TITLE 13

Zoning

Chapter 1 Zoning Code
Chapter 2 Community Development Authority

Title 13 ▸ Chapter 1

Zoning Code

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Article A: Introduction; Definitions

Sec. 13-1-1 Authority.

These regulations are adopted under the authority granted by Secs. 61.35, 61.351, 62.23(7), 87.30 and 144.26, Wis. Stats.

Sec. 13-1-2 Short Title.

This Chapter shall be known as, referred to or cited as the "Zoning Code, Village of Butler, Wisconsin."

Sec. 13-1-3 Purpose.

The purpose of this Chapter is to promote the health, safety, prosperity, aesthetics and general welfare of the Village of Butler.

Sec. 13-1-4 Intent.

It is the general intent of this Chapter to:

(a) Regulate and restrict the use of all structures, lands and waters;
(b) Regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways;
(c) Secure safety from fire, flooding, panic and other dangers;
(d) Provide adequate light, air, sanitation and drainage;
(e) Prevent overcrowding; avoid undue population concentration;
(f) Facilitate the adequate provision of public facilities and utilities;
(g) Stabilize and protect property values;
(h) Further the appropriate use of land and conservation of natural resources;
(i) Preserve and promote the beauty of the Village of Butler;
(j) To prohibit uses, buildings or structures incompatible with the character of development within specified zoning districts;
(k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
(l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;

(m) Further the maintenance of safe and healthful water conditions;
(n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
(o) Provide for and protect a variety of suitable commercial and industrial sites;
(p) Protect the traffic-carrying capacity on existing and proposed arterial streets and highways;
(q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Village of Butler.
(r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

Sec. 13-1-5 Abrogation and Greater Restrictions.

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

Sec. 13-1-6 Interpretation.

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

Sec. 13-1-7 Effective Date.

This Chapter shall be originally effective after a public hearing, adoption by the Village Board and publication or posting as provided by law.

Sec. 13-1-8 Definitions.

(a) For the purposes of this Chapter, the following definitions shall be used:
  (1) ***Accessory Use or Structure.*** A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.
  (2) ***Advertising Sign, Outdoor.*** A structural poster panel or painted sign, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.

(3) ***Advertising Structure, Outdoor.*** Anything constructed or erected, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.

(4) ***Alley.*** A special public right-of-way affording only secondary access to abutting properties.

(5) ***Apartment.*** A portion of a residential or commercial building used as a separate housing unit.

(6) ***Apartment House.*** See "Dwelling, Multiple."

(7) ***Arterial Street.*** A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.

(8) ***Authority.*** A person, committee, or board to whom the power to issue a permit, or make a determination, decision, or judgment has been delegated.

(9) ***Basement or Cellar.*** A story partly underground but having at least one-half (1/2) of its height, or five (5) or more feet, below the mean level of the adjoining ground. See COMM Chapters 20, 21 and 22.

(10) ***Boardinghouse.*** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

(11) ***Building.*** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

(12) ***Building, Alterations Of.*** Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.

(13) ***Building Area.*** The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.

(14) ***Building, Front Line Of.*** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.

(15) ***Building, Height Of.*** The vertical distance from the mean elevation of a finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip or gambrel roofs.

(16) ***Building, Principal.*** A building in which the principal use of the lot on which it is located is conducted.

(17) ***Business.*** An occupation, employment, or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.

(18) ***Carport.*** See "Garage."

(19) ***Clinic.*** A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or nonboarding basis only.

(20) ***Clothing Repair Shops.*** Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but not employing over five (5) persons.

(21) ***Clothing Stores.*** Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery and millinery shops.

(22) ***Club.*** A building owned, leased or hired by an association of persons who are bona fide members, the use of which is restricted to said members and their guests.

(23) ***Commercial Feed Lot.*** Confinement of two hundred (200) or more head of livestock on a farm or other site for the purpose of intensive feeding prior to slaughter or shipment in such concentration that ground vegetation is substantially destroyed where:

a. The farm or site does not produce a minimum of sixty percent (60%) of the feed necessary to sustain the herd.

b. The farm or site is insufficient in size to provide for the disposal of all animal wastes in a manner that they will not run off, seep, percolate, or wash into surface or subsurface waters.

(24) ***Community Living Arrangement.*** The following facilities licensed or operated, or permitted under the authority of Wisconsin Statutes: Child welfare agencies under Sec. 48.60, Wis. Stats., group foster homes for children under Sec. 48.02(7m), Wis. Stats., and community-based residential facilities under Sec. 50.01, Wis. Stats.; but does not include nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformity with applicable sections of the Wisconsin Statutes, including Secs. 46.03(22), 59.97(15), 62.23(7)(i), and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

(25) ***Conditional Uses.*** Uses of a special nature as to make impractical their predetermination as a principal use in a district, allowed only under conditions specified under this Chapter.

(26) ***Conforming Use.*** Any lawful use of a building or lot which complies with the provisions of this Chapter.

(27) ***Court.*** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.

(28) ***Curb Break.*** Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.

(29) ***Curb Level.*** The level of the established curb in the front of the building measured at the center of such front.

(30) ***Day Care Center.*** A place or home which provides care for four (4) or more children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Sec. 48.65, Wis. Stats.

(31) ***Development.*** Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to building, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

(32) ***District.*** A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and buildings are uniform.

(33) ***Double Wide Mobile Home.*** A double wide mobile home is a mobile home consisting of two (2) mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement.

(34) ***Drive-in Restaurant.*** An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises.

(35) ***Dwelling.*** A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.

(36) ***Dwelling, Efficiency.*** A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

(37) ***Dwelling, One-Family.*** A detached building designed, arranged or used for and occupied exclusively by one (1) family, whether attached, detached or semi-attached. Shall include specially designed buildings covered by earth and manufactured homes.

(38) ***Dwelling, Two-Family.*** A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.

(39) ***Dwelling, Multiple.*** A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, attached townhouses and condominiums, with the number of families in residence not to exceed the number of dwelling units provided.

(40) ***Dwelling Unit.*** A building or portion thereof used exclusively for human habitation, including single-family, two- family and multi-family dwellings, but not including hotels, motels or lodging houses.

(41) ***Emergency Shelters.*** Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.

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

(43) ***Family.*** One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family, or not to exceed more than four (4) persons if not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Chapter if he is dwelling for the purpose of adoption or for a foster care program.

(44) ***Farm.*** Land consisting of five (5) acres or more on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale.

(45) ***Floor Area.*** The sum of the gross horizontal areas of the several floors of a dwelling unit, exclusive of porches, balconies, garages, basements and cellars, measured from the exterior faces of the exterior walls or from the center lines of walls or portions separating dwelling units. For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.

(46) ***Foster Family Home.*** The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under Sec. 48.62, Wis. Stats., and amendments thereto.

(47) ***Frontage.*** The smallest dimension of a lot abutting a public street measured along the street line.

(48) ***Garage.*** A building or portion thereof used exclusively for parking or temporary storage of self-propelled vehicles.

