000 square feet; 1% of lot area for buildings related to household livestock	No limitation	1,500 square feet plus 1% of the lot area in excess of 43,000 square feet
Number of detached accessory buildings, maximum	No limitation	No limitation	2

**Table 7-5. Dimensional Standards by Zoning District - continued**

<b>R-1 Rural Residential District (nonsubdivided)</b>	<b>Single-Family</b>	<b>Garage Lot</b>	<b>Nonresidential</b>
Lot size, minimum	43,000 square feet for an unsewered lot; 12,000 square feet for a sewered lot	3,192 square feet	43,000 square feet
Lot size, maximum	No limitation	8,999 square feet	No limitation
Lot width, minimum	200 feet for an unsewered lot; 85 feet for a sewered lot	56 feet	200 feet
Road frontage, minimum	33 feet	45 feet	200 feet for an unsewered lot; 33 feet for a sewered lot
Separation between detached buildings, minimum	10 feet	10 feet	10 feet
Yard setback			
Street yard, minimum	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other	30 feet	30 feet
Side yard, minimum	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building	3 feet	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building
Rear yard minimum	25 feet for a principal building; 3 feet for a detached accessory building or 5 feet to an alley	3 feet	25 feet for a principal building; 3 feet for a detached accessory building or 5 feet to an alley

<b>Table 7-5. Dimensional Standards by Zoning District - continued</b>			
<b>R-1 Rural Residential District (nonsubdivided)</b>	<b>Single-Family</b>	<b>Garage Lot</b>	<b>Nonresidential</b>
Building height			
Principal building, maximum	35 feet	N/A	35 feet
Accessory building, maximum	18 feet	18 feet	18 feet
Floor area ratio, maximum	No limitation	No limitation	No limitation
Floor area			
Principal building, minimum	900 square feet	N/A	No limitation
Accessory buildings, maximum	1,500 square feet plus 1% of the lot area in excess of the minimum lot size; 1% of lot area for buildings related to household livestock	1,500 square feet	1,500 square feet plus 1% of the lot area in excess of the minimum lot size
Number of detached accessory buildings, maximum	2	1	2

<b>Table 7-6. Dimensional Standards by Zoning District - continued</b>			
<b>R-2 Low-Density Residential District (subdivided)</b>	<b>Single-Family</b>	<b>Garage Lot</b>	<b>Nonresidential</b>
Lot size, minimum	20,000 square feet unsewered; 9,000 square feet sewerred	2,480 square feet	43,000 square feet
Lot size, maximum	None	3,000 square feet	None

**Table 7-6. Dimensional Standards by Zoning District - continued**

<b>R-2 Low-Density Residential District (subdivided)</b>	<b>Single-Family</b>	<b>Garage Lot</b>	<b>Nonresidential</b>
Lot width, minimum	65 feet for sewerded; 100 feet for unsewered	44 feet	200 feet
Road frontage, minimum	33 feet	35 feet	100 feet
Separation between detached buildings, minimum	10 feet	10 feet	10 feet
Yard setback			
Street yard, minimum	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other	30 feet	30 feet
Side yard, minimum	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building	3 feet	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building
Rear yard minimum	25 feet for a principal building; 3 feet for a detached accessory building or 5 feet to an alley	3 feet	25 feet for a principal building; 3 feet for a detached accessory building
Building height			
Principal building, maximum	35 feet	N/A	35 feet
Accessory building, maximum	18 feet	18 feet	18 feet
Floor area			
Principal building, minimum	900 square feet	N/A	No limitation

**Table 7-6. Dimensional Standards by Zoning District - continued**

<b>R-2 Low-Density Residential District (subdivided)</b>	<b>Single-Family</b>	<b>Garage Lot</b>	<b>Nonresidential</b>
Accessory buildings, maximum	1,200 square feet plus 1% of the lot area in excess of the minimum lot size; 1% of lot area for buildings related to household livestock	900 square feet	1,200 square feet plus 1% of the lot area in excess of the minimum lot size
Number of detached accessory buildings, maximum	2	1	2

**Table 7-7. Dimensional Standards by Zoning District - continued**

<b>R-3 Medium-Density Residential District</b>	<b>Single-Family</b>	<b>Twin Home</b>	<b>Multifamily Building, 2 units</b>	<b>Nonresidential</b>
Lot size, minimum	9,000 square feet	5,000 square feet/unit	5,000 square feet/unit	15,000 square feet
Lot size, maximum	None	None	None	None
Lot width, minimum	65 feet	50 feet	100 feet	85 feet
Road frontage, minimum	33 feet	33 feet	66 feet	100 feet
Separation between detached buildings, minimum	10 feet	10 feet	10 feet	10 feet
Yard setback				
Street yard, minimum	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other	30 feet



**Table 7-7. Dimensional Standards by Zoning District - continued**

<b>R-3 Medium-Density Residential District</b>	<b>Single-Family</b>	<b>Twin Home</b>	<b>Multifamily Building, 2 units</b>	<b>Nonresidential</b>
Side yard, minimum	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building	Zero setback	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building
Rear yard minimum	25 feet for a principal building; 3 feet for a detached accessory building	25 feet for a principal building; 3 feet for a detached accessory building	25 feet for a principal building; 3 feet for a detached accessory building	25 feet for a principal building; 3 feet for a detached accessory building
Building height				
Principal building, maximum	35 feet	35 feet	35 feet	35 feet
Accessory building, maximum	18 feet	18 feet	18 feet	18 feet
Floor area				
Principal building, minimum	900 square feet	500 square feet per unit	500 square feet per unit	No limitation

**Table 7-7. Dimensional Standards by Zoning District - continued**

<b>R-3 Medium-Density Residential District</b>	<b>Single-Family</b>	<b>Twin Home</b>	<b>Multifamily Building, 2 units</b>	<b>Nonresidential</b>
Accessory buildings, maximum	1, 200 square feet for lots less than 43,00 square feet; 1,200 square feet plus 1% of the lot area in excess of 43,000 square feet for lots greater than 43,000 square feet; 1% of lot area for buildings related to household livestock	1, 200 square feet for lots less than 43,00 square feet; 1,200 square feet plus 1% of the lot area in excess of 43,000 square feet for lots greater than 43,000 square feet; 1% of lot area for buildings related to household livestock	1, 200 square feet for lots less than 43,00 square feet; 1,200 square feet plus 1% of the lot area in excess of 43,000 square feet for lots greater than 43,000 square feet; 1% of lot area for buildings related to household livestock	1, 200 square feet for lots less than 43,00 square feet; 1,200 square feet plus 1% of the lot area in excess of 43,000 square feet for lots greater than 43,000 square feet
Number of detached accessory buildings, maximum	2	2	2	2

**Table 7-8. Dimensional Standards by Zoning District - continued**

<b>R-4 High-Density Residential District</b>	<b>Multifamily Building, 2 units</b>	<b>Multifamily, 3 or More Units</b>	<b>Nonresidential</b>
Lot size, minimum	5,000 square feet/unit	15,000 square feet	15,000 square feet
Lot size, maximum	None	None	None
Lot width, minimum	100 feet	120 feet	85 feet
Road frontage, minimum	66 feet	100 feet	100 feet
Separation between detached buildings, minimum	10 feet	10 feet	10 feet

**Table 7-8. Dimensional Standards by Zoning District - continued**

<b>R-4 High-Density Residential District</b>	<b>Multifamily Building, 2 units</b>	<b>Multifamily, 3 or More Units</b>	<b>Nonresidential</b>
Yard setback			
Street yard, minimum	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other	30 feet	30 feet
Side yard, minimum	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building
Rear yard minimum	25 feet for a principal building; 3 feet for a detached accessory building	25 feet for a principal building; 3 feet for a detached accessory building	25 feet for a principal building; 3 feet for a detached accessory building
Building height			
Principal building, maximum	35 feet	35 feet	35 feet
Accessory building, maximum	18 feet	18 feet	18 feet
Floor area ratio, maximum	None	50%	50%
Floor area			
Principal building, minimum	500 square feet per unit	500 square feet per unit	No limitation

<b>Table 7-8. Dimensional Standards by Zoning District - continued</b>			
<b>R-4 High-Density Residential District</b>	<b>Multifamily Building, 2 units</b>	<b>Multifamily, 3 or More Units</b>	<b>Nonresidential</b>
Accessory buildings, maximum	1,200 square feet for lots less than 43,00 square feet; 1, 200 square feet plus 1% of the lot area in excess of 43,000 square feet for lots greater than 43,000 square feet; 1% of lot area for buildings related to household livestock	500 square feet per unit	1, 200 square feet for lots less than 43,00 square feet; 1,200 square feet plus 1% of the lot area in excess of 43,000 square feet for lots greater than 43,000 square feet
Number of accessory buildings, maximum	2	2	2

<b>Table 7-9. Dimensional Standards by Zoning District - continued</b>	
<b>R-8 Manufactured/Mobile Home Park District</b>	
Lot size, minimum	20 acres
Lot size, maximum	None
Lot width, minimum	220 feet
Road frontage, minimum	100 feet
Separation between detached buildings, minimum	10 feet
Yard setback	
Street yard, minimum	30 feet
Side yard, minimum	25 feet
Rear yard minimum	25 feet
Building height	
Principal building, maximum	35 feet

**Table 7-9. Dimensional Standards by Zoning District - continued**  
**R-8 Manufactured/Mobile Home Park District**

Accessory building, maximum	18 feet
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**Table 7-10. Dimensional Standards by Zoning District - continued**  
**B-1 Neighborhood Business District**

Lot size, minimum	15,000 square feet for a sewerred lot; 30,000 square feet for an unsewerred lot
Lot size, maximum	None
Lot width, minimum	85 feet for a sewerred lot; 100 feet for an unsewerred lot
Road frontage, minimum	75 feet for a sewerred lot; 100 feet for an unsewerred lot
Floor area ratio, maximum	None
Separation between detached buildings, minimum	10 feet
Yard setback	
Street yard, minimum	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other
Side yard, minimum	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building or 5 feet from an alley
Rear yard minimum	25 feet for a principal building; 3 feet for a detached accessory building or 5 feet from an alley
Building height	
Principal building, maximum	35 feet
Accessory building, maximum	18 feet
Floor area	
Principal building, minimum	None
Accessory buildings, maximum	20% of rear yard
Number of accessory buildings, maximum	None

<b>Table 7-11. Dimensional Standards by Zoning District - continued</b>	
<b>B-2 Community Business District</b>	
Lot size, minimum	15,000 square feet for a sewered lot; 30,000 square feet for an unsewered lot
Lot size, maximum	None
Lot width, minimum	85 feet for a sewered lot; 100 feet for an unsewered lot
Road frontage, minimum	75 feet for a sewered lot; 100 feet for an unsewered lot
Floor area ratio, maximum	None
Separation between detached buildings, minimum	10 feet
Yard setback	
Street yard, minimum	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other
Side yard, minimum	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building or 5 feet from an alley
Rear yard minimum	25 feet for a principal building; 3 feet for a detached accessory building or 5 feet from an alley
Building height	
Principal building, maximum	35 feet
Accessory building, maximum	18 feet
Floor area	
Principal building, minimum	None
Accessory buildings, maximum	20% of rear yard
Number of accessory buildings, maximum	None

<b>Table 7-12. Dimensional Standards by Zoning District - continued</b>	
<b>B-3 General Business District</b>	
Lot size, minimum	15,000 square feet
Lot size, maximum	None

**Table 7-12. Dimensional Standards by Zoning District - continued**

<b>B-3 General Business District</b>	
Lot width, minimum	85 feet
Road frontage, minimum	75 feet
Floor area ratio, maximum	None
Separation between detached buildings, minimum	10 feet
Yard setback	
Street yard, minimum	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other
Side yard, minimum	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building or 5 feet from an alley
Rear yard minimum	25 feet for a principal building; 3 feet for a detached accessory building or 5 feet from an alley
Shore yard, minimum	75 feet
Building height	
Principal building, maximum	50 feet
Accessory building, maximum	18 feet
Floor area	
Principal building, minimum	None
Accessory buildings, maximum	20% of rear yard
Number of accessory buildings, maximum	None

**Table 7-13. Dimensional Standards by Zoning District - continued**

<b>M-1 Mixed-Use District</b>	
Lot size, minimum	15,000 square feet for a sewered lot; 30,000 square feet for an unsewered lot
Lot size, maximum	None
Lot width, minimum	85 feet for a sewered lot; 100 feet for an unsewered lot

**Table 7-13. Dimensional Standards by Zoning District - continued**

<b>M-1 Mixed-Use District</b>	
Road frontage, minimum	75 feet for a sewerred lot; 100 feet for an unsewerred lot
Floor area ratio, maximum	None
Separation between detached buildings, minimum	10 feet
Yard setback	
Street yard, minimum	30 feet, except where corner lot, then 30 feet on 1 side and 15 feet on the other
Side yard, minimum	7 feet on 1 side and 10 feet on the other for a principal building; 3 feet for a detached accessory building or 5 feet from an alley
Rear yard minimum	25 feet for a principal building; 3 feet for a detached accessory building or 5 feet from an alley
Building height	
Principal building, maximum	50 feet
Accessory building, maximum	18 feet
Floor area	
Principal building, minimum	None
Accessory buildings, maximum	None
Number of accessory buildings, maximum	None

**Table 7-14. Dimensional Standards by Zoning District - continued**

<b>I-1 Light Industrial District</b>	
Lot size, minimum	10,000 square feet if sewerred; 20,000 square feet if unsewerred
Lot size, maximum	None
Lot width, minimum	100 feet
Road frontage, minimum	33 feet



**Table 7-14. Dimensional Standards by Zoning District - continued**

<b>I-1 Light Industrial District</b>	
Floor area ratio, maximum	None
Separation between detached buildings, minimum	10 feet
Yard setback	
Street yard, minimum	30 feet
Side yard, minimum	7 feet on 1 side and 10 feet on the other
Rear yard minimum	25 feet
Building height	
Principal building, maximum	None
Accessory building, maximum	None
Floor area	
Principal building, minimum	None
Accessory buildings, maximum	None
Number of accessory buildings, maximum	None

**Table 7-15. Dimensional Standards by Zoning District - continued**

<b>I-2 Heavy Industrial District</b>	
Lot size, minimum	10,000 square feet if sewerred; 20,000 square feet if unsewerred
Lot size, maximum	None
Lot width, minimum	100 feet
Road frontage, minimum	33 feet
Floor area ratio, maximum	None
Separation between detached buildings, minimum	10 feet
Yard setback	
Street yard, minimum	30 feet

**Table 7-15. Dimensional Standards by Zoning District - continued**

<b>I-2 Heavy Industrial District</b>	
Side yard, minimum	7 feet on 1 side and 10 feet on the other
Rear yard minimum	25 feet
Building height	
Principal building, maximum	None
Accessory building, maximum	None
Floor area	
Principal building, minimum	None
Accessory buildings, maximum	None
Number of accessory buildings, maximum	None



**ARTICLE 8**  
**Buffer Yards And Landscaping**

DIVISION 1  
**General Provisions**

**§ 435.8-01. Legislative findings.**

The Village Board makes the following legislative findings:

- A. A healthy environment is an indication of a healthy and sustainable community.
- B. Landscaping promotes community sustainability by helping to maintain and increase property values, which in turn protects public and private investment in a community.
- C. Landscaping provides lasting social, economic, environmental, and aesthetic benefits to the community.
- D. Landscaping helps to reduce the "heat island" effect by shading parking lots, streets, and other hard-surfaced areas.
- E. Flexible standards allow alternative design options that may better fit the needs of the landowner and that may be needed to address unique site characteristics.
- F. Landscaped buffers are needed between parcels of incompatible land uses, and as the degree of incompatibility increases, the amount of buffering (width and landscaping) should increase.
- G. Xeriscape planting techniques help promote water and energy conservation.
- H. A variety of landscape plants is needed to ensure that the effect of a single disease (e.g., Dutch elm disease) or pest (e.g., emerald ash borer) on landscape plants is minimized.