(49) ***Garage, Public.*** A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.

(50) ***Gasoline Station.*** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.

(51) ***Gift Stores.*** Retail stores where items such as art, antiques, jewelry, books, and notions are sold.

(52) ***Group Foster Home.*** Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.

(53) ***Hardware Stores.*** Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods and paints are sold.

(54) ***Home Occupation.*** Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building thereto and meeting the standards of Section 13-1-72.

(55) ***Hotel.*** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.

(56) ***House Trailer.*** A nonself-propelled vehicle, containing living or sleeping accommodations which is designed and used for highway travel.

(57) ***Junk Yard.*** An open space where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A "junk yard" also includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.

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

(59) ***Lodging House.*** See "Boardinghouse."

(60) ***Lot.*** A parcel of land having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter.

(61) ***Lot, Corner.*** A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.

(62) ***Lot, Interior.*** A lot situated on a single street which is bounded by adjacent lots along each of its other lines.

(63) ***Lot Lines and Area.*** The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

(64) ***Lot of Record.*** A platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the adoption of this Chapter, is on record with the Waukesha County Register of Deeds and which exists as described therein.

(65) ***Lot, Reversed Corner.*** A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

(66) ***Lot, Substandard.*** A parcel of land held in separate ownership having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Chapter.

(67) ***Lot, Through.*** A lot having a pair of opposite lot lines along two (2) or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

(68) ***Lot Width.*** The width of a parcel of land measured at the setback line.

(69) ***Lot, Zoning.*** A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.

(70) ***Machine Shops.*** Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.

(71) ***Marquee or Canopy.*** A roof-like structure of permanent nature which projects from the wall of a building.

(72) ***Manufactured Home.*** A structure certified and labeled as a manufactured home under 42 USC Secs. 5401-5426, which, when placed on the site:

a. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(1), Wis. Stats., and COMM 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
b. Is installed in accordance with the manufacturer's instructions;
c. Is properly connected to utilities; and
d. Meets other applicable standards of this Chapter.

(73) ***Minor Structures.*** Any small, movable accessory erection or construction, such as birdhouses; tool houses; pethouses; play equipment; arbors; and walls and fences under four (4) feet in height.

(74) ***Mobile Home.*** A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof) or thirty-two (32) feet or more in length (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; excluded from this definition are manufactured homes.

(75) ***Mobile Home Lot.*** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

(76) ***Mobile Home Park.*** A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.

(77) ***Motel.*** A building containing lodging rooms having adjoining individual bathrooms, and where each lodging has a doorway opening directly to the outdoors, and more than fifty percent (50%) of the lodging rooms are for rent to transient tourists for a continuous period of less than thirty (30) days.

(78) ***Motor Freight Terminal.*** A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.

(79) ***Motor Vehicle.*** Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

(80) ***Nonconforming Uses or Structures.*** Any structure, use of land, use of land and structure in combination, or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Chapter or amendments

thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

(81) ***Nursery.*** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.

(82) ***Nursery School.*** Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.

(83) ***Nursing Home.*** Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.

(84) ***Parking Area, Semi-Public.*** An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.

(85) ***Parking Lot.*** A structure or premises containing ten (10) or more parking spaces open to the public.

(86) ***Parking Space.*** An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways, appurtenant thereto and giving access thereto, except as in Section 10-1-16(3)(c).

(87) ***Parties in Interest.*** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

(88) ***Party Wall.*** A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.

(89) ***Other Officially Approved Access.*** A private road or easement extending from a private property to a component of the public street system which the Village Plan Commission or Village Board has approved as a primary means of access.

(90) ***Place.*** An open unoccupied space other than a street or alley, permanently reserved as the principal means of access to abutting property.

(91) ***Planned Residential Development.*** A tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.

(92) ***Property Lines.*** The lines bounding a platted lot as defined herein.

(93) ***Public Way.*** Any sidewalk, street, alley, highway or other public thoroughfare.

(94) ***Professional Home Offices.*** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed the standards in Section 13-1-72 and only one (1) nonresident person is employed.

(95) ***Railroad Right-of-Way.*** A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

(96) ***School, Private.*** An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not including a school for the mentally handicapped or a college or other institution of higher learning.

(97) ***School, Commercial.*** A school limited to special instruction such as business, art, music, trades, handicraft, dancing or riding.

(98) ***Seat.*** Furniture upon which to sit having a linear measurement not less than twenty-four (24) inches across the surface used for sitting.

(99) ***Sign, Awning.*** A sign that is mounted or painted on, or attached to an awning, canopy, or marquee.

(100) ***Sign, Copy.*** The message or advertisement, and any other symbols on the face of a sign.

(101) ***Sign, Face.*** The area or display surface used for the message.

(102) ***Sign, Ground.*** Any sign placed upon or supported by the ground independent of any other structure.

(103) ***Sign, Portable.*** A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable.

(104) ***Sign, Projecting.*** A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

(105) ***Sign, Roof.*** A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

(106) ***Sign, Wall.*** A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.

(107) ***Sign, Window.*** A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window.

(108) ***Story.*** That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.

(109) ***Story, Half.*** A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.

(110) ***Street.*** A public or private thoroughfare which affords the principal means of access to abutting property.

(111) ***Street Yard.*** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof excluding uncovered steps. Where the street line is an arc, the street yard shall be measured from the arc. In some ordinances, the street yard is also called a setback.

(112) ***Structure.*** Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.

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

(114) ***Trailer Park.*** Any lot on which are parked two (2) or more house trailers or mobile homes for longer than forty-eight (48) hours.

(115) ***Use.*** The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this Chapter.

(116) ***Use, Accessory.*** A subordinate use on the same lot which is incidental and customary in connection with the principal use.

(117) ***Use, Nonconforming.*** Any use of a building or premises which the effective date of this Chapter does not, even though lawfully establish, comply with all of the applicable use regulations of the zoning district in which such building or premise is located.

(118) ***Use, Principal.*** The main use of land or building as distinguished from a subordinate or accessory use.

(119) ***Use, Permitted.*** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.

(120) ***Utilities.*** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plans, municipal incinerators, warehouses, shops, storage yards and power plants.

(121) ***Vending Machine.*** A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.

(122) ***Village.*** The Village of Butler, Waukesha County, Wisconsin.

(123) ***Yard.*** An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted. The front and rear yards extend the full width of the lot.

(124) ***Yard, Corner Side.*** A side yard which adjoins a public street.

(125) ***Yard, Front.*** A yard extending along the full length of the front lot line between the side lot lines.

(126) ***Yard, Interior Side.*** A side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.

(127) ***Yard, Rear.*** A yard extending along the full length of the rear lot line between the side lot lines.

(128) ***Yard, Side.*** A yard extending along a side lot line from the front yard to the rear yard.

(129) ***Yard, Street.*** Yard abutting a street.

(130) ***Yard, Transitional.*** That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.

(131) ***Zoning District.*** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

Sec. 13-1-9 through Sec. 13-1-19 Reserved for Future Use.

Sec. 13-1-20 Jurisdiction and Compliance.