**§ 435.8-02. Purpose.**

This article is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

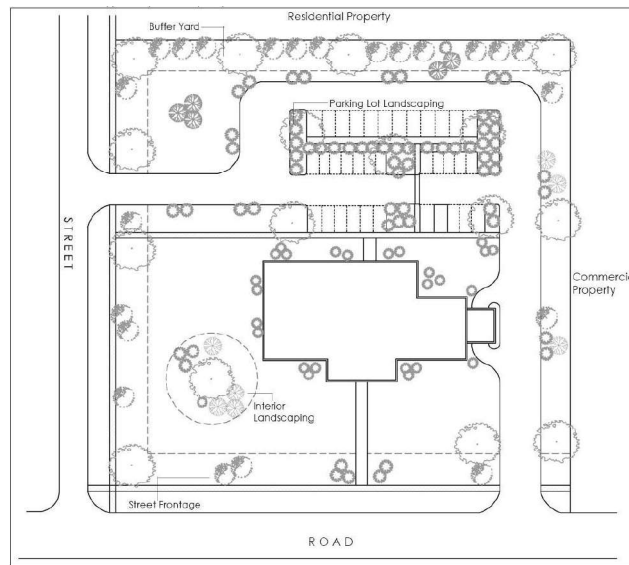
- A. Make the developed areas of the Village more attractive, ecologically sustainable and aesthetically pleasing;
- B. Provide flexible standards where possible, rather than overly prescriptive requirements;
- C. Promote and improve public health and safety through the abatement of noise, the glare of lights, dust, and air pollution;
- D. Improve the aesthetic appearance of the built environment;

- E. Ensure that land uses of different intensity have sufficient buffering between them to minimize negative effects;
- F. Create aesthetically pleasing tree-lined streetscapes;
- G. Promote economic development by providing a high quality of life;
- H. Enhance ambient environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, stormwater runoff retardation, and noise, glare, and heat abatement; and
- I. Encourage the preservation, expansion, protection, and proper maintenance of the community forest.

**§ 435.8-03. General applicability.**

The provisions of this article apply to different areas as generally depicted in Exhibit 8-1.

**Exhibit 8-1. General Applicability of Landscape Requirements**



**§ 435.8-04. Landscape plan.**

A landscape plan shall consist of a completed worksheet as may be used by the Zoning Administrator and a plan view drawing that shows where the required plants will generally be planted. Such drawing shall be drawn at the same scale as the site plan drawing.

**§ 435.8-05. Description of landscape points and classification of plant species.**

- A. Generally. The required level of landscape plants is stated in terms of landscape points. As shown in Exhibit 8-2, a different number of points is assigned to each of the plant categories depending upon its typical

growth rate, its mature height, and whether it is a deciduous or evergreen species. Species generally suitable for use in central Wisconsin are listed and those native to the state are denoted.

- B. Plants not listed. The species list in Exhibit 8-2 is not meant to be exhaustive. Therefore, the Zoning Administrator shall review proposals for, and the applicability of, species not contained in this list, and is authorized to approve appropriate similar species.
- C. Prohibited plants. Plants specifically designated as invasive by the Wisconsin Department of Natural Resources or other state agencies shall not be planted and shall not be used to meet the requirements of this article.

<b>Exhibit 8-2. Classification of Plants</b>	
<b>Botanical Name and Point Value</b>	<b>Common Name</b>
Tall deciduous trees (30 points)	
Acer spp.	maple: Norway, red [1], silver [1], sugar [1]
Froxinus spp.	ash [2]
Ginkgo biloba	ginkgo
Gleditsia triancanthos	honey locust [1]
Quercus spp.	oak: red [1], white [1], pin, bur [1]
Tilia spp.	linden: basswood [1], littleleaf, redmond
Medium deciduous trees (15 points)	
Betula spp.	birch: river [1], paper [1]
Prunus spp.	cherry: choke [1], pin [1]
Salix spp.	Willow
Low deciduous trees (10 points)	
Acer ginnala	amur maple
Amelanchier spp.	serviceberry
Crataegus spp.	hawthorn: cockspur [1], dotted [1], downy [1], Washington
Malus spp.	crabapple spp.
Sorbus spp.	mountainash: European, showy [1]
Prunus americana	American plum
Tall evergreen trees (40 points)	

<b>Exhibit 8-2. Classification of Plants</b>	
<b>Botanical Name and Point Value</b>	<b>Common Name</b>
Abies concolor	white fir
Pinus spp.	pine: red [1], white [1], Scots
Tsuga canadensis	Canada hemlock
Medium evergreen trees (20 points)	
Thuja occidentalis	American arborvitae
Low evergreen trees (12 points)	
Juniperus spp.	juniper: mountbatten, red cedar [1]
Thuja spp.	arborvitae: pyramidal, techny
Tall deciduous shrubs (5 points)	
Cornus spp.	dogwood: gray [1], pagoda, red [1]
Rhus spp.	sumac: smooth [1], staghorn [1]
Syringa spp.	lilac: Chinese, hyacinth
Viburnum spp.	viburnum: arrowwood, wayfaringtree, nannyberry [1]
Medium deciduous shrubs (3 points)	
Corylus americana	American filbert, hazelnut
Cotoneaster spp.	cotoneaster
Forsythia spp.	forsythia: border, early, weeping
Rosa spp.	rose: Virginia, rugosa
Low deciduous shrubs (1 point)	
Berberis thunbergii	Japanese barberry
Spirea spp.	spirea: froebel, snowmound
Medium evergreen shrubs (5 points)	
Juniperus chinensis	juniper: Pfitzer
Taxus spp.	yew: Japanese
Low evergreen shrubs (3 points)	
Juniperus spp.	juniper: sargent, creeping, andorra

**Notes:**

[1] This species is native to Wisconsin.

[2] Only those species that are not susceptible to the emerald ash borer may be used.

**§ 435.8-06. Specifications for landscaping materials.**

- A. Generally. All plant material shall be healthy, vigorous, and free of disease and insects.
- B. Minimum planting size. Trees and shrubs shall meet the minimum planting size established in Exhibit 8-3. Further, trees and shrubs shall meet the specifications contained in the most current edition of American Standard for Nursery Stock for the corresponding planting size.

<b>Exhibit 8-3. Minimum Planting Size</b>	
<b>Plant Category</b>	<b>Minimum Planting Size</b>
Tree	
Tall deciduous tree	1 1/2 inches caliper
Medium deciduous tree	1 inch caliper
Low deciduous tree	3/4 inch caliper
Tall evergreen tree	5 feet tall
Medium evergreen tree	4 feet tall
Low evergreen tree	3 feet tall
Shrub	
Tall deciduous shrub	36 inches tall
Medium deciduous shrub	24 inches tall
Low deciduous shrub	18 inches tall
Tall evergreen shrub	24 inches tall
Medium evergreen shrub	18 inches tall
Low evergreen shrub	12 inches tall

- C. Turf. Turf areas may be sodded or seeded. In areas subject to erosion, sod shall be used. Sod shall be commercially grown and clean and free of weeds, noxious pests, and diseases.
- D. Mulch. Where mulch is used as a ground treatment, it shall be applied to a minimum depth of four inches. A landscape fabric may be placed between the soil and mulch to impede weed growth.

**§ 435.8-07. Credit for preserving existing trees and shrubs.**



- A. Generally. Landscape plantings as required by this article may be satisfied in whole or in part by preserving existing trees and shrubs on the subject property.
- B. Allocation of credits. An existing tree shall be credited based on its size as shown in Exhibit 8-4. An existing shrub shall be credited on a one-for-one basis regardless of size.

<b>Exhibit 8-4. Allowable Tree Credits</b>	
<b>Caliper of Existing Tree</b>	<b>Number of Trees Credited</b>
2 inches up to 6 inches	1
6 inches up to 12 inches	2
12 inches up to 16 inches	3
16 inches and greater	4

- C. Location of trees and shrubs. A tree eligible for credit shall be located within 10 feet of a required buffer yard or parking lot to which the credit is to be applied or within the street terrace. A shrub eligible for credit shall be located within the area to which the credit is to be applied.
- D. Condition of trees to be used as credit. In order to use an existing tree or shrub as credit, the following conditions shall be satisfied:
  - (1) The area within the dripline or six feet away from the tree trunk, whichever is greater, shall be preserved in its natural state or covered with pervious landscape material and shall be retained at original grade with no trenching, cutting of any roots, or compaction of soil.
  - (2) During construction, a temporary barrier shall be placed around the tree at the dripline or six feet away from the tree trunk, whichever is greater.
  - (3) The existing stock shall not be damaged from skinning, barking, and the like.
  - (4) The existing stock shall be healthy and free from disease, damage, and active insect infestation potentially lethal to the tree.
  - (5) The species is one of the plant species listed in Exhibit 8-2 or is a plant species approved by the Zoning Administrator.

**§ 435.8-08. General design and placement guidelines.**

- A. Random placement. To the extent possible, plants shall be randomly placed so as to give a natural appearance.
- B. Planting beds. Where required, shrubs shall be placed in planting beds with mulch.

- C. Proximity to specified features. Trees and shrubs shall be separated from driveways, fire hydrants, utility poles, and utility pedestals and cabinets as listed in Exhibit 8-5.

<b>Exhibit 8-5. Minimum Separation From Specified Objects</b>		
	<b>Tree</b>	<b>Shrub</b>
Driveway	10 feet	6 feet
Fire hydrant	8 feet	6 feet
Utility pole	20 feet	6 feet
Utility cabinet and pedestal	8 feet	6 feet

- D. Proximity to overhead utility lines and the like. Trees and shrubs shall not be placed where they will require frequent pruning in order to avoid interference with overhead utility lines, buildings, or other structures.
- E. Within vision clearance triangle. Landscaping within a vision clearance triangle shall be consistent with the standards in the Municipal Code of the Village of Fox Crossing.
- F. Integration with natural amenities. When a site abuts a natural amenity such as a stream, park, or other open space, the landscape plan shall integrate with, and respect the natural integrity of, the amenity.
- G. Integration with stormwater facilities. Detention and retention ponds shall be designed to be physically, functionally, and visually integrated into adjacent landscape areas.

**§ 435.8-09. Plant diversity.**

- A. Tree species. The maximum number of required trees in the same genus shall comply with the proportions established in Exhibit 8-6. For example, if three tree species are required, a species in three different genera must be used (e.g., Quercus - oaks, Acer - maples, Pinus - pines).
- B. Shrub species. It is recommended that the proportion of required shrubs and ground cover follow the standards established in Exhibit 8-6, except that different species within the same genus may be used.

<b>Exhibit 8-6. Plant Diversity Requirements and Recommendations</b>		
<b>Required Number of Plants</b>	<b>Maximum Proportion of Tree Species in Same Genus</b>	<b>Recommended Proportion of Same Species for Shrubs</b>
11 to 20	20%	20%
21 to 30	20%	20%
31 to 40	20%	20%

<b>Exhibit 8-6. Plant Diversity Requirements and Recommendations</b>		
<b>Required Number of Plants</b>	<b>Maximum Proportion of Tree Species in Same Genus</b>	<b>Recommended Proportion of Same Species for Shrubs</b>
41 to 50	20%	20%
51 and more	20%	15%

**§ 435.8-10. Maintenance.**

- A. Generally. All landscaping shall be maintained in good condition so as to present a healthy, neat, and orderly appearance, free from refuse, weeds, and debris.
- B. Responsibilities. The current landowner shall be responsible for maintaining the vegetation, irrigation system, screening devices, and other landscape components as may be required by this article.
- C. Maintenance practices. Maintenance shall consist of regular and normal maintenance practices of landscaping including weeding, irrigation, fertilizing, pruning, and mowing. Plant materials that exhibit significant levels of insects, pests, diseases, or damage shall be treated as appropriate.
- D. Replacement generally. Plant materials which were planted as required by this article or which were used as a credit and which die or are irreparably damaged shall be removed and replaced with living plant materials consistent with the approved landscape plan or as required by this article.
- E. Replacement following a natural disaster. Plant materials that were planted as required by this article or which were used as a credit and which die or are irreparably damaged due to a natural disaster, such as area-wide flooding or high wind, shall, within two years of such event, be removed and replaced with plant materials consistent with the approved landscape plan or as required by this article. With just cause, the Planning Commission may, on a case-by-case basis, grant an extension of two additional years upon written request or pass a resolution granting a blanket extension to all affected properties in the Village.
- F. Staking. It is recommended that stakes and cables used to support a tree be removed within 24 months of planting.

**§ 435.8-11. Specifications for berms.**

- A. Maximum slope and form. In order to facilitate maintenance and efficient irrigation water usage, a berm shall not exceed a slope of 3:1 (i.e., for every three feet of horizontal run the vertical height is one

foot). A berm shall be graded to appear as a curvilinear, naturalistic form.

- B. Construction. A berm shall be compacted during the construction process so as to minimize settling.
- C. Stabilization. A berm shall be covered with turf or mulch along with required plant materials.
- D. Effect on stormwater flow. A berm may not be designed or placed so as to divert the normal flow of stormwater to the detriment of surrounding properties.
- E. Placement with respect to existing trees and shrubs. No portion of a berm shall be placed within the root zone of an existing tree or shrub if doing so could compromise the health of such tree or shrub.
- F. Placement within vision clearance triangle. Placement of a berm within a vision clearance triangle shall be consistent with the standards in the Code of the Village of Fox Crossing.

**§ 435.8-12. Use of low-water-adaptive vegetation.**

The use of low-water-adaptive vegetation should be incorporated into landscape designs to the extent possible. When the total amount of landscaping in a project, excluding terrace areas, exceeds 5,000 square feet, at least 30% of the required vegetation shall be low-water-adaptive vegetation and planted in one or more groupings.



DIVISION 2  
**Buffer Yard**

**§ 435.8-13. General description.**

A buffer yard consists of a strip of undeveloped land with landscaping or other visual screening and is intended to provide a physical and visual separation between two incompatible land uses.

**§ 435.8-14. Applicability.**

- A. Generally. A buffer yard shall be required at the time of development along the side and rear lot lines of the lot being developed when it abuts another lot in a different zoning district and when the lot being developed was:
- (1) Created by a land division of any type approved after March 31, 2013; or
  - (2) Rezoned to another zoning classification after March 31, 2013.
- B. Conditional use. As a condition of approving a conditional use, the Planning Commission may require that a buffer yard be incorporated into the project's overall design. The standard imposed shall be based on the degree of incompatibility between the adjoining use and the conditional use.
- C. Dual responsibility. When two adjoining parcels are vacant and they are located in different zoning districts, 1/2 of the required buffer yard shall be located on each parcel (i.e., 1/2 of the required width and 1/2 of the required plants).
- D. Single responsibility. When a vacant parcel adjoins a developed parcel and each are located in different zoning districts, the buffer yard shall be located on the vacant parcel.