(a) **Jurisdiction.** The jurisdiction of this Chapter shall include all lands and water within the corporate limits of the Village of Butler, Waukesha County, Wisconsin.

(b) **Compliance.** No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this Chapter and all other applicable Village, county and state regulations.

(c) **District Regulations to Be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.

Sec. 13-1-21 Use Restrictions.

The following use restrictions and regulations shall apply:

(a) **Principal Uses.** Only those principal uses specified for a district, their essential services and the following shall be permitted in that district:

(b) **Unclassified or Unspecified Uses.** Unclassified or unspecified uses may be permitted by the Zoning Board of Appeals after the Plan Commission has made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the District.

(c) **Accessory Uses.** Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry. Accessory uses include incidental repairs; storage incidental to permitted uses; parking facilities, provided that no parking space or facility shall be closer than ten (10) feet to a public street right-of-way; gardening; servant's owner's, itinerant agricultural laborer's, and watchmen's quarters not for rent; private swimming pools; and private emergency shelters. Accessory uses and structures shall not extend into any required yard except as permitted in Section 13-1-151.

(d) **Conditional Uses.** Conditional uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Village Board in accordance with Article D of this Chapter.

(e) **Temporary Uses.** Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Board of Appeals.

(f) **Uses Not Specified in Code.**

(1) Uses not specified in this Chapter which are found by the Village Board to be sufficiently similar to specified permitted uses for a district shall be allowed by the Zoning Administrator.

(2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Village Board public hearing and approval in accordance with Article D.

Sec. 13-1-22 Reduction of Joint Use.

(a) **Required Area.** No lot, yard, parking area, building area or other required space shall be reduced in size or dimension so as not to meet the provisions of this Chapter.

(b) **Joint Use.** No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this Chapter shall be included as part of a yard or open space required for another building.

Sec. 13-1-23 Site Regulations.

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

(b) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of forty (40) feet; however, to be buildable, the lot shall comply with the frontage requirements of the Zoning District in which it is located.

(c) **Principal Structures.** All principal structures shall be located on a lot and only one (1) principal structure shall be located, erected or moved onto a lot in the R-1 and R-2 Residential Districts. Multiple structures may be permitted in other districts provided that the structures are permitted uses in the District, and further provided that the Building Board has reviewed and approved building plans and specifications submitted by the Building Permit applicant.

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

(e) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than two (2) horizontal to one (1) vertical, within a distance of ten (10) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Village Board; or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.

(f) **Decks.** All decks and any portion of a deck (such as floor, railings, ramps, or stairways) shall be located at least three (3) feet from any lot line. Decks or ramps needed for handicap accessibility purposes shall be exempt from any setback requirements.

(g) **Lots Abutting Two Streets.** Where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of one hundred twenty (120) feet from the line of the higher average established grade.

(h) **Double-Frontage Lots.** Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.

(i) **Open Yards.** Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than twelve (12) inches.

(j) **Buffer Yard Required.** Any business or industrial use commenced after January 1, 1993, which abuts a residential district shall provide a minimum buffer yard of twenty (20) feet between the business use and all single-family and two- (2) family residential districts. Such minimum buffer yard shall be in addition to any setback or any other yard requirement. A minimum buffer yard of twenty (20) feet shall be required between any single- or two- (2) family residential use and a multi-family residential use. Such minimum buffer yard and shall be in addition to any setback or any other yard requirement. The purpose of the buffer yard is to screen the business activity or multi-family residential activity from the single- or two- (2) family residential environment in such a manner that:

(1) If a buffer yard is composed entirely of plant materials, it shall be of sufficient depth and height, and contain sufficient plant species as to provide dense visual screening within two (2) years and during all seasons of the year.

(2) Where architectural walls, berms, or fences are used, sufficient landscaping shall be used in conjunction with such wall, berm, or fence to create an attractive view from the residential side. When a berm and fence are used in combination, the fence shall be erected on the business/industrial side of the berm. Any wall or fence shall not be

less than six (6) nor more than eight (8) feet in height and shall comply with the requirements set forth for fences in Section 13-1-142. Berms shall not exceed a slope of three (3) feet horizontal to one (1) foot vertical [three (3):one (1)].

(3) Where the land adjacent to the buffer yard is a parking lot, the buffer screen shall be sufficiently opaque to prevent the penetration of headlight glare.

(4) All landscaping shall be maintained by the owner or operator to the satisfaction of the Building Board.

(5) No lighting shall be permitted on or in any part of the buffer yard, and no lighting installed elsewhere on the parcel shall direct any rays onto adjacent residential properties.

(6) No signs shall be permitted on or in any part of the buffer yard.

(k) **Existing Flora.** Vegetative cover within twenty (20) feet of the high water mark of the Menomonee River or to the crest of the river bank, whichever is greater, shall not be disturbed except by authorization by the Village Board.

Sec. 13-1-24 through Sec. 13-1-39 Reserved for Future Use.

Sec. 13-1-40 Establishments of Districts.

(a) **Districts.** For the purpose of this Chapter, the Village of Butler is hereby divided into nine (9) basic use districts and three (3) overlay districts as follows:

(1) R-1 Single-family Residential District.
(2) R-2 Two-family Residential District.
(3) R-3 Multiple-family Residential District.
(4) B-1 Community Business District.
(5) M-1 Industrial District.
(6) M-2 Light Industrial and Warehousing District.
(7) M-2A Light Industrial and Warehousing District.
(8) M-3 Heavy Industrial District.
(9) C-1 Conservancy District.
(10) FWO Floodway Overlay District.
(11) FFO Floodplain Fringe Overlay District.
(12) PUD Planned Unit Development Overlay District.

(b) **District Boundaries.**

(1) ***Zoning Map.*** Boundaries of these Districts are hereby established as shown on the maps entitled "Zoning Map—Village of Butler, Wisconsin," dated June 1, 1993, and "Supplementary Floodland Zoning Map—Village of Butler, Wisconsin," dated May 2, 1978, which maps accompany and are herein made a part of this Chapter. All notations and references shown on the maps are as much a part of this Chapter as though specifically described herein. This Chapter hereby incorporates herein any future changes or any later zoning maps that may be adopted by ordinance of the Village Board.

(2) ***District Boundary Lines.*** The District Boundaries in all districts, except the C-1 Conservancy District, the FWO Floodway Overlay District, and the FFO Floodplain Fringe Overlay District, shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended.

(3) ***Floodway Overlay District.*** Boundaries of the FWO Floodway Overlay District shall be determined by use of the scale contained on the Supplementary Floodland Zoning Map. The boundaries of the FFO Floodplain Fringe Overlay District shall be determined by the floodland limits shown on the Supplementary Floodland Zoning Map. The flood stages, under floodway conditions, contained on the Supplementary Floodland Zoning Map were developed from technical data contained in the *Flood Insurance Study—Village of Butler, Waukesha County, Wisconsin,* published by the U.S. Department of Housing and Urban Development, Federal Insurance

Administration (FIA) and dated November 1977. The information contained in the flood insurance study is further illustrated in FIA *Floodway and Flood Boundary Map* and *Flood Insurance Rate Map,* both maps dated May 15, 1978. Where a conflict exists between the floodland limits as shown on the Supplementary Floodland Zoning Map and actual field conditions, the elevations from the one hundred- (100) year recurrence interval flood profile shall be the governing factor in locating the regulatory floodland limits.

(4) ***Conservancy District Boundaries.*** Boundaries of the C-1 Conservancy District were based on the Wisconsin Wetland Inventory Maps for the Village of Butler, dated March 29, 1989, and stamped "FINAL", and include, but are not limited to, all shoreland wetlands, five (5) acres or greater in area shown on those maps.

(5) ***Street Vacations.*** Vacation of public streets and alleys shall cause the vacated land to be automatically placed in the same district as the abutting side to which the vacated land reverts.

(6) ***Annexations.*** Annexations to or consolidations with the Village subsequent to the effective date of this Chapter shall be placed in the R-1 Single-family Residential District, unless the annexation ordinance temporarily places the land in another district. Within one (1) year, the Village Plan Commission shall evaluate and recommend a permanent classification to the Village Board. Annexations containing floodlands and shorelands shall be governed in the following manner:

a. Annexations containing floodlands shall be governed by the provisions of the Waukesha County Shoreland and Floodplain Protection Ordinance until such time that the Wisconsin Department of Natural Resources (DNR) certifies that amendments to the Village of Butler Zoning Code meet the requirements of Ch. NR 116, Wis. Adm. Code.

b. Annexations containing shorelands. Pursuant to Sec. 59.971(7), Wis. Stats., any annexation of land after May 7, 1982, which lies within shorelands, as defined in this Chapter, shall be governed by the provisions of the Waukesha County Shoreland and Floodplain Protection Ordinance until such time that the Village of Butler adopts an ordinance which is at least as restrictive as the Waukesha County Shoreland and Floodplain Protection Ordinance. Said regulations shall be administered and enforced by the Village of Butler Building Inspector.

Sec. 13-1-41 Zoning Map.

A certified copy of the Zoning Map, designated in Section 13-1-40(b), together with the supplementary Floodland Zoning Map, shall be adopted and approved with the text as part of this Chapter and shall bear upon its face the attestation of the Village President and Village Administrator and shall be available to the public in the office of the Village Administrator.

Sec. 13-1-42 R-1 Single-Family Residential District.

(a) **Purpose.** The R-1 Residential District is intended to provide for high-quality residential development at a maximum density of 4.4 units per acre, with provision of municipal sewer and water facilities.

(b) **Permitted Uses.**
- (1) Single-family dwellings with an attached garage.
- (2) Community living arrangements which have a capacity of eight (8) or fewer persons, subject to the limitations set forth in Sec. 62.23(7)(i), Wis. Stats.
- (3) Foster family homes.
- (4) Family day care homes.
- (5) Essential services.

(c) **Permitted Accessory Uses.**
- (1) Accessory uses as specified in Section 13-1-21(c) and Article J except detached garages and carports.
- (2) Home occupations and professional home offices.

(d) **Conditional Uses.**
- (1) See Section 13-1-72, 13-1-73 and 13-1-74.
- (2) Dog kennels per Section 7-1-3(b).

(e) **Lot Area and Width.** Lots shall be a minimum of ten thousand (10,000) square feet in area and shall be not less than eighty (80) feet in width at the building setback line.

(f) **Building Height and Area.** No building or parts of a building shall exceed thirty (30) feet in height. The minimum floor area shall be one thousand two hundred (1,200) square feet.

(g) **Setback and Yards.**
- (1) Minimum building setback of thirty (30) feet from the street right-of-way shall be required.
- (2) There shall be a side yard on each side of all buildings not less than twelve (12) feet in width.
- (3) There shall be a rear yard of not less than thirty (30) feet.

Sec. 13-1-43 R-2 Two-Family Residential District.

(a) **Purpose.** The R-2 Residential District is intended to provide for high-quality residential development at maximum densities of 12.1 units per acre, with provision of municipal sewer and water facilities.

(b) **Permitted Uses.**
- (1) One- (1) and two- (2) family dwellings.
- (2) Community living arrangements which have a capacity of eight (8) or fewer persons, subject to the limitations set forth in Sec. 62.23(7)(i), Wis. Stats.
- (3) Foster family homes.

(4) Family day care homes.
(5) Essential services.

(c) **Permitted Accessory Uses.**
(1) Private garages, carports, and other accessory uses as specified in Section 13-1-21(c) and Article J.
(2) Home occupations and professional home offices.

(d) **Conditional Uses.**
(1) See Sections 13-1-72, 13-1-73 and 13-1-74.
(2) Dog kennels per Section 7-1-3(b).

(e) **Lot Area and Width.**
(1) Lots intended for single-family residences shall have a minimum area of four thousand eight hundred (4,800) square feet and shall be not less than forty (40) feet in width at the building setback line.
(2) Lots intended for two- (2) family residences shall have a minimum area of seven thousand two hundred (7,200) square feet and shall be not less than sixty (60) feet in width at the building setback line.

(f) **Building Height and Area.** No building or parts of a building shall exceed thirty (30) feet or two (2) stories in height, whichever is less. The total minimum floor area per dwelling unit shall be one thousand (1,000) square feet, with a minimum first (1st) floor area of eight hundred (800) square feet.

(g) **Setback and Yards.**
(1) A minimum building setback of twenty-five (25) feet from the street right-of-way shall be required.
(2) There shall be a side yard on each side of all buildings not less than six (6) feet in width.
(3) There shall be a rear yard of not less than thirty (30) feet.

Sec. 13-1-44 R-3 Multiple-Family Residential District.

(a) **Purpose.** The R-3 Residential District is intended to provide for high-quality residential development at a maximum density of fourteen and one-half (14.5) units per acre, with provision of municipal sewer and water facilities.

(b) **Permitted Uses.**
(1) One- (1) and two- (2) family dwellings.
(2) Multiple-family dwellings not to exceed eight (8) units per structure.
(3) Community living arrangements which have a capacity of fifteen (15) or fewer persons, subject to the limitations set forth in Sec. 62.23(7)(i), Wis. Stats.
(4) Foster family homes.
(5) Family day care homes.
(6) Essential services.

(c) **Permitted Accessory Uses.**
(1) Private garages, carports and other accessory uses as specified in Section 13-1-21(c) and Article J.

(2) Home occupations and professional home offices.

(d) **Conditional Uses.**

(1) See Sections 13-1-72, 13-1-73 and 13-1-74.

(e) **Lot Area and Width.** Lots shall be a minimum of fifteen thousand (15,000) square feet in area with not less than three thousand (3,000) square feet per dwelling unit. Lots shall be not less than one hundred twenty (120) feet in width at the building setback line.