**§ 435.8-15. General provisions.**

- A. Relationship of fencing and plantings. When a fence or berm is used in conjunction with plantings, 1/2 of the required number of landscape points shall be planted between the fence or berm and the property line.
- B. Use of buffer yard. A buffer yard shall be undeveloped, except that the Zoning Administrator may allow the following in a buffer yard:
- (1) An unpaved fire lane;
  - (2) Utility boxes and cabinets when necessary;
  - (3) A paved bicycle/pedestrian path or a paved sidewalk;

- (4) A paved vehicular access between the adjoining parcels provided it is located in the least intrusive location and is located generally perpendicular to the property boundary line;
  - (5) Stormwater management facilities; and
  - (6) Other structures and features deemed compatible by the Zoning Administrator.
- C. Use of utility easement. If a utility easement is located along the property boundary line where a buffer yard is also required, the width of the easement may be used to satisfy the width requirement of the buffer yard, in whole or in part, provided none of the required landscaping and/or fencing is located within the utility easement.
- D. Multi-use developments and mixed use. For multi-use developments on a single lot, the use nearest the property line shall determine the buffer yard requirement for that area. For mixed uses (two or more uses in the same structure), the higher intensity use shall be used to determine the buffer yard requirement.
- E. Recordation of easement. The buffer yard shall be shown on the face of the final plat or certified survey map (CSM) with the following narrative:
- "The buffer yard(s) shown on the face of this [plat/certified survey map] was established to comply with Article 8 of Chapter 435 of the Village of Fox Crossing Municipal Code in effect at the time of approval. A buffer yard shall not be developed or used, except in conformance with Article 8 of Chapter 435 of the Village of Fox Crossing Municipal Code, and the property owner shall be responsible for maintaining a level of landscaping that meets the buffer yard requirements in effect at the time of filing of this [plat/certified survey map]. This buffer yard may only be removed by the Planning Commission consistent with Article 8 of Chapter 435."
- F. Longevity. Buffer yards shall be maintained in perpetuity. However, the Planning Commission may terminate a buffer yard when the parcel containing the buffer yard is rezoned to the same zoning classification as the adjoining parcel or when the adjoining parcel is rezoned to the same zoning classification as the parcel with the buffer yard. Such termination shall reference the original document depicting the buffer yard and be recorded with the Register of Deeds for Winnebago County.
- G. Ownership. When a buffer yard is required in a subdivision, it shall be held in common by a homeowners' association or shall be incorporated into the adjoining lots.

#### **§ 435.8-16. Determination of required buffer yard.**

The determination of a buffer yard requirement is a two-step process as follows:

- A. Step one: identification of required buffer yard standard. Determine which of the two zoning districts allows the most intense development. Find that zoning designation in the top row of Exhibit 8-7. Find the zoning designation of the adjoining district in the left-hand column. Where the two districts intersect, a letter will be shown in that cell (A, B, C, or D) if a buffer yard is required. If the parcel being developed adjoins land in a city or village, that municipality's zoning classification that most closely corresponds to the Village's zoning classification shall be used to determine buffer yard requirements.
- B. Step two: identification of detailed buffer yard requirements. In the next step, the developer chooses how the required standard will be met. For each standard, a variety of width, landscaping point, berm, and fence combinations is possible, as listed in Exhibit 8-8. For example, if a developer is required to install a buffer yard of Type A, then that developer would have three options (A-1, A-2 or A-3) with which to meet that requirement. The requirements shall be provided for each 100 feet or fraction thereof. Different landscaping point options may be used along the length of a buffer yard, provided no such segment is less than 100 feet.

**Exhibit 8-7. Standards for a Buffer Yard Between Different Zoning Districts**

Other Zoning District	Zoning District Allowing the Greatest Intensity or Density											
	R-1	R-2	R-3	R-4	R-6	R-8	B-1	B-2	B-3	M-1	I-1	I-2
R-1		—	—	—	—	—	—	—	A	—	C	D
R-2	—		—	—	—	—	—	—	A	—	C	D
R-3	—	—		—	—	—	—	—	A	—	C	D
R-4	—	—	—		—	—	—	—	A	—	C	D
R-6	—	—	—	—		—	—	—	A	—	C	D
R-8	—	—	—	—	—		—	—	B	—	C	D
B-1	—	—	—	—	—	—		—	—	—	B	C
B-2	—	—	—	—	—	—	—		—	—	A	B
B-3	—	—	—	—	—	—	—	—		—	—	A
M-1	—	—	—	—	—	—	—	—	—		B	B
I-1	—	—	—	—	—	—	—	—	—	—		—
I-2	—	—	—	—	—	—	—	—	—	—	—	

**Notes:**

- 1. A dash "—" means that a buffer yard is not required.
- 2. For A, B, C, and D see Exhibit 8-8 for the width of the buffer yard and related landscaping requirements.



<b>Exhibit 8-8. Detailed Buffer Yard Requirements</b>				
	<b>Width</b>	<b>Points per 100 Feet</b>	<b>Required Fence or Berm [1]</b>	<b>Example Schematic [2]</b>
<b>A</b>				
A-1	10'	200	—	
A-2	15'	150	—	
A-3	20'	125	—	
<b>B</b>				
B-1	15'	100	Fence [3, 4, 5]	
B-2	15'	300	—	
B-3	20'	200	—	
B-4	25'	150	—	
B-5	30'	125	—	
<b>C</b>				
C-1	15'	100	Fence [3, 4, 5]	
C-2	15'	350	—	
C-3	20'	250	—	
C-4	25'	200	—	
C-5	30'	175	—	
C-6	30'	125	4' berm	
<b>D</b>				
D-1	20'	200	Fence [3, 4, 5]	
D-2	25'	325	—	
D-3	30'	275	—	
D-4	35'	250	—	
D-5	40'	200	—	
D-6	40'	150	4' berm	

**Notes:**

1. A dash "—" means not applicable.
2. Schematics are intended to be illustrative.
3. Maximum height allowed per § 435.7-167.
4. When a fence is used, at least 50% of the required plant materials shall be located on the exterior side (the side away from the center of the subject property) of the fence. If at the time of development there is a fence on the adjoining property, this planting requirement shall not apply.

**Notes:**

5. When a fence is required to enclose a specified activity area, a fence may not be used in the buffer yard.



DIVISION 3  
**Landscaping**

**§ 435.8-17. Applicability.**

- A. The provisions of this division apply to the following:
- (1) Construction of a principal building, except for single-family and two-family residences and agricultural buildings;
  - (2) Expansion of a principal building that is subject to this division by 500 square feet or more; and
  - (3) Construction or expansion of a parking area.
- B. Landscaping requirements may also be found in Chapter 394, Development Standards and Site Plan Review, of the Village of Fox Crossing Municipal Code. Whichever landscaping requirements are more restrictive shall apply.

**§ 435.8-18. Street frontage landscape requirements.**

- A. Minimum amount required. A minimum of 60 landscape points shall be provided along a public street right-of-way on a prorated basis for every 100 linear feet of frontage.
- B. Placement on lot. Plants required by this section shall be located within 10 feet of the public right-of-way. In no instance shall such landscaping be located within a public right-of-way.
- C. Use of various plant types. Shrubs shall not be used to meet this requirement. A minimum of 50% of the required landscape points shall be devoted to tall deciduous trees and a minimum of 30% of the points shall be devoted to medium deciduous trees.

**§ 435.8-19. Building foundation landscape requirements.**

- A. Minimum amount required. A minimum of 40 landscape points shall be provided on a prorated basis for every 100 feet of building foundation perimeter. For example, a building with a perimeter of 180 feet must provide a minimum of 72 landscape points  $[(180/100)*40] = 72$ .
- B. Placement on lot. Plants required by this section shall be placed so that, at maturity, the dripline of each plant is generally located within 10 feet of the building foundation. As a general rule, plants shall be distributed around the entire perimeter of the building. Such landscaping shall not be located in those areas required for landscaping as street frontages or parking areas.
- C. Use of various plant types. Climax trees and tall trees shall not be used to meet building foundation landscape requirements. The intent of this section is to require a visual break in the mass of buildings and to require a visual screen of a minimum of six feet in height for all exterior

perimeter appurtenances, such as ground-mounted HVAC units and utility boxes.

- D. Anticipated future development. Where an approved site plan depicts a future building extension, the foundation landscaping requirement shall be calculated by measuring the length of the total perimeter. However, foundation plantings need only be installed based on the landscape points calculated from the portions of the building perimeter that will not be affected by building extension. If this results in point requirements which are not met through the initial planting, then such requirement shall be met within five years of building permit issuance, or as extended in writing by the Administrator.

**§ 435.8-20. Parking lot landscape requirements.**

- A. Minimum amount required. A minimum of 120 landscape points shall be provided on a prorated basis for every 10,000 square feet of paved area. For example, a minimum of 303 landscape points are required within a parking area consisting of 25,200 square feet (approximately 63 stalls) as follows:  $(25,200/10,000)*120 = 303$ .
- B. Use of various plant types. A minimum of 30% of all landscape points shall be devoted to tall trees and a minimum of 40% of all points shall be devoted to shrubs.
- C. Placement within a landscaped area. A minimum of 300 square feet of landscaped area shall be located within the perimeter of the paved area for the placement of every 100 landscape points.
- D. Bioretention areas. Bioretention areas that are used to treat stormwater runoff from parking areas should be integrated into landscape areas as may be required in this section.

**§ 435.8-21. Lot interior landscape requirements.**

- A. Minimum amount required. A minimum of 10 landscape points shall be provided within the interior of the lot on a prorated basis for every 1,000 square feet of building floor area. For example, a minimum of 23 landscape points are required on the interior of a lot having a building floor area of 2,300 square feet:  $(2,300/1,000)*10 = 23$ .
- B. Placement on lot. Plants required by this section shall be located away from required landscaping for building foundations, street frontages, and parking lot areas.

**ARTICLE 9**  
**Parking**

**§ 435.9-01. Legislative findings.**

The Village Board makes the following legislative findings:

- A. The design of parking areas is critically important to the economic viability of commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image, livability and sustainability.
- B. Standards are needed to establish the minimum and maximum number of parking spaces that are needed to serve various land uses.
- C. Excessively large parking lots reduce density, increase the cost of development, create an unhealthy built environment, contribute to the "heat island" effect associated with urban areas, and decrease the infiltration of stormwater into the ground.
- D. Special standards are needed to accommodate the needs of the disabled.
- E. Shared parking can reduce parking facility costs (including aesthetic and environmental impacts), allows greater flexibility in facility location and site design, and encourages more efficient land use.
- F. Parking lots and their access points represent a vital connection between the local transportation network and land development.
- G. Incorrectly designed parking lots and site access points can have negative impacts on the site itself, the adjacent and nearby public roadways, and the image of the business community.

**§ 435.9-02. Purpose.**

This article promotes the public health, safety, and general welfare and is intended to:

- A. Increase the safety and capacity of public streets by requiring off-street parking or off-street loading facilities;
- B. Minimize adverse effects of off-street parking and off-street loading facilities on adjacent properties and surrounding neighborhoods through the requirement of design and maintenance standards;
- C. Lessen congestion and prevent the overtaxing of public streets by regulating the location and capacity of accessory off-street parking and off-street loading facilities;
- D. Maintain and enhance a safe and efficient transportation system;
- E. Provide adequate and safe facilities for the storage of bicycles; and

F. Minimize impervious surfaces.

**§ 435.9-03. Applicability.**

- A. New construction/uses. For all buildings and structures erected and all land uses established after March 31, 2013, facilities required in this article shall be provided as specified.
- B. Same use with an increase in intensity of use. When a building, structure, or premises is increased through the addition of dwelling units, gross floor area, seating capacity, or other unit of measurement specified in this article, facilities required in this article shall be provided for the amount being added.
- C. Change in use. When an existing land use is changed to a new use, facilities required in this article shall be provided as required for such new use. However, if the building or structure housing the new use was erected prior to the effective date of this chapter, facilities required in this article shall be provided to account for the difference between the new and old use.
- D. Restriping. When a parking area is restriped, accessible parking spaces shall be provided and designated consistent with this article.

**§ 435.9-04. General requirements.**

- A. Location of parking. All parking spaces provided pursuant to this article shall be on the same lot or an adjoining lot with the building, except that the Zoning Administrator may permit the parking spaces to be on a lot within 400 feet of the building if he or she determines that it is impractical to provide parking on the same or an adjoining lot.
- B. Off-site parking agreements. If required parking is to be provided off site, the use of such site shall be secured with a long-term agreement acceptable to the Village and recorded in the office of the Village Clerk. The Village shall be named in that agreement as a party having the right of enforcement.
- C. Change in use. An area once designated as required parking shall not be changed to any other use unless equal facilities are provided elsewhere consistent with this article.
- D. Accessibility. Parking spaces shall be accessible at all times from a street, alley, or driveway intended to serve such parking.
- E. Use of parking spaces. The required off-street parking shall be for occupants, employees, visitors, and patrons. The storage of merchandise, supplies, or motor vehicles for sale or the repair of vehicles on such parking areas is prohibited. In addition, the use of a parking lot for overnight camping, including recreational vehicle camping, is prohibited.

F. Landscaping. Landscaping for parking areas shall be provided consistent with Article 8 of this chapter.

**§ 435.9-05. Minimum off-street parking requirements.**

- A. Minimum number of spaces. Off-street parking spaces shall be provided in the number specified in Exhibit 9-1.
- B. Maximum number of spaces. For land uses located in a commercial, mixed-use, or industrial zoning district, the number of parking spaces provided in a ground surface parking lot shall not exceed the minimum number of parking spaces by more than 10%, except that the Planning Commission may allow more parking spaces above that threshold as a special exception provided the Commission determines that additional spaces are needed for that particular use or location. There shall be no limitation on the number of parking spaces when located in a parking garage or similar structure.
- C. Mixed-use requirements. For mixed uses, the minimum total requirements for off-street parking spaces shall be 80% of the sum of the requirements for the various land uses.
- D. Compact cars and electric cars. Up to 10% of the required number of parking spaces may be sized for compact cars or designated for electric vehicles. The percentage may be adjusted by the Zoning Administrator if need is demonstrated.