(f) **Building Height and Area.** No building or parts of a building shall exceed thirty (30) feet or two (2) stories in height, whichever is less. The minimum first (1st) floor area of a principal structure shall be eight hundred (800) square feet and no dwelling unit shall have less than five hundred (500) square feet in area.

(g) **Setback and Yards.**

(1) A minimum building setback of thirty (30) feet from the street right-of-way shall be required.

(2) There shall be a side yard on each side of all buildings not less than fifteen (15) feet in width.

(3) There shall be a rear yard of not less than twenty-five (25) feet.

Sec. 13-1-45 B-1 Community Business District.

(a) **Purpose.** The B-1 Business District is intended to provide for the orderly and attractive grouping, at convenient locations, of retail stores, shops, offices, and establishments serving the daily needs of the community.

(b) **Permitted Uses.** The following retail sales and service facilities are permitted:

(1) Appliances stores.
(2) Automotive supplies.
(3) Bakeries.
(4) Barber shops.
(5) Bars and taverns.
(6) Beauty shops.
(7) Bowling alleys.
(8) Business offices.
(9) Caterers.
(10) Churches.
(11) Clinics.
(12) Clothing stores.
(13) Clubs.
(14) Cocktail lounges.
(15) Confectioneries.
(16) Crockery stores.
(17) Delicatessens.

(18) Department stores.
(19) Drugstores.
(20) Electrical supply.
(21) Financial institutions.
(22) Florists.
(23) Fraternities.
(24) Furniture stores.
(25) Gift stores.
(26) Grocery stores.
(27) Hardware stores.
(28) Heating supply shops.
(29) Hobby shops.
(30) Hotels.
(31) Laundry and dry cleaning establishments employing not more than seven (7) persons.
(32) Lawn and garden supply shops.
(33) Liquor stores.
(34) Meat markets.
(35) Music stores.
(36) Newspaper offices.
(37) Office supplies.
(38) Optical stores.
(39) Packaged beverage stores.
(40) Pet shops.
(41) Photographic supply shops.
(42) Plumbing supply shops.
(43) Professional offices.
(44) Radio broadcasting studios.
(45) Restaurants.
(46) Self service laundry and dry cleaning establishments.
(47) Soda fountains.
(48) Sporting good shops.
(49) Supermarkets.
(50) Television broadcasting studios.
(51) Trade and contractors' offices.
(52) Upholsterer's shops.

(c) **Permitted Accessory Uses.**

(1) Garages for storage of vehicles used in conjunction with the operation of a business.
(2) Offstreet parking and loading areas.
(3) Residential quarters for the owner or proprietor, or rental apartments on a nonground floor level, provided that there shall be a minimum floor area of three hundred (300)

square feet for an efficiency apartment, four hundred twenty (420) square feet for a one- (1) bedroom apartment, and five hundred (500) square feet for a two- (2) bedroom apartment.

(d) **Conditional Uses.** See Sections 13-1-73, 13-1-75 and 13-1-77.

(e) **Lot Area and Width.** Lots shall have a minimum of four thousand eight hundred (4,800) square feet in area and shall be not less than forty (40) feet in width at the building setback line.

(f) **Building Height.** No building or parts of a building shall exceed forty-five (45) feet in height.

(g) **Setback and Yards.**

(1) No minimum setback shall be required.

(2) No minimum side yard shall be required. However, where a business district abuts a residential district, a side yard of not less than ten (10) feet shall be required at the district boundary line.

(3) There shall be a rear yard of not less than twenty-five (25) feet.

Sec. 13-1-46 M-1 Industrial District.

(a) **Purpose.** The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Village as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably insure compatibility with the surrounding area in this respect.

(b) **Permitted Uses.**

(1) Automotive mechanical and body repair shops
(2) Automotive upholstery shops
(3) Cleaning, pressing and dyeing operations
(4) Commercial bakeries
(5) Commercial greenhouses
(6) Contractor's offices, display rooms and shops
(7) Cosmetic manufacturing
(8) Distributors
(9) Electrical appliances manufacturing
(10) Electronic devices manufacturing
(11) Food processing, except cabbage
(12) Food locker plants
(13) Glass manufacturing
(14) Instrument manufacturing

(15) Jewelry manufacturing
(16) Laboratories
(17) Leather fabrication, not including tanning
(18) Machinery sales, display and repair
(19) Machine shops
(20) Manufacture and bottling of non-alcoholic beverages
(21) Office buildings
(22) Packaging and assembly of products made from fur
(23) Packaging and packing of confections
(24) Painting
(25) Printing and publishing
(26) Pharmaceuticals processing
(27) Self-service storage facilities (mini-warehouses)
(28) Tobacco and toiletries
(29) Storage and sale of machinery and equipment
(30) Warehousing
(31) Wholesaling

(c) **Permitted Accessory Uses.**
(1) Garages for storage of vehicles used in conjunction with the operation of an industry.
(2) Retail sales incidental to permitted uses.
(3) Offstreet parking and loading areas.
(4) Offices, storage, power supply, and other uses customarily auxiliary to the permitted industrial operation.

(d) **Conditional Uses.**
(1) See Sections 13-1-73, 13-1-75(e) and 13-1-76.

(e) **Lot Area and Width.**
(1) Lots shall be a minimum of four thousand eight hundred (4,800) square feet in area and shall be not less and forty (40) feet in width at the building setback line.

(f) **Building Height and Area.**
(1) No building or parts of a building shall exceed forty-five (45) feet in height.

(g) **Setbacks and Yards.**
(1) A minimum building setback of twelve (12) feet from the street right-of-way shall be required.
(2) There shall be a side yard on each side of all buildings not less than five (5) feet in width.
(3) There shall be a rear yard of not less than thirty (30) feet.

Sec. 13-1-47 M-2 Light Industrial and Warehousing District.

(a) **Purpose.** The M-2 Industrial District is intended to provide for light manufacturing and warehousing operations of moderate intensity. Industries locating in the M-2 District are

envisioned to have fewer employees and lesser land needs than heavy industrial districts while not being tightly constrained by the limited land availability of the older M-1 District.

(b) **Permitted Uses.**

(1) All M-1 Industrial District permitted uses and inside storage.

(c) **Permitted Accessory Uses.**

(1) Any accessory use permitted in the M-1 Industrial District.

(d) **Conditional Uses.**

(1) See Sections 13-1-73, 13-1-75(e), 13-1-76 and 13-1-77.

(e) **Lot Area and Width.**

(1) Lots shall have a minimum of fifteen thousand (15,000) square feet in area and shall be not less than ninety (90) feet in width at the building setback line.

(f) **Building Height.**

(1) No building or parts of a building shall exceed forty-five (45) feet in height.

(g) **Setback and Yards.**

(1) A building setback of twenty-five (25) feet from the street right-of-way shall be required.

(2) There shall be a side yard on each side of all buildings not less than eight (8) feet in width.

(3) There shall be a rear yard of not less than twenty-five (25) feet.

Sec. 13-1-48 M-2A Light Industrial and Warehousing District.