<b>Exhibit 9-1. Parking Standards</b>	
	<b>Minimum Vehicle Spaces</b>
<b>1.0 Agricultural Uses</b>	
1.01 Agriculture-related use	1 space for each employee on the largest work shift
1.02 Agriculture, crop	1 space for each employee on the largest work shift
1.03 Agriculture, general	1 space for each employee on the largest work shift
1.04 Greenhouse	1 space for each employee on the largest work shift
<b>2.0 Resource-Based Uses</b>	
2.01 Dam	1 space for each employee on the largest work shift
2.02 Forestry	On-site parking not required
2.03 Hunting preserve	Determined on a case-by-case basis
2.04 Sewage sludge disposal	On-site parking not required



<b>Exhibit 9-1. Parking Standards</b>		
		<b>Minimum Vehicle Spaces</b>
2.05	Wildlife park	Determined on a case-by-case basis
<b>3.0 Residential Uses</b>		
3.01	Mixed-use housing	2 spaces for each dwelling unit
3.02	Manufactured/mobile home park	2 spaces for each designated mobile home/manufactured home space; plus 1 space for visitor
3.03	Multifamily building, 2 units	2 spaces for each dwelling unit
3.04	Multifamily building, 3-4 units	2 spaces for each dwelling unit
3.04	Multifamily building, 5-8 units	2 spaces for each dwelling unit; plus 1 space for visitor parking for each 8 dwelling units if the building fronts a street with no on-street parking
3.04	Multifamily building, 9 or more units	2 spaces for each dwelling unit; plus 1 space for visitor parking for each 8 dwelling units if the building fronts a street with no on-street parking
3.05	Single-family dwelling	2 spaces
3.06	Townhouse, 3-4 units	2 spaces for each dwelling unit
3.06	Townhouse, 5-8 units	2 spaces for each dwelling unit; plus 1 space for visitor parking for each 8 dwelling units if the building fronts a street with no on-street parking
3.06	Townhouse, 9 or more units	2 spaces for each dwelling unit; plus 1 space for visitor parking for each 8 dwelling units if the building fronts a street with no on-street parking
3.07	Twin home	2 spaces for each dwelling unit
<b>4.0 Special Care Facilities</b>		
4.01	Adult family home	1 space for each 2 adults the facility is licensed by the state to accommodate; plus 1 space for each employee on the largest work shift

<b>Exhibit 9-1. Parking Standards</b>		
		<b>Minimum Vehicle Spaces</b>
4.02	Community living arrangement, 8 or fewer residents	3 spaces for each building
4.02	Community living arrangement, 9 to 15 residents	4 spaces for each building
4.02	Community living arrangement, 16 or more residents	5 spaces for each building
4.03	Foster home and treatment foster home	1 space for each employee on the largest work shift
4.04	Group day-care center	1 space for each 3 children the facility is licensed by the state to accommodate; plus 1 space for each employee on the largest work shift
4.05	Hospice care center	1 space for each 3 residents at capacity; plus 1 space for each employee on the largest work shift
4.06	Nursing home	1 space for each 3 beds; plus 1 space for each employee on the largest work shift
4.07	Retirement home	1 space for each unit; plus 1 space for each employee on the largest work shift
4.08	Temporary shelter	1 space for each 500 square feet of gross floor area devoted to patron services; plus 1 space for each employee on the largest work shift
<b>5.0 Group Accommodations</b>		
5.01	Boardinghouse	1 space for each 400 square feet in each sleeping room
5.02	Campground	1 space at each camping space; plus 1 space at the office, if one is provided, for each 15 camping spaces

<b>Exhibit 9-1. Parking Standards</b>		
		<b>Minimum Vehicle Spaces</b>
5.03	Group recreation camp	1 space at each camping space; plus 1 space at the office, if one is provided, for each 15 camping spaces
5.04	Migrant labor camp	Determined on a case-by-case basis
5.05	Overnight lodging	1 space for each guest room; plus 1 space for each employee on the largest work shift
5.06	Resort	1 space for each guest room; plus 1 space for each employee on the largest work shift
<b>6.0 Food and Beverage Sales</b>		
6.01	Brewpub	1 space for each 3 patron seats or 1 space for each 300 square feet of gross floor area devoted to patron service, whichever is greater; plus 1 for each employee on the largest work shift
6.02	Restaurant	1 space for each 3 patron seats or 1 space for each 300 square feet of gross floor area devoted to patron service, whichever is greater; plus 1 for each employee on the largest work shift
6.03	Tavern	1 space for each 3 patron seats or 1 space for each 300 square feet of gross floor area devoted to
<b>7.0 Vehicle Rental, Sales, and Service</b>		
7.01	Heavy vehicle sales and rental	1 space for each 400 square feet of gross floor area
7.02	Truck stop	1 space for each 400 square feet of gross floor area
7.03	Vehicle fuel station	1 space for each 400 square feet of gross floor area
7.04	Vehicle repair shop	1 space for each service bay; plus 1 for each employee on the largest work shift
7.05	Vehicle sales and rental	1 space for each 400 square feet of gross floor area

<b>Exhibit 9-1. Parking Standards</b>		<b>Minimum Vehicle Spaces</b>
7.06	Vehicle service shop	1 space for each service bay; plus 1 for each employee on the largest work shift
7.07	Vehicle storage yard	1 space for each employee on the largest work shift
<b>8.0 General Sales</b>		
8.01	Convenience retail sales	1 space for each 400 square feet of gross floor area
8.02	General retail sales	1 space for each 300 square feet of gross floor area
8.03	General retail sales, large format	1 space for each 300 square feet of gross floor area
8.04	Outdoor sales	1 space for each 5,000 square feet of outdoor display area; plus 1 space for each employee on the largest work shift
<b>9.0 General Services</b>		
9.01	Administrative services	1 space for each 400 square feet of gross floor area
9.02	Adult-oriented establishment	1 space for each 300 square feet of gross floor area
9.03	Body-piercing establishment	1 space for each 300 square feet of gross floor area
9.04	Commercial kennel	1 space for each 400 square feet of gross floor area
9.05	Commercial stable	1 space for each 4 stable stalls
9.06	Equipment rental, large	1 space for each 8,000 square feet of outdoor display area; plus 1 space for each employee on the largest work shift
9.07	Equipment rental, small	1 space for each 600 square feet of gross floor area
9.08	Financial services	1 space for each 400 square feet of gross floor area
9.09	Funeral home	1 space for each 3 patron seats at the maximum capacity; plus 1 space for each employee on the largest work shift

<b>Exhibit 9-1. Parking Standards</b>		
		<b>Minimum Vehicle Spaces</b>
9.10	General repair	1 space for each 450 square feet of gross floor area
9.11	General services	1 space for each 300 square feet of gross floor area
9.12	Health care clinic	1 space for each examination room or equivalent; plus 1 space for each 300 square feet of gross floor area not devoted to examinations
9.13	Health care center	1 space for each 1.5 patient beds; plus 1 space for each employee on the largest work shift; plus 1 space for each doctor on the largest work shift
9.14	Instructional services	1 space for each student during the largest period of attendance; plus 1 space for each employee on the largest work shift
9.15	Landscape business	1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
9.16	Professional services	1 space for each 300 square feet of gross floor area
9.17	Tattoo establishment	1 space for each 300 square feet of gross floor area
9.18	Veterinary clinic, general	1 space for each 400 square feet of gross floor area
9.19	Veterinary clinic, small animal	1 space for each 400 square feet of gross floor area
<b>10.0 Recreation and Entertainment Uses</b>		
10.0	Driving range	1 space for each driving station
10.0	Golf course	36 spaces for each 9 holes of golf; plus 1 space for each employee on the largest work shift; if a tavern or restaurant is also part of the golf course facility, the parking requirements of such use shall be 50% of the requirement

<b>Exhibit 9-1. Parking Standards</b>		
	<b>Minimum Vehicle Spaces</b>	
10.0 <del>3</del>	Indoor entertainment	1 space for each 3 patron seats; plus 1 for each employee on the largest work shift
10.0 <del>4</del>	Indoor recreation	1 space for each 3 patron seats; plus 1 for each employee on the largest work shift
10.0 <del>5</del>	Outdoor entertainment	1 space for each 3 patron seats at maximum capacity; plus 1 for each employee on the largest work shift
10.0 <del>6</del>	Outdoor recreation	1 space for each 3 patrons at design capacity; plus 1 for each employee on the largest work shift
<b>11.0 Government and Community Services</b>		
11.0 <del>1</del>	Administrative government center	1 space for each 400 square feet of gross floor area
11.0 <del>2</del>	Animal shelter	1 space for each 600 square feet of gross floor area; plus 1 space for each employee on the largest work shift
11.0 <del>3</del>	Cemetery	1 space for each employee on the largest work shift
11.0 <del>4</del>	Civic use facility	1 space for each 250 square feet of gross floor area or 1 space for each 4 patrons at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift
11.0 <del>5</del>	Community center	1 space for each 250 square feet of gross floor area or 1 space for each 4 patrons at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift
11.0 <del>6</del>	Community cultural facility	1 space for each 250 square feet of gross floor area or 1 space for each 4 patrons at maximum capacity, whichever is greater; plus 1 space for each employee on the largest work shift

<b>Exhibit 9-1. Parking Standards</b>		
	<b>Minimum Vehicle Spaces</b>	
11.07	Community garden	1 space for each 10,000 square feet of land available for production
11.08	Correctional facility	1 space for each 10 residents for visitation; plus 1 space for each employee on the largest work shift
11.09	Educational facility, pre-K through 12	0.5 space for each (K-8) classroom; 1 space for each 8 students (grades 9-12) at design capacity; plus 1 space for each employee on the largest work shift
11.10	Educational facility, post-secondary	0.5 space for each student during the largest class attendance period; plus 1 space for each employee on the largest work shift
11.11	Maintenance garage	1 space for each employee on the largest work shift
11.12	Park	1 space for each 3 patrons at the peak use period
11.13	Public safety facility	1 space for each 600 gross square feet of office area; 1 space for each employee on the largest work shift; plus 1 space for each vehicle normally parked on the premises
11.14	Sidewalk	On-site parking not required
11.15	Unspecified public use	Determined on a case-by-case basis
11.16	Worship facility	1 space for each 4 patrons at maximum capacity; plus 1 space for each employee on the largest work shift
<b>12.0 Telecommunications and Utilities</b>		
	Commercial wind energy system	1 space for each employee on the largest work shift
12.02	Stormwater management facility	On-site parking not required

<b>Exhibit 9-1. Parking Standards</b>		
	<b>Minimum Vehicle Spaces</b>	
12.0 <del>3</del>	Telecommunication facility	1 space
12.0 <del>4</del>	Telecommunication facility, mobile service and co-location	1 space
12.0 <del>5</del>	Utility installation, major	1 space for each on-site employee on the largest work shift
12.0 <del>6</del>	Utility installation, minor	1 space, although the Zoning Administrator may grant a waiver
12.0 <del>9</del>	Utility maintenance yard	1 space for each employee on the largest work shift
<b>13.0 Transportation Facilities</b>		
13.0 <del>1</del>	Airport	Determined on a case-by-case basis
13.0 <del>2</del>	Bus storage facility	1 space for each employee on the largest work shift
13.0 <del>3</del>	Marina	1 space for each 2 boat slips
13.0 <del>4</del>	Mass transit terminal	1 space for each 200 square feet of gross floor area devoted to a passenger waiting area; plus 1 space for each 300 square feet of gross floor area devoted to offices
13.0 <del>5</del>	Off-site parking lot	N/A
13.0 <del>6</del>	Parking structure	N/A
13.0 <del>7</del>	Park-and-ride lot	N/A
13.0 <del>8</del>	Railroad line	N/A
13.0 <del>9</del>	Street	N/A
<b>14.0 General Storage</b>		
14.0 <del>1</del>	Boat yard	1 space for each employee on the largest work shift
14.0 <del>2</del>	Bulk fuel storage	1 space for each employee on the largest work shift
14.0 <del>3</del>	Personal storage facility	1 space for each 50 rental units when an office is provided; plus 1 space for each employee on the largest work shift



<b>Exhibit 9-1. Parking Standards</b>	
	<b>Minimum Vehicle Spaces</b>
14.04	Truck terminal 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
14.05	Warehouse 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
<b>15.0 Industrial Uses</b>	
15.01	Artisan shop 1 space for each 400 square feet of display area; plus 1 space for each employee on the largest work shift
15.03	Biofuels production plant 1 space for each employee on the largest work shift
15.04	Construction equipment repair 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
15.05	Construction equipment sales and rental 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
15.06	Contractor yard 1 space for each employee working on site; plus 1 space for each fleet vehicle parked on site
15.07	Industrial, heavy 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
15.08	Industrial, light 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
15.10	Salvage yard 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
<b>16.0 Solid Waste Facilities</b>	
16.01	Composting facility 1 space for each employee on the largest work shift

<b>Exhibit 9-1. Parking Standards</b>		
	<b>Minimum Vehicle Spaces</b>	
16.0 <del>2</del>	Recycling center	1 space for each employee on the largest work shift
16.0 <del>3</del>	Solid waste landfill	1 space for each employee on the largest work shift
16.0 <del>4</del>	Solid waste transfer station	1 space for each employee on the largest work shift
<b>17.0 Accessory Uses</b>		
17.0 <del>1</del>	Adult family home	On-site parking not required
17.0 <del>2</del>	Amateur radio antenna	On-site parking not required
17.0 <del>3</del>	Automated teller machine	On-site parking not required
17.0 <del>4</del>	Backyard chickens	N/A
17.0 <del>5</del>	Bed-and-breakfast	1 space for each guest room
17.0 <del>7</del>	Boat dock	On-site parking not required
17.0 <del>8</del>	Boathouse	On-site parking not required
17.1 <del>0</del>	Exterior communication device	On-site parking not required
17.1 <del>1</del>	Family day-care home	On-site parking not required
17.1 <del>2</del>	Farm storage building	On-site parking not required
	Farm residence	N/A
17.1 <del>4</del>	Fence	N/A
17.1 <del>5</del>	Foster home and treatment foster home	On-site parking not required
17.1 <del>6</del>	Garage, nonresidential	N/A
17.1 <del>7</del>	Garage, off-site residential	N/A
17.1 <del>8</del>	Garage, residential	N/A
17.1 <del>9</del>	Garden	N/A
17.2 <del>0</del>	Greenhouse	On-site parking not required
17.2 <del>1</del>	Helipad	4 space for each landing pad
17.2 <del>2</del>	Home occupation, major	1 space for a company vehicle, if any; plus 1 for each on-site employee
17.2 <del>3</del>	Home occupation, minor	1 space for a company vehicle, if any
17.2 <del>4</del>	Hot tub	N/A
17.2 <del>5</del>	Household livestock	N/A

<b>Exhibit 9-1. Parking Standards</b>		
	<b>Minimum Vehicle Spaces</b>	
17.26	Indoor sales incidental to light industrial use	On-site parking not required
17.27	Light industrial use incidental to indoor sales	On-site parking not required
17.28	Outdoor display incidental to indoor sales	On-site parking not required
17.29	Outdoor food and beverage service	1 space for each 3 patron seats or 1 space for each 300 square feet of area devoted to patron service, whichever is greater
17.30	Outdoor furnace	N/A
17.31	Parking lot (on site)	N/A
17.32	Play structure	N/A
	Private kennel	On-site parking not required
	Rural accessory structure	N/A
17.34	Service window, drive-up	N/A
17.35	Service window, walk-up	N/A
	Small wind energy system	N/A
17.38	Solar panel	N/A
17.39	Storage container, 1 or 2 units	On-site parking not required
17.39	Storage container, 3 or more units	On-site parking not required
17.40	Swimming pool	N/A
17.42	Utility cabinet	Determined on a case-by-case basis
17.43	Yard shed	N/A
<b>18.0 Temporary Uses</b>		
18.01	Agricultural product sales, off-site	Determined on a case-by-case basis, but not fewer than 2 when on-street parking is not available
18.02	Agricultural product sales, on-site	Determined on a case-by-case basis, but not fewer than 2 when on-street parking is not available
18.03	Earth materials stockpile	N/A

<b>Exhibit 9-1. Parking Standards</b>	
	<b>Minimum Vehicle Spaces</b>
18.0 <del>4</del>	Farmers' market 1.5 spaces for each vendor space when sufficient on-street parking is not available
18.0 <del>5</del>	General outdoor sales Determined on a case-by-case basis, but not fewer than 2 when on-street parking is not available
18.0 <del>6</del>	Model home Determined on a case-by-case basis
18.0 <del>7</del>	Off-site construction yard 1 space for each employee on the largest work shift; plus 1 space for each fleet vehicle parked on site
18.0 <del>8</del>	On-site construction office On-site parking not required
18.0 <del>9</del>	On-site construction yard On-site parking not required
18.1 <del>0</del>	Portable storage container N/A
18.1 <del>1</del>	Relocatable building Based on the standard for the principal use
18.1 <del>2</del>	Seasonal product sales Determined on a case-by-case basis, but not fewer than 2 when on-street parking is not available
18.1 <del>3</del>	Snow disposal site N/A
	Special event Determined on a case-by-case basis
	Special event camping 1 space at each camping space
	Special event concessions Determined on a case-by-case basis, but not fewer than 2
	Special event parking Determined on a case-by-case basis, but not fewer than 2
18.1 <del>4</del>	Wind test tower On-site parking not required
18.1 <del>5</del>	Yard sale On-site parking not required

**§ 435.9-06. Construction and maintenance requirements.**

- A. Surfacing. All off-street parking areas shall be surfaced and maintained with concrete, including pervious concrete, asphaltic concrete, or similar product. Parking areas for those land uses listed as agriculture or resource-based in Exhibit 9-1 may be surfaced with gravel.
- B. Border barricades. A parking area located adjacent to a property boundary line shall be provided with a suitable curb (asphalt or

concrete) so as to protect the adjacent property. Unless otherwise provided in this chapter, such curb shall be placed at least two feet from the property line to prevent extension of vehicles beyond the property line.