(a) **Purpose.** The M-2A Light Industrial District is intended to provide for the optimal utilization of land for manufacturing/warehousing operation. Industry located in the M-2A District is envisioned to have minimal activities which occur outside of an enclosed facility.

(b) **Permitted Uses.**

(1) All M-1 Industrial District permitted uses and inside storage.

(c) **Permitted Accessory Uses.**

(1) Any accessory use permitted in the M-1 Industrial District.

(d) **Conditional Use.**

(1) See Sections 13-1-73, 13-1-75(e), 13-1-76 and 13-1-77.

(e) **Lot Area and Width.**

(1) Lots shall have a minimum of fifteen thousand (15,000) square feet in area and shall be not less than ninety (90) feet in width at the building setback line.

(f) **Building Height.**

(1) No building or parts of a building shall exceed forty-five (45) feet in height.

(g) **Setback and Yards.**

(1) A building setback of twenty-five (25) feet from the street right-of-way shall be required.

(2) There shall be a side yard on each side of all buildings not less than eight (8) feet in width.
(3) There shall be a rear yard of not less than eight (8) feet.

Sec. 13-1-49 M-3 Heavy Industrial District.

(a) **Purpose.** The M-3 Industrial District is intended to provide for the same type of manufacturing and industrial development as in the M-1 and M-2 Industrial Districts, but in those areas where the relationships to surrounding land would create fewer problems of compatibility. The M-3 Industrial District also regulates those activities generally perceived as being of a nuisance nature or considered to be hazardous to human life. Such districts should not normally abut directly upon residential districts.

(b) **Permitted Uses.**
(1) All M-1 and M-2 Industrial District permitted uses.

(c) **Permitted Accessory Uses.**
(1) Any accessory use permitted in the M-1 or M-2 Industrial District.

(d) **Conditional Uses.**
(1) See Sections 13-1-73, 13-1-75(e) and 13-1-76.

(e) **Lot Area and Width.**
(1) Lots shall have a minimum of forty thousand (40,000) square feet in area and shall be not less than one hundred fifty (150) feet in width at the building setback line.

(f) **Building Height.**
(1) No building or parts of a building shall exceed sixty (60) feet in height.

(g) **Setback and Yards.**
(1) A minimum building setback of fifty (50) feet from the street right-of-way shall be required.
(2) There shall be a side yard on each side of all buildings not less than fifteen (15) feet in width.
(3) There shall be a rear yard of not less than thirty (30) feet.

Sec. 13-1-50 C-1 Wetland Conservancy District.

(a) **Purpose.** The C-1 Wetland Conservancy District is intended to preserve, protect, and enhance the ponds, streams, and wetland areas of the Village of Butler. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control storm water runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities;

avoid the location of structures on soils which are generally not suitable for use; and protect the waterbased recreation resources of the Village.

(b) **Area.** The C-1 Wetland Conservancy District, as shown on the Zoning Map, includes, but is not limited to, all wetlands within the shoreland, as defined in this Chapter; in the Village of Butler that are five (5) acres or larger in area. The Boundaries were determined from use of the *Wisconsin Wetland Inventory Map* for the Village of Butler, dated March 29, 1989, and stamped, "FINAL."

(c) **Permitted Uses.**

(1) Hiking, fishing, swimming and boating, unless prohibited by other laws and ordinances.

(2) Harvesting of wild crops, such as march 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, and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.

(3) Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on silvicultural activities if not corrected.

(4) Construction and maintenance of fences.

(5) Agricultural crops and grazing provided that they do not involve extension of cultivated areas, extension of or creation of new drainage systems, and further provided that they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.

(6) Ditching, filing, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.

(7) The construction and maintenance of piers, docks, and walkways, including those built on pilings.

(8) The maintenance, repair, replacement, and reconstruction of existing streets, roads and bridges.

(d) **Conditional Uses.**

(1) See Section 13-1-77(b).

(e) **Prohibited Uses.**

(1) Any use not listed as a permitted use or a conditional use is prohibited unless the C-1 District lands are first rezoned into another district.

(2) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary highwater mark of any navigable water are prohibited.

Sec. 13-1-51 FWO Floodway Overlay District.

(a) **Purpose.**

(1) The FWO Floodway Overlay District is intended to be used to protect people and property from flood damage by prohibiting the erection of structures that would impede the flow of water during periodic flooding. Permitting use of the floodway would increase damages in the broader floodplain by increasing flood stages. In delineating the FWO District, the effects of development within the associated flood fringe shall be computed. No increase in flood stage shall be permitted that is equal to or greater than 0.01 foot unless the Village of Butler has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase, and until all such affected units of government have amended their water surface profiles and floodland zoning maps to reflect the increased flood elevations. No floodway overlay district changes shall be permitted where the cumulative effect of changes increase flood stages by more than one (1.0) foot. In addition to floodways delineated by detailed engineering methods, any "unnumbered A zones" which appear on the Village's Flood Insurance Rate Map shall be placed in the FWO Floodway Overlay District.

(2) Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic underlying zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

(b) **Permitted Uses.**

(1) Drainage
(2) Movement of floodwater
(3) Navigation
(4) Stream bank protection
(5) Water measurement and control facilities
(6) Any of the following uses are permitted provided that they are permitted uses in the underlying basic use district, and further provided that such use shall not involve the erecting or placing of a structure.
   a. Grazing
   b. Horticulture
   c. Open parking and loading areas provided that such uses shall not be subject to inundation depths greater than two (2) feet or flood velocities greater than two (2) feet per second.
   d. Open markets
   e. Open recreational uses, such as parks, sport fields, beaches, bathing, hunting, fishing, rinks, golf courses and driving ranges.
   f. Outdoor plant nurseries

g. Pasturing
h. Sod farms
i. Truck farming
j. Utility poles, towers, and underground conduit for transmitting electricity, telephone, cable television, natural gas, and similar products and services.
k. Viticulture (grape growing)
l. Wildlife preserves

(c) **Conditional Uses.**

(1) See Section 13-1-78.

(d) **Dumping and Filling Prohibited.**

(1) Lands lying within the floodway overlay district shall not be used for dumping or be filled except as authorized to permit establishment of approved bulkhead lines or to accommodate bridge approaches. Normal earth grading activities to permit utilization of the lands for open space, outdoor recreation, yard, parking, and similar uses are permitted.

(e) **Dangerous Materials Storage Prohibited.**

(1) Lands lying within the floodway overlay district shall not be used for the storage of materials that are buoyant, flammable, explosive, or injurious to human, animal, or plant life.

(f) **Incompatible Use Prohibited.**

(1) Lands lying within the floodway overlay district shall not be used for any solid waste disposal site or onsite soil absorption sanitary sewerage system site, or the construction of any well which is used to obtain water for ultimate human consumption. Sewage treatment plants and treatment ponds shall not be constructed in the floodway overlay district.

(g) **Maintenance of Drainageways.**

(1) No development in the floodway overlay district shall adversely affect the channels, floodways, or shorelands of the Menomonee River, any tributary thereto, drainage ditches, or other lands lying outside the floodlands.