**§ 435.9-07. Design requirements.**

- A. Parking space dimensions. Standard and compact parking spaces shall conform to the dimensions in Exhibit 9-2.
- B. Drainage. Parking areas shall be properly graded for drainage.
- C. Service drive, when required. Groups of three or more parking spaces, except those in conjunction with a single-family or two-family dwelling on a single lot, shall be served by a service drive so that motor vehicles can enter and exit the parking area without backing onto a public right-of-way.
- D. Service drive standards. Service drives shall be designated and constructed to facilitate the flow of traffic, provide maximum safety in traffic ingress and egress and maximum safety of pedestrian and vehicular traffic on the site, and meet the dimensional standards in Exhibit 9-2.
- E. Identification of compact parking spaces. A compact vehicle parking space shall be so designated by a sign.
- F. Identification of electric vehicle parking spaces. An electric vehicle parking space shall be located next to an electric vehicle charging station and shall be so designated with signage.

<b>Exhibit 9-2. Parking Space Dimensions</b>						
<b>Angle</b>	<b>Parking Type</b>	<b>Stall Width</b>	<b>Curb Length</b>	<b>1-Way Aisle Width</b>	<b>2-Way Aisle Width</b>	<b>Stall Depth</b>
0°	Standard	9 feet	22 feet 6 inches	12 feet	24 feet	8 feet
	Compact	8 feet	19 feet 6 inches	12 feet	24 feet	7 feet 6 inches
30°	Standard	9 feet	18 feet	12 feet	19 feet	17 feet
	Compact	8 feet	15 feet	12 feet	18 feet	14 feet
45°	Standard	9 feet	12 feet 6 inches	12 feet	19 feet	19 feet
	Compact	8 feet	10 feet 6 inches	12 feet	18 feet	16 feet
60°	Standard	9 feet	10 feet 6 inches	16 feet	20 feet	20 feet

<b>Exhibit 9-2. Parking Space Dimensions</b>						
<b>Angle</b>	<b>Parking Type</b>	<b>Stall Width</b>	<b>Curb Length</b>	<b>1-Way Aisle Width</b>	<b>2-Way Aisle Width</b>	<b>Stall Depth</b>
	Compact	8 feet	8 feet 6 inches	15 feet	19 feet	16 feet 6 inches
90°	Standard	9 feet	9 feet	24 feet	24 feet	18 feet
	Compact	8 feet	8 feet	22 feet	24 feet	16 feet

**§ 435.9-08. Shared parking.**

- A. Generally. There may be instances where two or more land uses could share the same parking facilities as shown in Exhibit 9-3. The Zoning Administrator may, upon written petition, authorize the joint use of parking facilities required by such uses, provided:
  - (1) The applicant shows that there is no substantial conflict or overlap in the principal operating hours of the building or use for which the joint use of parking facilities is proposed;
  - (2) The parking facility for which joint use is proposed shall be located within 400 feet of the building or use required to provide parking;
  - (3) Directional signage is provided where appropriate;
  - (4) Pedestrian links are direct, clear, and safe; and
  - (5) Parking lots are located within the same zoning district as the use they serve.
- B. Written agreement required. The parties involved in the joint use of off-street parking facilities shall evidence their agreement for such joint use by a legal instrument approved by the Village as to form and content. Such instrument, when approved as conforming to the provisions of this section, shall be recorded in the office of the Village Clerk and a copy filed with the Zoning Administrator.

<b>Exhibit 9-3. Examples of Uses That Could Potentially Share a Parking Area</b>		
<b>Land Uses With Typical Weekday Peaks</b>	<b>Land Uses With Typical Evening Peaks</b>	<b>Land Uses With Typical Weekend Peaks</b>
Banks	Auditoriums	Religious institutions
Schools	Bars and dance halls	Parks
Distribution facilities	Meeting halls	Malls (some types, but not all)
Factories	Restaurants (some types, but not all)	

**Exhibit 9-3. Examples of Uses That Could Potentially Share a Parking Area**

<b>Land Uses With Typical Weekday Peaks</b>	<b>Land Uses With Typical Evening Peaks</b>	<b>Land Uses With Typical Weekend Peaks</b>
Medical clinics	Movie theaters	
Offices		
Professional services		

**§ 435.9-09. Accessible parking and passenger loading.**

- A. Generally. Accessible parking spaces shall be provided subject to this section and the standards set forth in the American National Standard, Accessible and Usable Buildings and Facilities, ICC/ANSI A117.1-2003, as may be amended.
- B. Number required. If parking spaces are required, then accessible spaces shall be provided in addition to the required number of regular spaces in the quantity as shown in Exhibit 9-4. One of eight accessible parking spaces, but always at least one, must be van accessible.

**Exhibit 9-4. Minimum Number of Required Accessible Parking Spaces**

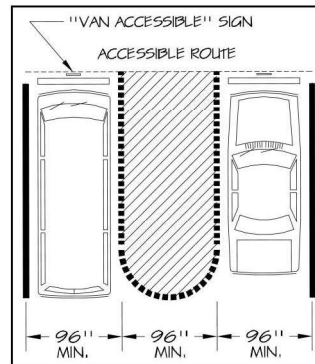
<b>Total Number of Required Parking Spaces</b>	<b>Minimum Number of Additional Accessible Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20; plus 1 for each 100 over 1,000

- C. Location. Accessible spaces serving a particular building shall be located on the shortest accessible route of travel between the parking and the accessible entrance. When there are multiple entrances to a building of similar prominence (e.g., shopping mall) with nearby parking, accessible spaces shall be dispersed and provided at each location. In parking facilities that do not serve a particular building,

accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.

- D. Dimensions. Accessible parking spaces shall be at least 96 inches wide (Exhibit 9-5).

**Exhibit 9-5. Layout of Standard and Van-Accessible Parking Spaces**



- E. Vertical clearance. For van-accessible parking spaces, a clearance 98 inches high shall be maintained above the space, access aisle, and on the route to and from the van-accessible space, per Section 502.6, ICC/ANSI A117.1-2003, as may be amended.
- F. Maximum slope. Accessible spaces and adjoining access aisles shall have a maximum slope of 1:48 in all directions. When accessible spaces are provided in an existing parking lot, the spaces shall be located on the most level surface close to the accessible building entrance.
- G. Signage. Each accessible space shall be so designated with a sign identified by the International Symbol of Accessibility mounted on a vertical pole. In addition, van-accessible spaces shall be so designated with a sign indicating "Van Accessible." Such signs shall be located so they cannot be obscured by a vehicle parked in the space (at least six feet in height).
- H. Pavement striping and markings. Access aisles shall be marked so as to discourage parking in them and car and van parking spaces shall be marked to define the width per Sections 502.3 and 502.4, ICC/ANSI A117.1-2003, as may be amended.
- I. Accessible route. An accessible route must be provided from the accessible parking space to the accessible entrance of the building. It shall be at least 36 inches wide, without steps or curbs. It shall be paved and not contain any feature that would restrict, inhibit, or unreasonably impede the movement of a physically disabled individual.
- J. Access aisle. An access aisle for an accessible space shall be the same length as the adjacent parking space it serves and be at least 60 inches wide for car access and 96 inches wide for van accessibility. Two



adjoining accessible parking spaces may share a common access aisle (Exhibit 9-5). An access aisle for a passenger loading zone shall be 60 inches wide and 20 feet long and adjacent and parallel to the space.

**ARTICLE 10**  
**Signs**

**§ 435.10-01. Legislative findings.**

The Village Board of Trustees makes the following legislative findings:

- A. In addition to signage allowed by this article, numerous means exist in the Village to communicate various types of speech, including print media, broadcast media, direct mailings to households, and dissemination of information on the internet.
- B. Sign regulations in this article:
  - (1) Promote the public welfare, health, and safety of people using public roads and other public travelways;
  - (2) Advance the aesthetic goals of the Village, while ensuring effectiveness and flexibility in the design and use of such devices, without creating detriment to the general public; and
  - (3) Reduce the visual clutter caused by advertising signage, which is a significant cause of unsafe traffic and visibility conditions.
- C. Sign regulations in this article are not intended to control the content of a message except as allowed by law or to unduly restrict the appearance of a sign.

**§ 435.10-02. Purpose.**

This article promotes the public health, safety, and general welfare and is intended to:

- A. Promote well-maintained and attractive signage within the Village;
- B. Provide for adequate business identification, advertising, and communication;
- C. Protect the safety and efficiency of the Village's transportation network by reducing confusion or distractions to motorists and enhancing motorists' ability to see and recognize pedestrians, obstacles, other vehicles and official traffic signs, signals, or devices by minimizing a proliferation of visual messages; and
- D. Protect the safety of the public by requiring proper maintenance of signs and establishing minimum design and construction standards.

**§ 435.10-03. Definitions.**

For the purposes of interpreting and enforcing this article, the following definitions shall apply:

**ABANDONED SIGN —**

- A. **BUSINESS SIGN —** The business it advertises is no longer conducted.
- B. **ADVERTISING OR DIRECTIONAL SIGN —** Owner no longer receiving lease payment or rental income.

**ANIMATION or ANIMATED —** The movement or optical illusion of movement of any part of a street graphic structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity.

**ARCHITECTURAL DETAIL —** Any projection, relief, cornice, column, change of building material, window, or door opening on any building.

**AWNING —** See "canopy."

**BANNER —** A sign made of a light, pliable material (e.g., fabric, plastic, paper, or vinyl) not enclosed in a rigid frame that is tethered to vertical poles or buildings using string, wire, or rope.



**BARE-BULB ILLUMINATION —** A light source that consists of bare light bulbs with a twenty-watt maximum for each bulb.

**BILLBOARD/OFF-PREMISES SIGN —** A sign that advertises or calls attention to goods, products, individuals, businesses, and/or services not sold, available or located on the premises or property on which the sign is located.

**BUILDING —** A structure having a roof supported by columns or walls.

**BUILDING SETBACK LINE —** A line established by Village zoning ordinance beyond which no building may extend.

**BUSINESS CENTER SIGN —** A freestanding sign located within an easement on M-1 (mixed-use) zoned property providing identification of the uses on the contiguous properties. Examples include strip malls, shopping centers, business parks and other similar mixed uses where all uses do not share a common parcel.

**CANOPY —** A cloth, plastic, or other nonstructural covering over a rigid frame that is permanently attached to a building, or temporary in nature, and, in some cases, can be raised or retracted to a position against the building when not in use.



**CHANGEABLE SIGN** — A sign that is designed so that its characters, letters, illustrations, or other content can be changed, altered, or rearranged without physically altering the permanent physical face or surface of the sign; this includes manual, electrical, electronic, or other variable message signs.



**CONSTRUCTION SIGN** — A temporary sign identifying individuals or companies involved in design, construction, wrecking, financing, or development work when placed upon the premises where that work is under way, but only for the duration of the work.

**DEPARTMENT** — The Department of Community Development.

**DIRECTIONAL SIGN** — Standard sign placed by the Village on public right-of-way to provide directional information for public and private uses located on minor streets that are not visible from major streets as allowed by the Village.



**EXTERNAL ILLUMINATION** — Illumination of a sign that is affected by an artificial light source that is not contained within the sign itself.

**FACADE** — Any side of a building facing a public way or space and finished accordingly, defined by the area between the entrance grade and the bottom of the roof edge or fascia.

**FLASHING ILLUMINATION** — Illumination in which the artificial source of light is not maintained stationary or constant in intensity and color at all times.

**FREESTANDING SIGN** — A street graphic supported by one or more uprights, posts, or bases placed upon or affixed in the ground, and not

attached to any part of a building; this includes a pole sign and a monument sign.

**GOVERNMENT SIGN** — A sign authorized by Fox Crossing, another government agency, the State of Wisconsin, or the federal government.

**GRADE** — Finished surface of the ground around the sign, consistent with the predominant grade for the site.

**GRAPHIC** — See "street graphic."

**HEIGHT** — Measurement between the grade at the base of the sign and the tallest point of the sign or structure.

**INTERNAL ILLUMINATION** — A light source that is concealed or contained within the street graphic and becomes visible in darkness through a translucent surface.

**MONUMENT SIGN** — A ground graphic permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole.



**MULTI-USE BUILDING** — Building devoted to two or more individual tenants, whether office, commercial, mixed-use, industrial, or institutional.

**NEON TUBE ILLUMINATION** — A source of light for externally lit street graphics supplied by a neon tube that is bent to form letters, symbols, or other shapes.

**NONCONFORMING STREET GRAPHIC** — A street graphic that was lawfully constructed or installed prior to the adoption or amendment of this article and was in compliance with all the provisions of this article then in effect, but which does not presently comply with this article.

**OFF-PREMISES SIGN** — See "billboard."

**ON-PREMISES SIGN** — Sign, graphics or a display for commercial, industrial, institutional, service, or entertainment purposes, promoting products, uses or services conducted, sold or offered upon the same premises where the sign is located, and whose purpose is to sell or identify a product, service or activity.

**PARKING LOT ENTRANCE SIGN** — An on-site street graphic at the exit or entrance of a premises that has two or more driveways used for the purpose of directing people into the premises.