(h) **Mobile Homes Prohibited.**

(1) No mobile home, manufactured home, mobile home park, or trailer camp shall be placed or moved onto lands lying in the floodway overlay district.

Sec. 13-1-52 FFO Floodplain Fringe Overlay District.

(a) **Purpose.**

(1) The FFO Floodplain Fringe Overlay District is intended to provide for and encourage the most appropriate use of land and water in areas subject to periodic flooding and to minimize flood damage to people and property.

(2) Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic underlying zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

(b) **Permitted Uses.**

(1) Any use of land, except development involving structures, that is permitted in the underlying basic use district. Examples of such use would be croplands in an agricultural district; required yards in a residential district; or parking or loading areas in a commercial or industrial district, provided that inundation depths for parking and loading areas do not exceed two (2) feet or that such areas are not subject to flood velocities greater than two (2) feet per second upon the occurrence of a one hundred (100) year recurrence interval flood.

(c) **Conditional Use.**

(1) See Section 13-1-78.

(d) **Incompatible Use Prohibited.** Land lying within the floodplain fringe overlay district shall not be used for any solid waste disposal site, onsite soil absorption sanitary sewage system site, or the construction of any well which is used to obtain water for ultimate human consumption.

(e) **Maintenance of Drainageways.** No filling or development in the FFO Floodplain Fringe Overlay District shall adversely affect the channels, floodways, or shorelands of the Menomonee River, any tributary thereto, drainage ditches, or other lands lying outside the floodlands.

(f) **Mobile Homes Prohibited.** No mobile home, manufactured home, mobile home park, or trailer camp shall be placed or moved onto lands lying in the floodplain fringe overlay district.

Sec. 13-1-53 PUD Planned Unit Development Overlay District.

(a) **Intent.** The PUD Planned Unit Development Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD Planned Unit Development Overlay District under this Chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining insofar as possible, the land use density and other standards or use requirements as set forth in the underlying basic zoning district.

(b) **Permitted Uses.** Uses permitted in a Planned Unit Development Overlay District shall conform to uses generally permitted in the underlying basic use district. Individual structures shall comply with the specific building area and height requirements of the underlying basic use district. All open space and parking requirements of the underlying basic use district shall be complied with either individually or by providing the combined open space and parking space required for the entire development in one (1) or more locations within the development.

(c) **Minimum Area Requirements.** Areas designated as Planned Unit Development Overlay Districts shall be under single or corporate ownership or control, and shall contain a minimum development area of:

Principal Uses	Minimum Area of PUD
Residential PUD	5 acres
Commercial PUD	5 acres
Industrial PUD	5 acres
Mixed Compatible Use	10 acres

(d) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a Planned Unit Development Overlay District, the owner or his/her agent making such petition shall meet with the Plan Commission or its staff to discuss the scope and proposed nature of the contemplated development.

(e) **Petition for Approval.** Following the pre-petition conference, the owner or his/her agent may file a petition with the Village Administrator for approval of a Planned Unit Development Overlay District. Such petition shall be accompanied by a review fee, as well as incorporate the following information:

(1) ***Informational Statement.*** A statement which sets forth the relationship of the proposed PUD to the Village's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:

a. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.

b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.

c. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.

d. Any proposed departures from the standards of development as set forth in the Village zoning regulations, land subdivision ordinance, other Village regulations or administrative rules, or other universal guidelines.
e. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.

(2) ***A General Development Plan Including:***
a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
b. The location of public and private roads, driveways, sidewalks and parking facilities.
c. The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
d. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
e. The type, size and location of all structures.
f. General landscape treatment.
g. The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
h. The existing and proposed location of all private utilities or other easements.
i. Existing topography on the site with contours at no greater than two (2) foot intervals.
j. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
k. If the development is to be staged, a staging plan.
l. A plan showing how the entire development can be further subdivided in the future.

(f) **Referral to Plan Commission.** The petition for a Planned Unit Development Overlay District shall be referred to the Village Plan Commission for its review and recommendation, including any additional conditions or restrictions which it may deem necessary or appropriate.

(g) **Public Hearing.** The Village Plan Commission and the Village Board shall hold a joint public hearing. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested Planned Unit Development Overlay District. Notice of the public hearing shall specify the date, time, and place of said hearing and shall state the matter to be considered at said hearing. Notice shall be posted in three (3) public places likely to give notice to persons affected by the hearing at least fifteen (15) days prior to the hearing. The Village shall also give at least ten (10) days' prior written notice to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed action and to all parties in interest. As soon as is practical following the hearing, the Plan Commission shall report its findings and recommendations to the Village Board.

(h) **General Considerations for Approval.** The Plan Commission in making its recommendation and the Village Board in making its determination, shall consider:

(1) That the petitioners for the proposed Planned Development Overlay District have indicated that they intend to begin the physical development of the PUD within nine (9) months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule satisfactory to the Village.

(2) That the proposed Planned Unit Development Overlay District is consistent in all respects to the purpose of this Section and to the spirit and intent of this Chapter; is in conformity with the adopted master plan or any adopted component thereof; and, that the development would not be contrary to the general welfare and economic prosperity of the community.

(3) The Plan Commission in making its recommendations and the Village Board in making its determination shall further find that:

a. The proposed site shall be provided with adequate drainage facilities for surface and storm waters.

b. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.

c. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.

d. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the Village.

e. Centralized water and sewer facilities shall be provided.

f. The entire tract or parcel of land to be included in a Planned Unit Development Overlay District shall be held under single ownership, or if there is more than one (1) owner, the petition for such Planned Unit Development Overlay District shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the Register of Deeds for Waukesha County.

(i) **Residential PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:

(1) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.

(2) The total net residential density within the Planned Unit Development Overlay District will be consistent with and not exceed the average intensity and density of development permitted in the underlying basic use district.

(3) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
(4) Provision has been made for adequate, continuing fire and police protection.
(5) The population composition of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
(6) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.

(j) **Commercial PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:
(1) The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.
(2) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.
(3) The locations of entrances and exists have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
(4) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.

(k) **Industrial PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:
(1) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
(2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and storm water drainage and maintenance of public areas.
(3) The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
(4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

(l) **Mixed Use PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:

(1) The proposed mixture of uses procedures a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.

(2) The various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use and character.

(3) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

(m) **Board Determination.** The Village Board, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a Planned Development Overlay District shall be based upon and include as conditions there to the building, site and operational plans for the development as approved by the Village Board. Rezoning to the Planned Unit Development Overlay District shall not become effective until a subdivider's agreement has been approved by the Village Board and fully executed by all parties.

(n) **Changes and Additions.** Any subsequent change or addition to the plans or uses shall first be submitted for review to the Village Plan Commission. The Plan Commission shall recommend to the Village Board that the change be approved, approved with modifications, or denied. Any subsequent substantial change or addition to the plans or uses shall be submitted for approval to the Village Board and if, in the opinion of the Village Board, such change or addition constitutes a substantial alteration of the original plan, it shall schedule an additional public hearing in which event the Village Board shall schedule a notice of public hearing as for the original petition. Following such public hearing, the Village Board shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

Sec. 13-1-54 through Sec. 13-1-59 Reserved for Future Use.