**PLANNING COMMISSION** — The Planning Commission for Fox Crossing.

**POLE SIGN** — A freestanding street graphic that is permanently supported in a fixed location by a structure of poles, uprights, or braces from the ground and not supported by a building or a base structure.



**POLITICAL CAMPAIGN SIGN** — Signs promoting candidates for public office or issues on election ballots; see § 435.10-20.

**PORTABLE SIGN** — A street graphic not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building.



**PREMISES** — In the context of sign regulations in this chapter, the land area, whether consisting of one or more lots, on which a land use may install signs as may be allowed. For example, if a restaurant is situated on two lots, the premises is a singular unit consisting of the two lots.

**PROJECTING SIGN** — A street graphic attached to and projecting from the wall of a building at a ninety-degree angle from the plane of the wall to which it is attached.



**ROOF SIGN** — A sign attached to or supported by the roof of a building.



**SIGN** — Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

**SIGN REMOVAL** — Removal of both sign and supporting structure.

**SIGNABLE AREA FOR CANOPIES (AWNINGS)** — An area which does not project above, below, or beyond the edges of the canopy or awning on which it is displayed and shall not extend horizontally a distance greater than 60% of the width of the canopy or awning on which it is displayed.

**SIGNABLE AREA FOR WALL GRAPHICS** — The signable area of a building is a rectangular or square area of the facade, up to the roofline, which is free of windows, doors or major architectural detail. In computing signable area, only a building facade which faces a public street right-of-way may be utilized unless approved by the Zoning Administrator per § 435.10-14C(3).

**STREET GRAPHIC** — A lettered, numbered, symbolic, pictorial, or illuminated visual display on a building designed to identify, announce, direct, or inform that is visible from a public right-of-way.

**STRUCTURE** — Anything built, including a building that requires a permanent location.

**TEMPORARY SIGN** — A sign or banner that will only be displayed temporarily for a time period as specified in Exhibits 10-2 to 10-5.<sup>64</sup>

**TENANT** — A use located in a multi-use building or shopping center.

**WALL SIGN** — A sign that is painted directly on an exterior wall of a building or is attached to the exterior wall of a building with the exposed face of the sign in a plane parallel to the plane of the exterior wall.

**WINDOW SIGN** — A sign that is painted on, attached to, or suspended directly behind or in front of a window or the glass portion of an exterior door; a window sign may be temporary or permanent.

#### **§ 435.10-04. Applicability.**

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit except those signs enumerated in this section and in § 435.10-10. To the extent allowed by state and federal law, signs shall comply with

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**64. Editor's Note: Exhibits 10-2 to 10-5 are included at the end of Art. 10.**

the requirements of this article. The following signs are exempt from this article:

- A. A traffic control sign and other similar signage when located on public property along a roadway or other travelway when placed by or authorized by the federal government, the State of Wisconsin, Winnebago County, or Fox Crossing.
- B. A sign inside of a building that does not meet the definition of a window sign.
- C. A work of art (e.g., a mural) that does not identify or represent a product or service.
- D. A legal notice posted on private property as may be required or authorized by municipal, state, or federal law.

**§ 435.10-05. Measurement of sign area.**

Sign area is the entire area within the smallest simple geometric shape (rectangle, circle, or triangle) which encompasses the outer limits of any emblem, representation, wording, or any figure of similar character, together with any area forming an integral part of the display, or which is used to differentiate the sign from the background, such as a wall, to which it may be affixed. In a two-sided freestanding sign, the area of each face may be allowed to be the maximum size stated in the size requirements of Exhibits 10-2 to 10-5.<sup>65</sup> Sign supports not otherwise included in the aforementioned description are not included in determining the sign area.

**§ 435.10-06. General standards.**

A sign allowed by this article shall comply with the following general requirements:

- A. A sign shall not resemble, imitate, or approximate the shape, size, form, or color of a railroad or traffic sign, signal, or device.
- B. A sign shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices.
- C. A sign shall not be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, driveway, or fire escape.
- D. A sign shall not be attached to a standpipe or fire escape.
- E. A sign shall not be placed within the clear vision triangle except as allowed.
- F. A sign shall not oscillate, rotate, or move in any other manner.

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**65. Editor's Note: Exhibits 10-2 to 10-5 are included at the end of Art. 10.**



- G. A sign shall not emit an audible sound, odor, or any visible matter.
- H. A sign shall not be placed on a telecommunication tower, except as required or permitted under Article 7.
- I. A sign shall be constructed and mounted so as to comply with state and local building codes as applicable.
- J. A sign containing electrical wiring shall be constructed, installed, and operated so as to comply with state and local electrical codes as applicable.
- K. A sign shall not be painted on or similarly affixed to a natural object, such as a tree or rock.
- L. When a sign is authorized to contain electrical power or when a sign is illuminated by one or more external light fixtures, the electric wire providing the electric power to the sign or the light fixture shall be placed underground from the service disconnect.

**§ 435.10-07. General limitations on illumination.**

Illumination of a sign, when allowed by this article, shall comply with the following requirements:

- A. Internal or external illumination shall not flash or change color.
- B. Lighting for an externally illuminated sign shall be shaded, shielded, and directed away from surrounding properties and vehicular traffic.
- C. Lighting shall not oscillate or move or give the appearance of movement.

**§ 435.10-08. Electronic message displays.**

When allowed by this article, an electronic message display shall comply with the following specific standards:

- A. Except for time and temperature displays, the message shall remain static at least two minutes before the next message appears.
- B. No part of the message shall give the appearance of movement.
- C. There shall be no transition between messages (i.e., no traveling, scrolling, dissolving, or fading).
- D. Lighting levels at the sign face shall not exceed 5,000 NITs from dawn to dusk (i.e., daytime hours) and 500 NITs from dusk to dawn (i.e., nighttime hours).
- E. Electronic message displays shall not exceed 50 square feet in area in business and industrial zoning districts, except as allowed per § 435.11-08, and shall be counted as a part of the total sign area allowed for a premises.

- F. Electronic message displays shall be prohibited on residentially zoned parcels except under the following conditions:
- (1) A conditional use permit from the Planning Commission shall be required.
  - (2) The parcel must have frontage on a collector or arterial street and the sign shall only be allowed on such frontage.
  - (3) The electronic message sign shall not face residential parcels as determined by the Zoning Administrator.
  - (4) The electronic message sign shall not exceed 32 square feet in area and shall be counted as a part of the total sign area allowed for a premises.

**§ 435.10-09. Prohibited signs.**

- A. Vehicle signage. Vehicles, including automobiles, trucks, trailers, semitrailers, campers, and buses, that contain a sign for which the apparent purpose is to advertise a product or direct people to a business or an activity shall not be parked on a public right-of-way or on private property so as to be seen from a public right-of-way, except that such a vehicle is used in the daily operation of a business for service calls, deliveries, and the like.

An example of a vehicle sign



- B. Inflatable signage. Inflatable signage is not permitted.

An example of an inflatable sign



- C. Roof signage. Signage affixed to a roof in any manner, whether directly or indirectly, is not permitted.

- D. Billboards/off-premises signage. Billboards and off-premises signs are prohibited except as allowed under § 435.10-13.

**§ 435.10-10. Signs allowed without permit.**

A sign enumerated in Exhibit 10-1 is allowed for a specified purpose without a permit provided all requirements are satisfied.<sup>66</sup>

**§ 435.10-11. Signs allowed in residential zoning district by permit.**

- A. Generally. Signage for the specified uses as may be allowed in a residential district is allowed consistent with the requirements contained in Exhibit 10-2.<sup>67</sup>
- B. Landscaping requirement for monument signs. Landscaping shall be provided around the base of the sign for a minimum diameter of six feet. The landscaped area shall contain living landscape material consisting of shrubs and/or perennial ground cover plants placed throughout the required landscape area.

**§ 435.10-12. Signs allowed in commercial, mixed-use or industrial zoning district by permit.**

- A. Generally. Signs meeting the requirements of this section are allowed in a commercial, mixed-use, or industrial zoning district with a sign permit.
- B. Sign standards. Signs shall comply with the requirements in Exhibits 10-3 through 10-5 as applicable.<sup>68</sup>
- C. Landscaping requirement for monument signs. Landscaping shall be provided around the base of the sign for a minimum diameter of six feet. The landscaped area shall contain living landscape material consisting of shrubs and/or perennial ground cover plants placed throughout the required landscape area.

**§ 435.10-13. Billboards/off-premises signs.**

It is hereby determined that the number of billboards/off-premises signs existing in Fox Crossing is excessive and distracting to motorists and pedestrians, creates a traffic hazard, and mars the appearance of the Village. Therefore, no billboards/off-premises signs shall be constructed, erected, or placed upon any premises, public or private, within Fox Crossing except as provided under Subsections B and C.

- A. Generally.

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**66. Editor's Note: Exhibit 10-1 is included as an attachment to this chapter.**

**67. Editor's Note: Exhibit 10-2 is included at the end of Art. 10.**

**68. Editor's Note: Exhibits 10-3 to 10-5 are included at the end of Art. 10.**

- (1) Billboards/off-premises signs existing prior to January 25, 1993, are considered legal nonconforming signs and may be permitted to continue and be maintained in their current location/condition provided such signs also meet the following requirements:
  - (a) The sign(s) was (were) covered by a sign permit or a permit for construction/erection of the sign(s) was issued prior to the date of the adoption of this article, if one was required.
  - (b) If no sign permit was required for the sign(s) in question and the sign(s) was (were) in all respects in compliance with applicable laws/sections on the date such sign was constructed/installed.
- (2) Maintenance shall be limited to replacement of structural members that have deteriorated to the point where the sign is unsafe. All replacement structural members shall be of the same type of material as the original deteriorated structural member.
- (3) Repair of billboards/off-premises signs shall not alter the support capability of the existing sign.
- (4) No structural modification of a legal nonconforming sign is permitted. Structural modification shall not include changing of the sign copy or normal maintenance such as cleaning, painting, or scraping of the sign.
- (5) Sign faces may be changed without a permit unless the face is being changed from a static display to an electronic message display.
- (6) Changing a sign face from a static face to an electronic message display is allowed per § 435.11-08. When allowed, the standards for electronic signs set forth in § 435.10-08 shall be followed.
- (7) The sign shall not be relocated.
- (8) The sign shall not be replaced except as follows:
  - (a) A legal nonconforming billboard/off-premises sign or sign structure which is damaged may be restored. Such sign or sign structure which is destroyed or damaged shall be repaired or replaced within six months of the date the damage occurred. After six months the sign shall not be reconstructed or replaced. Removal shall include both the sign and sign structure regardless of which incurred the damage. Restoration of a damaged sign shall first require issuance of a sign permit and the sign shall be restored or replaced using materials and components of the same type used in the original sign.
- (9) At such time as the owner of any building or lot on which a legal nonconforming billboard/off-premises sign is located requests

Planning Commission/Village Board approval for any change to the use, zoning, building or lot upon which said sign is located, the Planning Commission/Village Board may require that such sign be removed as a condition of approval.

- (10) Any sign which does not wholly comply with the provisions of this section and which is not classified as legal nonconforming shall be ordered removed. If the sign owner, lessee, or owner of the premises on which such sign is located fails to remove such sign, the Director of Community Development may contract for removal of the sign(s) and assess all costs associated with such removal to the property owner as a special assessment to be collected in the same manner as property taxes are collected in Fox Crossing.
- B. Business center signs. Business center signs are permitted on contiguous properties within a planned commercial area zoned M-1 (mixed-use) subject to the following:
- (1) The applicant for the business center sign provides Fox Crossing with an agreement with the contiguous property owner stating the conditions for allowing the off-premises sign location on the contiguous property.
  - (2) The business center sign is located in an easement that provides sufficient area to meet setback requirements as required in the M-1 Zoning District.
  - (3) The size of the business center sign shall meet the freestanding sign regulations of the M-1 Zoning District.
  - (4) Only one business center sign is allowed on a contiguous property.
  - (5) Only uses located on the contiguous properties shall be allowed to display on the common use sign.
  - (6) A business center sign shall be no closer than 150 feet to an existing or future planned location of an on-premises sign.
  - (7) All business center signs are subject to review and approval by the Fox Crossing Planning Commission.
- C. Village-sponsored directional sign. A Village-sponsored directional sign is a standardized sign installed by the Village on public right-of-way that provides directions to a public or private school, church, business or industry. A Village-sponsored directional sign may be justified if a public or private school, church, business or industry is not readily visible from a major thoroughfare or intersection upon approaching the intersection.
- (1) Applicants meeting the criteria for Village-sponsored directional signs may request that their name be placed on the directional sign by paying an application fee and an annual charge for the maintenance and upkeep of the sign as set by resolution.

- (2) Such directional sign(s) shall be constructed to Fox Crossing specifications.
- (3) No such sign shall be erected without the recommendation and approval of the Zoning Administrator, the Street Superintendent, and any other governmental entity responsible for the right-of-way if it is not Fox Crossing.
- (4) Village-sponsored directional signs are provided by the Village for the convenience of the public and are subject to removal at any time. If removed, an applicant shall be reimbursed only for the prorated cost of sign maintenance.

**§ 435.10-14. General sign standards by type of sign.**

- A. Projecting sign. A projecting sign shall comply with each of the following:
  - (1) The sign shall complement the scale, proportion, and architectural style of the building on which it is to be attached.
  - (2) The sign shall not extend more than 10 feet from the building on which it is attached.
  - (3) When located above a walkway, the bottom edge of the sign shall be at least 10 feet above the surface of such walkway beneath the sign.
  - (4) The sign, when located above a driveway or an alley, shall not be less than 15 feet above the surface of such driveway or alley.
  - (5) The top of the sign shall not be higher than the building on which it is located.
- B. Freestanding sign. A freestanding sign, both monument and pole signs, shall comply with each of the following:
  - (1) A sign when located above a walkway shall not be less than 10 feet above the surface of such walkway.
  - (2) A sign when located above a driveway or an alley shall not be less than 15 feet above the surface of such driveway or alley.
  - (3) No part of a sign may be closer than 10 feet to the property boundary lines or right-of-way lines.
- C. Wall sign. A wall sign shall comply with each of the following:
  - (1) A sign shall not project from the wall on which it is attached by more than six inches.
  - (2) Sign copy may be placed on a canopy or awning, but only on the vertical flaps.

- (3) If a wall sign is not visible from a road frontage, a sign may be placed on a different side of the building as approved by the Zoning Administrator. That side of the building will then serve as the "frontage" and must meet all other wall sign requirements.

**§ 435.10-15. Signage for nonconforming commercial, industrial or institutional uses.**

If a nonconforming commercial, industrial, or institutional use does not have a sign, such establishment may have a wall or window sign stating the name of the establishment without display or elaboration not to exceed two feet in height and 10 feet in length.

**§ 435.10-16. Maintenance.**

The person owning the property on which a sign is located shall maintain such sign to be presentable and in good structural condition at all times, including replacement of defective parts, painting, repainting, cleaning, and other acts required for proper maintenance. If a sign is not maintained, the Zoning Administrator may issue written notice to the property owner that the sign must be brought into compliance with this article or removed within five days of receipt of such notice. The Zoning Administrator may require compliance in fewer than five days for public safety reasons.

**§ 435.10-17. Removal of signs for terminated business.**

If a business terminates operation at a particular location, the owner of the property where the business was located shall remove any nonconforming signs for the terminated business within six months of the date of termination.

**§ 435.10-18. Nonconforming signs.**

A sign that existed prior to March 31, 2013, that does not conform to the standards set forth in this article shall be subject to the provisions of Article 11 of this chapter relating to nonconformities. Two or more signs located closer than the distance standards indicated in this article shall become nonconforming for the purposes of this section, regardless of which sign was erected first and regardless of whether the nearest sign measured from is located within or outside of Village zoning jurisdiction.

**§ 435.10-19. Removal of certain illegal signs placed on public property.**

Government personnel may remove a sign placed illegally on public property (e.g., within a street right-of-way or a public park) without notice to the person who installed or authorized the installation of the sign. The official removing such sign may dispose of the sign at his or her discretion.

**§ 435.10-20. Removal of certain signs related to political elections.**

The Municipal Clerk, Building Official, Zoning Administrator or law enforcement officer may remove a sign placed in violation of the laws governing elections.

<b>Exhibit 10-2. On-Premises Signage in a Residential District</b>						
<b>Land Use</b>	<b>Sign Type</b>	<b>Maximum Number of Signs</b>	<b>Maximum Sign Area</b>	<b>Maximum Sign Height</b>	<b>Illumination</b>	<b>Type of Display Permitted</b>
Identification sign for a residential complex	A. Wall sign	1 per frontage	32 square feet or 10% of the wall area, whichever is less	N/A	External	Static display
	B. Freestanding sign - monument sign only	1 per frontage	32 square feet when single sided; 32 square feet per side when double sided	6 feet	External	Static display
Identification sign for a mobile home park	Freestanding sign - monument sign only	1 per frontage	32 square feet when single sided; 32 square feet per side when double sided	6 feet	External	Static display
Identification sign for a subdivision	Freestanding sign - monument sign only	1 per vehicular access point	32 square feet when single sided; 32 square feet per side when double sided	6 feet	External	Static display
Identification sign for an institutional use (e.g., park, school, church, and nursing home)	A. Wall sign	1 per frontage	50 square feet or 10% of the wall area, whichever is less	N/A	External or internal	Static display
	B. Freestanding sign - monument sign only	1 per frontage	50 square feet when single sided; 50 square feet per side when double sided	8 feet	External or internal	Static or electronic display



<b>Exhibit 10-2. On-Premises Signage in a Residential District</b>						
<b>Land Use</b>	<b>Sign Type</b>	<b>Maximum Number of Signs</b>	<b>Maximum Sign Area</b>	<b>Maximum Sign Height</b>	<b>Illumination</b>	<b>Type of Display Permitted</b>
	C. Parking lot entrance sign	1 at each vehicular access point to the site but no closer than 300 feet on the same road frontage or closer than 100 feet to another freestanding sign	12 square feet when single sided; 12 square feet per side when double sided	5 feet	External or internal	Static display
Bed-and-breakfast	A. Window sign	1 per premises with freestanding allowed only if window or wall sign is not visible from road	6 square feet	N/A	None	
	B. Wall sign		6 square feet	N/A	None	
	C. Freestanding sign - monument sign only		6 square feet	5 feet	None	Static display
Home occupation (major)	A. Window sign	1 per premises with freestanding allowed only if window or wall sign is not visible from road	6 square feet	N/A	None	
	B. Wall sign		6 square feet	N/A	None	

**Exhibit 10-2. On-Premises Signage in a Residential District**

Land Use	Sign Type	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Illumination	Type of Display Permitted
	C. Freestanding sign - monument sign only		6 square feet	5 feet	None	Static display
Special event sign	Banner, pendant, sandwich boards consistent with § 435.10-8	1 per frontage no more than 4 times in any 12-month period of time lasting 21 days per occurrence	32 square feet	8 feet	None	Static display

**Exhibit 10-3. On-Premises Signage in the B-1 Neighborhood Business District**

Sign Type	Number of Signs	Maximum Sign Area by Type of Sign	Maximum Sign Height	Illumination	Type of Display Permitted
Wall sign	1 per business per frontage	50 square feet or 10% of the wall area, whichever is less	N/A	External or internal	Static display
Freestanding sign - pole or monument	1 per frontage	50 square feet when single sided; 50 square feet per side when double sided	9 feet - pole or monument	External or internal	Static display
Projecting sign in lieu of a wall sign or a freestanding sign on the same frontage	1 per frontage	18 square feet per side	N/A	External or internal	Static display

<b>Exhibit 10-3. On-Premises Signage in the B-1 Neighborhood Business District</b>					
<b>Sign Type</b>	<b>Number of Signs</b>	<b>Maximum Sign Area by Type of Sign</b>	<b>Maximum Sign Height</b>	<b>Illumination</b>	<b>Type of Display Permitted</b>
Parking lot entrance sign – monument only	1 at each vehicular access point to the site but no closer than 300 feet on the same road frontage or closer than 100 feet to another freestanding sign	12 square feet when single sided; 12 square feet per side when double sided	5 feet	External or internal	Static display
A temporary on-premises sign used to announce a commercial, nonprofit or church grand opening, special event or promotion	1 per frontage no more than 4 times in any 12-month period of time lasting 21 days per occurrence; 2 occurrences may be combined in a 12-month period.	50 square feet	8 feet	None	Static display

<b>Exhibit 10-4. On-Premises Signage in the B-2 Community Business District, B-3 General Business District, and M-1 Mixed Use District</b>					
<b>Sign Type</b>	<b>Number of Signs</b>	<b>Maximum Sign Area by Type of Sign</b>	<b>Maximum Sign Height</b>	<b>Illumination</b>	<b>Type of Display Permitted</b>
Wall sign	1 per business per frontage	10% of total wall area per frontage	N/A	External or internal	Static display or electronic display
Freestanding sign – pole or monument	1 per frontage	100 square feet when single sided; 100 square feet per side when double sided	Monument: 9 feet; pole: 25 feet	External or internal	Static display or electronic display

<b>Exhibit 10-4. On-Premises Signage in the B-2 Community Business District, B-3 General Business District, and M-1 Mixed Use District</b>					
<b>Sign Type</b>	<b>Number of Signs</b>	<b>Maximum Sign Area by Type of Sign</b>	<b>Maximum Sign Height</b>	<b>Illumination</b>	<b>Type of Display Permitted</b>
Projecting sign in lieu of a wall sign or a freestanding sign on the same frontage	1 per frontage	32 square feet per side	N/A	External or internal	Static display or electronic display
Parking lot entrance sign - monument only	1 at each vehicular access point to the site but no closer than 300 feet on the same road frontage or closer than 100 feet to another freestanding sign	12 square feet when single sided; 12 square feet per side when double sided	5 feet	External or internal	Static display
A temporary on-premises sign used to announce a commercial, nonprofit or church grand opening, special event or promotion	1 per frontage no more than 4 times in any 12-month period of time lasting 21 days per occurrence; 2 occurrences may be combined in a 12-month period.	50 square feet	8 feet	None	Static display
Business center sign - a permanent freestanding sign identifying multiple businesses on contiguous properties within a planned commercial area	1 per business center on a parcel with a shared easement	200 square feet	25 feet	Internal or external	Static and/or electronic display

Notes: As per § 435.10-08 electronic message displays may not exceed 50 square feet in area.

**Exhibit 10-5. On-Premises Signage in the I-1 Light Industrial District and I-2 Heavy Industrial District**

<b>Sign Type</b>	<b>Number of Signs</b>	<b>Maximum Sign Area by Type of Sign</b>	<b>Maximum Sign Height</b>	<b>Illumination</b>	<b>Type of Display Permitted</b>
Wall sign	1 per business per frontage	10% of wall area per frontage	N/A	External or internal	Static display or electronic display
Freestanding sign – pole or monument	1 per frontage	100 square feet when single sided; 100 square feet per side when double sided	Monument: 9 feet; pole: 25 feet	External or internal	Static display or electronic display
Projecting sign in lieu of a wall sign or a freestanding sign on the same frontage	1 per frontage	32 square feet per side	N/A	External or internal	Static display or electronic display
A temporary on-premises sign used to announce a commercial, nonprofit or church grand opening, special event or promotion	1 per frontage no more than 4 times in any 12-month period of time lasting 21 days per occurrence; 2 occurrences may be combined in a 12-month period.	50 square feet	8 feet	None	Static display
Business center sign – a permanent freestanding sign identifying multiple businesses on contiguous properties within a planned commercial or industrial area	1 per business center on a parcel with a shared easement	200 square feet	25 feet	Internal or external	Static and/or electronic display

**Exhibit 10-5. On-Premises Signage in the I-1 Light Industrial District and I-2 Heavy Industrial District**

<b>Sign Type</b>	<b>Number of Signs</b>	<b>Maximum Sign Area by Type of Sign</b>	<b>Maximum Sign Height</b>	<b>Illumination</b>	<b>Type of Display Permitted</b>
Parking lot entrance sign - pole or monument	1 at each vehicular access point to the site but no closer than 300 feet on the same road frontage or closer than 100 feet to another freestanding sign	12 square feet when single sided; 12 square feet per side when double sided	5 feet	External or internal	Static display

Notes: As per § 435.10-08 electronic message signs may not exceed 50 square feet in area.



**ARTICLE 11**  
**Nonconformities**

**§ 435.11-01. Legislative findings.**

The Village Board makes the following legislative findings:

- A. There may exist lots, structures, and uses in the Village that were lawfully established but that do not now comply with one or more provisions of the district in which they are located.
- B. It is reasonable to generally allow, but not encourage, nonconforming uses to continue until such time as they are removed or discontinued.
- C. A nonconformity that is removed, discontinued, changed, extended, or enlarged shall be made to conform to the regulations that apply to the district in which it is located.
- D. State law permits the reconstruction of nonconforming structures under certain circumstances.
- E. There is a substantial public benefit to reducing the number of existing off-premises billboards that exceed the size limitations established in this chapter.

**§ 435.11-02. Official registry of nonconforming lots, structures, signs and uses.**

- A. Content of registry. The Zoning Administrator is authorized to develop and maintain a registry of:
  - (1) Lots known by him or her to be considered nonconforming;
  - (2) Structures known by him or her to be considered nonconforming;
  - (3) Signs known by him or her to be considered nonconforming; and
  - (4) Land uses registered as a nonconforming use consistent with the requirements in Article 7 of this chapter.
- B. Form of registry. At the discretion of the Zoning Administrator, the registry may consist of either a written list or digital records that may be tied to property records maintained by Winnebago County.

**§ 435.11-03. Nonconforming lots.**

- A. Generally. A nonconforming lot may be used for an allowable use, provided such use complies with all other dimensional standards of the zoning district in which the lot is located.
- B. Alteration of property boundary lines. The location of a property boundary line of a nonconforming lot shall not be moved, except when a



relocation will bring the nonconforming lot closer to compliance and will not create nonconformance on the adjoining lot.

**§ 435.11-04. Nonconforming structures.**

- A. Reconstruction allowed. A nonconforming structure containing a conforming use may be rebuilt, in whole or in part, if the reconstructed structure is not located on more than one parcel and is identical in all respects to its size, shape, height, and footprint prior to reconstruction.
- B. Enlargement. A nonconforming structure shall not be enlarged or altered, except as permitted in this subsection. In those instances where a nonconforming structure is used for residential purposes, the footprint of the structure may be enlarged provided the portion of the structure being added complies with all applicable dimensional standards, including setback and building height standards.
- C. Reconstruction following damage. A nonconforming structure that is damaged by violent wind, vandalism, fire, flood, ice, snow, or other act of nature, on or after March 2, 2006, may be restored to its condition (size, location, and use) prior to the damage, except that the structure may be larger when necessary to comply with state or federal requirements.
- D. Unsafe conditions, ordinary maintenance, and remodeling. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, ordinary repair and maintenance, or remodeling provided that the work conforms to the provisions in this chapter.

**§ 435.11-05. Nonconforming uses.**

- A. Generally. A nonconforming use may continue to exist so long as it remains otherwise lawful, subject to the provisions in this section.
- B. Cessation of use. If a nonconforming use ceases for any reason, whether intentional or otherwise, for more than 12 consecutive months, such use shall not be reestablished. If the Zoning Administrator determines that a nonconforming use has ceased to operate for more than the aforementioned time period, he or she shall initiate the process established under Division 6 of Article 6.
- C. Change in extent. Except as may be provided in this article or in state law, a nonconforming use shall not be enlarged, increased, or expanded and shall not occupy a greater area than what existed on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- D. Limitation on structural alterations. Structural alterations to a structure housing a nonconforming use shall not exceed, on an accumulative percentage basis, 50% of the equalized assessed value of such structure. For example, if a property owner makes structural

alterations, the cost of which equals 40% of the current equalized assessed value of the structure, additional structural alterations are limited to 10% of the equalized assessed value at the time of the work.

- E. Change of location. A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- F. Casual, occasional, accessory, or incidental use. Casual, occasional, accessory, or incidental use after the primary nonconforming use has terminated shall not be deemed to perpetuate a nonconforming use.
- G. Change of production. A change in the method or quantity of production and the incorporation of new technology into a nonconforming use is permitted provided the original character of the use remains the same.
- H. Nonconforming use as a public nuisance. A nonconforming use, regardless of its duration, may be prohibited or restricted if it constitutes a public nuisance or is harmful to the public health, safety, or welfare.
- I. Unsafe conditions. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, provided that such work conforms to the provisions in this chapter.
- J. Licensing. The operator of a nonconforming use shall obtain such licenses as may be required by the State of Wisconsin, or its designated agent; Winnebago County; and/or the Village of Fox Crossing, and maintain such licenses for the life of the use or until the entity no longer requires such license.

**§ 435.11-06. Nonconforming conditional uses.**

- A. Generally. Subject to the requirements in Division 5 of Article 7, except as modified in this section, a nonconforming use may be determined to be a conditional use.
- B. Special review criteria. In addition to the review criteria in Division 5 of Article 7, the Village Board and Village Planning Commission in making their decision shall make the following determinations:
  - (1) The nonconforming use will not be adverse to the public health, safety, or welfare.
  - (2) The nonconforming use is in keeping with the spirit and intent of this chapter.
  - (3) The nonconforming use would not be otherwise detrimental to the area and in particular the surrounding properties.

- C. Expansion and change in a nonconforming conditional use. If a nonconforming use is approved as a conditional use, it is not subject to the restrictions contained in this article. Any proposed expansion or change in a nonconforming conditional use shall be reviewed as an amendment to the initial approval.

**§ 435.11-07. Special provisions for nonconforming boathouses.**

The ordinary maintenance and repair of a nonconforming boathouse which extends beyond the ordinary high-water mark shall comply with § 30.121, Wis. Stats.

**§ 435.11-08. Special provisions for nonconforming signs.**

- A. Changes to copy. The copy of a nonconforming sign may be changed.
- B. Billboards/off-premises signs. A legal nonconforming billboard/off-premises sign, as defined in § 435.10-13A, that has a static message display shall not be converted, in whole or in part, to an electronic message display, except under the following conditions:
- (1) A zoning permit shall be applied for and granted by the Zoning Administrator;
  - (2) An electronic billboard/off-premises sign may not exceed 400 square feet;
  - (3) The electronic sign shall comply with the standards set forth in § 435.10-08 for electronic message displays;
  - (4) The sign owner agrees to remove five nonconforming billboards/off-premises signs for every one electronic sign conversion;
  - (5) The sign area of the signs to be removed is each at least 80% of the area of the sign to be converted;
  - (6) The sign to be removed is located within three miles of the sign to be converted;
  - (7) The sign to be removed is completely removed before work commences on the sign to be converted; and
  - (8) The site of the removed sign is restored to the satisfaction of the Zoning Administrator.

**ARTICLE 12**  
**Enforcement**

**§ 435.12-01. Legislative findings.**

The Village Board makes the following legislative findings:

- A. State law gives the Village the authority to ensure compliance with this chapter.
- B. The Village reserves all rights and remedies provided by state and federal law to ensure compliance.

**§ 435.12-02. Authority for enforcement.**

Pursuant to § 62.23(7), Wis. Stats., the Village has the authority to enforce the provisions of this chapter.

**§ 435.12-03. Actions constituting violation.**

Each separate action that is not in full compliance with this chapter or with a condition or requirement of a permit or an order issued pursuant to this chapter shall constitute a separate and distinct violation.

**§ 435.12-04. Enforcement procedure.**

- A. Investigation. After observing or receiving a complaint of an alleged violation, the Zoning Administrator shall investigate to determine if in fact a violation does exist.
- B. Notification of compliance. If the Zoning Administrator determines that a violation does not exist, he or she shall notify the complainant explaining his or her finding.
- C. Notification of violation. If the Zoning Administrator determines that a violation does exist, he or she, in consultation with the Village's Attorney, shall send a written notice as described herein to the property owner.
- D. Issuance of stop-work order. If the violation involves construction or any land development activity, the Zoning Administrator shall:
  - (1) Send a stop-work order, as described in this article, by certified mail to the property owner or deliver it in person to the property owner, contractor, builder, or any other person engaged in work covered by the order; and
  - (2) Post a stop-work order in a prominent location on the site.
- E. Lifting of stop-work order. Upon substantial evidence that the violation has been removed or otherwise corrected, the Zoning Administrator shall lift the stop-work order.

- F. Initiation of court action. If work does not immediately cease on the premises, except to ensure compliance, or if the violation is not remedied within 30 days of the written notice, the Zoning Administrator shall work with the Village's Attorney to initiate court action as provided by in this article and as allowed by state law.

**§ 435.12-05. Notice of violation.**

- A. Content. The notice of violation shall include the following:
- (1) A description of the violation;
  - (2) The section(s) of this chapter being violated;
  - (3) A statement describing the measures that would remedy the violation;
  - (4) The date by which the violation must be remedied and when a stop-work order shall be issued if the violation is not remedied; and
  - (5) Information concerning penalties for continued noncompliance.
- B. Effect of violation notice. Once a violation notice has been issued pursuant to this article:
- (1) All construction or any land development activity directly related to the violation, except that which is done to ensure compliance, shall cease; all other work that is in compliance may continue; and
  - (2) The Village shall not issue any other permits or approvals for any development on the premises that is directly related to the violation.

**§ 435.12-06. Stop-work order.**

- A. Content. A stop-work order shall state the section of the Village of Fox Crossing Municipal Code being violated, the name of an individual who should be contacted along with his or her work telephone number, a statement that all work on the premises must cease immediately until the Zoning Administrator rescinds the stop-work order, and that removal of the stop-work order constitutes a violation of this chapter.
- B. Effect of stop-work order. Once a stop-work order has been issued pursuant to this article:
- (1) All work on the premises shall cease until such time as it is lifted; and
  - (2) The Village shall not issue any other permits or approvals for any development on the premises until such time as the order has been lifted.
- C. Unauthorized removal of stop-work order. No person, other than a Village official or employee who is authorized to do so, shall remove a

stop-work order from the location where it was posted. The removal of a stop-work order by a person without authority to do so constitutes a violation of this chapter.

**§ 435.12-07. Other remedies.**

The Village or any aggrieved person may apply to a court of competent jurisdiction for temporary or permanent injunctive relief to enjoin and restrain any person violating a provision of this chapter and exercise all other rights and remedies provided by law or in equity.

**§ 435.12-08. Violations and penalties.**

Any person, firm, or corporation who or which fails to comply with the provisions of this chapter shall, upon conviction thereof, pay forfeiture as set forth in Chapter A450, Fines and Penalties, reference this Code section, plus the cost of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each violation and each day a violation exists or continues shall constitute a separate offense.



**ARTICLE 13**  
**Shoreland Zoning Overlay District (SHO)**

**§ 435.13-01. Statutory authorization.**

This article is adopted pursuant to the authorization in §§ 61.35, 61.351, 61.353, 87.30 and 281.31, Wis. Stats.

**§ 435.13-02. Jurisdiction.**

This Shoreland Zoning Overlay (SHO) District shall apply to all shorelands within the Village corporate limits. This Shoreland Zoning Overlay (SHO) District does not apply to lands adjacent to an artificially constructed drainage ditch, pond, or stormwater retention basin if the drainage ditch, pond, or retention basin is not hydrologically connected to a natural navigable water body.

**§ 435.13-03. Effect of base zoning district regulations.**

All underlying or base zoning district regulations for lands "under" the Shoreland Zoning Overlay (SHO) District shall continue in full force and effect to the extent that the greater restriction applies.

**§ 435.13-04. Shoreland provisions.**

The following provisions apply to all shorelands within the jurisdiction of the Shoreland Zoning Overlay (SHO) District:

- A. Shoreland setback area. There shall be a minimum shoreland setback area of at least 50 feet from the ordinary high-water mark, except as follows.
- B. Principal buildings. Construction or placement of a principal building within the shoreland setback area may be allowed if all the following apply:
  - (1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.
  - (2) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.
- C. Accessory buildings and accessory structures. Construction or placement of an accessory building within the shoreland setback area may be allowed if all the following apply: the accessory building and/or accessory structure is constructed or placed no closer than 35 feet to the ordinary high-water mark.



**§ 435.13-05. Vegetation.**

Any vegetation that is maintained within the Shoreland Zoning Overlay (SHO) District shall meet the following requirements:

- A. It shall comply with § 287-4, Trees, weeds and other vegetation, of the Fox Crossing Municipal Code.
- B. The establishment or maintenance of a vegetative buffer within 35 feet of the ordinary high-water mark of navigable water is encouraged but not required.

**ARTICLE 14**  
**Shoreland-Wetland Zoning Overlay District (SWO)**

**§ 435.14-01. Statutory authorization.**

This article is adopted pursuant to the authorization in §§ 61.35, 61.351, 61.353, 87.30 and 281.31, Wis. Stats.

**§ 435.14-02. Finding of fact and purpose.**

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

- A. Promote the public health, safety, convenience and general welfare;
- B. Maintain the stormwater and floodwater storage capacity of wetlands;
- C. Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- D. Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- E. Prohibit certain uses detrimental to the shoreland-wetland area; and
- F. Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earthmoving activities.

**§ 435.14-03. General provisions.**

- A. Compliance. The use of wetlands and the alteration of wetlands within the shoreland area of the Village shall be in full compliance with the terms of this article and other applicable local, state or federal regulations. See § 435.14-07 of this article for the standards applicable to nonconforming uses. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this article.
- B. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022, Wis. Stats., applies.
- C. Abrogation and greater restrictions.

- (1) This article supersedes all the provisions of any municipal zoning ordinance enacted under § 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than this article, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
  - (2) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this article imposes greater restrictions, the provisions of this article shall prevail.
- D. Interpretation. In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this article is required by a standard in Ch. NR 117, Wis. Adm. Code, and where the provision of this article is unclear, the provision shall be interpreted in light of the Ch. NR 117, Wis. Adm. Code, standards in effect on the date of the adoption of this article or in effect on the date of the most recent text amendment to this article.
- E. Severability. Should any portion of this article be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this article shall not be affected.

**§ 435.14-04. Maps and district boundaries.**

- A. Shoreland-wetland zoning maps. The following maps are hereby adopted and made part of this article:
- (1) Wisconsin wetland inventory maps located on the WDNR Surface Water Data Viewer (SWDV).
  - (2) Floodplain zoning maps titled "Federal Emergency Management Agency (FEMA) Federal Insurance Rate Maps (FIRM)" and dated March 17, 2003, for properties located in Winnebago County.
  - (3) United States Geological Survey (USGS) maps located on the WDNR Surface Water Data Viewer (SWDV).
  - (4) Zoning Map titled "Village of Fox Crossing and Village of Fox Crossing Zoning" adopted March 25, 2013, and as amended.
- B. District boundaries.
- (1) The Shoreland-Wetland Zoning Overlay District (SWO) includes all wetlands in the Village which are five acres or more and are shown on the Wisconsin wetland inventory map that has been adopted and made a part of this article and which are:

- (a) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this article.
  - (b) Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this article. Floodplain zoning maps adopted in § 435.14-04A shall be used to determine the extent of floodplain areas.
- (2) Determinations of navigability and ordinary high-water mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the WDNR for a final determination of navigability or ordinary high-water mark.
  - (3) When an apparent discrepancy exists between the Shoreland-Wetland Overlay District (SWO) boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the WDNR to determine if the Shoreland-Wetland Overlay District boundary as mapped is in error. If WDNR staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in § 435.14-04B(4) and (5), the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period.
  - (4) Filled wetlands. Wetlands which are filled prior to the adoption date of this article, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this article.
  - (5) Wetlands landward of a bulkhead line. Wetlands located between the original ordinary high-water mark and a bulkhead line established prior to May 7, 1982, under § 30.11, Wis. Stats., are not subject to this article.

**§ 435.14-05. Permitted uses.**

The following uses are permitted subject to the provisions of Chs. 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

- A. Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
  - (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
  - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
  - (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
  - (4) The pasturing of livestock;
  - (5) The cultivation of agricultural crops; and
  - (6) The construction and maintenance of duck blinds.
- B. Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
  - (1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
  - (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
  - (3) The maintenance and repair of existing drainage systems to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;
  - (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  - (5) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;

- (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the Shoreland-Wetland Zoning Overlay (SWO) District, provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in § 435.14-09C of this article; and
  - (7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- C. Uses which are allowed upon the issuance of a conditional use permit, pursuant § 435.14-08, and which may include wetland alterations only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under § 435.14-05 of this article, provided that:
    - (a) The road cannot, as a practical matter, be located outside the wetland;
    - (b) The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in § 435.14-09C of this article;
    - (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
    - (d) Road construction activities are carried out in the immediate area of the roadbed only; and
    - (e) Any wetland alteration must be necessary for the construction or maintenance of the road.
  - (2) The construction and maintenance of nonresidential buildings, provided that:
    - (a) The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
    - (b) The building cannot, as a practical matter, be located outside the wetland;
    - (c) The building does not exceed 500 square feet in floor area; and
    - (d) Only limited filling and excavating necessary to provide structural support for the building is allowed.
  - (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural

and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

- (a) Any private development allowed under this subsection shall be used exclusively for the permitted purpose;
  - (b) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
  - (c) The construction and maintenance of roads necessary for the uses permitted under this subsection is allowed only where such construction and maintenance meets the criteria in § 435.14-05C(1) of this article; and
  - (d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (4) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines, provided that:
- (a) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
  - (b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and
  - (c) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in § 435.14-09C of this article.

#### **§ 435.14-06. Prohibited uses.**

- A. Any use not listed in § 435.14-05 of this article is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this article in accordance with § 435.14-09 of this article.
- B. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

#### **§ 435.14-07. Nonconforming structures and uses.**

The lawful use of a building, structure or property which existed at the time this article, or an applicable amendment to this article, took effect

and which is not in conformity with the provisions of this article, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- A. The shoreland-wetland provisions of this article authorized by § 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to § 62.23(7)(h), Wis. Stats.
- B. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to this article.
- C. Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this article adopted under § 61.351 or § 62.231, Wis. Stats., may be continued although such use does not conform to the provisions of this article. However, such nonconforming use may not be extended.
- D. The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of § 30.121, Wis. Stats.
- E. Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

**§ 435.14-08. Conditional use permits.**

Conditional use permits may be granted pursuant to Article 6, Division 3, Conditional Use Permits, and the following:

- A. Application. To secure information upon which to base its determination, the Village Board may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this article, such as dimensions and area of the lot; location of any structures with distances measured from the lot lines and center line of all abutting streets or highways; description of any existing or proposed on-site sewage systems or private water supply systems; location of the ordinary high-water mark of any abutting navigable waterways; boundaries of all wetlands; existing and proposed topographic and drainage features and vegetative cover; location of floodplain and floodway limits on the property as determined from floodplain zoning maps; location of existing or future access roads; and specifications and dimensions for areas of proposed wetland alteration.



- B. Conditions. Upon consideration of the permit application and the standards applicable to the conditional uses designated in § 435.14-05C of this article, the Village Board shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this article, as are necessary to further the purposes of this article as listed in § 435.14-02. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction.
- C. Public hearings. A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the WDNR at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.
- D. Decisions. A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within 10 days after the decision is issued.

**§ 435.14-09. Amending shoreland-wetland zoning regulations.**

The Village Board may alter, supplement or change the district boundaries and the regulations contained in this article in accordance with the requirements of § 62.23(7)(d)2, Wis. Stats., Ch. NR 117, Wis. Adm. Code, and the following:

- A. A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the WDNR within five days of the submission of the proposed amendment to the Planning Commission;
- B. All proposed text and map amendments to the shoreland-wetland overlay zoning regulations shall be referred to the Planning Commission, and a public hearing shall be held after Class 2 notice as required by § 62.23(7)(d)2, Wis. Stats. The appropriate district office of the WDNR shall be provided with written notice of the public hearing at least 10 days prior to such hearing.
- C. In order to ensure that this article will remain consistent with the shoreland protection objectives of § 281.31, Wis. Stats., the Village Board may not rezone a wetland in a Shoreland-Wetland Zoning Overlay District, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:
  - (1) Stormwater and floodwater storage capacity;
  - (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;

- (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
  - (4) Shoreline protection against erosion;
  - (5) Fish spawning, breeding, nursery or feeding grounds;
  - (6) Wildlife habitat; or
  - (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- D. Where the district office of the WDNR determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in § 435.14-09C of this article, the WDNR shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.
- E. The appropriate district office of the WDNR shall be provided with:
- (1) A copy of the recommendation and report, if any, of the Planning Commission on a proposed text or map amendment within 10 days after the submission of those recommendations to the Village Board.
  - (2) Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.
- F. If the WDNR notifies the Planning Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in § 435.14-09C of this article, that proposed amendment, if approved by the Village Board, shall not become effective until more than 30 days have elapsed since written notice of the municipal approval was mailed to the WDNR, as required by § 435.14-09E of this article. If within the thirty-day period the WDNR notifies the Village that the WDNR intends to adopt a superseding shoreland-wetland zoning ordinance for the municipality as provided by §§ 62.231(6) and 61.351(6), Wis. Stats., the proposed amendment shall not become effective until the ordinance adoption procedure under § 62.231(6) or § 61.351(6), Wis. Stats., is completed or otherwise terminated.