Article D: Conditional Uses

Sec. 13-1-60 Statement of Purpose — Conditional Uses.

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

Sec. 13-1-61 Authority of the Village Board and Plan Commission; Requirements.

(a) The Village Board, following a recommendation of the Plan Commission, may authorize the Zoning Administrator to issue a conditional use permit after review and public hearing, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community.

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

Sec. 13-1-62 Initiation of Conditional Use.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses in the zoning district in which such land is located.

Sec. 13-1-63 Application for Conditional Use; Review and Recommendation.

(a) **Required Application Materials.** An application for a conditional use shall be filed in duplicate on a form prescribed by the Village. Such applications shall be forwarded to the Plan Commission on receipt by the Zoning Administrator. Such applications shall include where applicable:

(1) A statement, in writing, by applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter.

(2) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within one hundred (100) feet.

(3) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Village Board and Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the grounds; fill or storage elevations; lowest floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; and soil types and other pertinent information.

(4) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping.

(5) Additional information as may be required by the Village Board, Village Plan Commission, Village Engineer, Building Inspector, or Plumbing Inspector.

(b) **Plans.** In order to secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a building permit, the following information:

(1) A plan of the area showing contours, soil types, high water mark, ground water conditions, bedrock, slope and vegetation cover;

(2) Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting;

(3) Plans for buildings, sewage disposal facilities, water supply systems and arrangements of operations;

(4) Specifications for areas of proposed filling, grading, lagooning or dredging;

(5) Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter.

(c) **Plan Commission Recommendation.** The Plan Commission shall report its findings to the Village Board within sixty (60) days and may recommend conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, and parking requirements, where such conditions are deemed necessary to fulfill the purpose and intent of this Chapter.

Sec. 13-1-64 Hearing on Application.

(a) **Public Hearing.** The Village Board shall hold a public hearing upon each application after receiving a recommendation from the Plan Commission. Notice of such public hearings shall specify the date, time, and place of said hearing and shall state the matter to be considered at said hearing. Notice shall be posted in three (3) public places likely to give notice to persons affected by the hearing at least fifteen (15) days prior to the hearing. The Village Board shall also give at least ten (10) days' prior written notice to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed action and to all parties in interest.

Sec. 13-1-65 Village Board's Action.

Following such hearing and after careful consideration of the Village Plan Commission's recommendations, the Village Board may grant the Conditional Use Permit as applied for, grant the Conditional Use Permit with conditions deemed appropriate by the Board, or deny the permit. In addition:

(a) **Compliance.** Compliance with all other provisions of this Article, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses. Variances shall only be granted as provided in this Article.

(b) **Amendments.** Changes subsequent to the initial issuance of a conditional use permit which would result in a need to change the initial conditions shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. The process for amending a permit shall, generally follow the procedures for granting a permit as set forth in this Article.

(c) **Revocation of Conditional Use Permit.** Should a permit applicant, his/her heirs or assigns, fail to comply with the conditions of the permit issued by the Plan Commission or should the use, or characteristics of the use be changed without prior approval by the Plan Commission, the Conditional Use Permit may be revoked. The process for revoking a permit shall generally follow the procedures for granting a permit as set forth in this Article.

Sec. 13-1-66 Standards — Conditional Uses.

No application for a conditional use shall be recommended for approval by the Plan Commission or granted by the Village Board unless such Commission and Board shall find that the following conditions are present:

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

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

(c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

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

(e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

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

(g) That the proposed use does not violate flood plain regulations governing the site.

(h) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission and Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

(i) That, in addition to passing upon a Conditional Use Permit, the Plan Commission and Board shall also evaluate the effect of the proposed use upon:

(1) The maintenance of safe and healthful conditions.

(2) The prevention and control of water pollution including sedimentation.

(3) Existing topographic and drainage features and vegetative cover on the site.

(4) The location of the site with respect to floodplains and floodways of rivers and streams.

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

(6) The location of the site with respect to existing or future access roads.

(7) The need of the proposed use for a shoreland location.

(8) Its compatibility with uses on adjacent land.

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

Sec. 13-1-67 Denial of Application for Conditional Use Permit.

When a decision of denial of a conditional use application is made, the Village Board shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Village Board has used in determining that each standard was not met.

Sec. 13-1-68 Appeals.

Any action of the Village Board in granting or denying a conditional use permit may be appealed to the Board of Appeals, if a written request for an appeal is filed within ten (10) days after the date of the Village Board's action in granting or denying the permit. Such request for appeal shall be signed by the applicant or by the owners of at least twenty percent (20%) of the land area immediately adjacent extending one hundred (100) feet therefrom or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land. The request shall be filed with the Zoning Administrator who shall submit it to the Board of Appeals at its next meeting, together with any documents and other data used by the Village Board in reaching its decision. The Board of Appeals may consider the matter forthwith, refer the matter to a subsequent meeting or set a date for a public hearing thereon. In the event the Board of Appeals elects to hold a public hearing, notice thereof shall be given by mail to the known owners of the lands immediately adjacent thereto and directly opposite any street frontage of the lot or parcel in question and by publication of a Class 1 notice in the official newspaper at least ten (10) days before the date of the hearing. The Board of Appeals may either affirm or reverse in whole or in part the action of the Village Board and may finally grant or deny the application for a conditional use permit.

Sec. 13-1-69 Conditions and Guarantees.

The following provisions shall apply to all conditional uses:

(a) **Conditions.** Prior to the granting of any conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

(1) Landscaping;

(2) Type of construction;

(3) Construction commencement and completion dates;
(4) Sureties;
(5) Lighting;
(6) Fencing;
(7) Operational control;
(8) Hours of operation;
(9) Traffic circulation;
(10) Deed restrictions;
(11) Access restrictions;
(12) Setbacks and yards;
(13) Type of shore cover;
(14) Specified sewage disposal and water supply systems;
(15) Planting screens;
(16) Piers and docks;
(17) Increased parking; or
(18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.

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

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

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

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

(f) **Conditional Uses to Comply with Other Requirements.** Conditional uses shall comply with all other provisions of this Chapter such as lot width and area, yards, height, parking and loading. No conditional use permit shall be granted where the proposed use is deemed to be inconsistent or conflicting with neighboring uses for reasons of smoke, dust, odors, noise, vibration, lighting, health hazards or possibility of accident.

Sec. 13-1-70 Validity of Conditional Use Permit.

Where the Village Board has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Village Board's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Village Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Village at least thirty (30) days before the expiration of said permit.

Sec. 13-1-71 Complaints Regarding Conditional Uses.

The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Sections 13-1-66 and/or 13-1-69 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-64 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. Additionally, the offending party may be subjected to a forfeiture as set forth in this Chapter and Section 1-1-6. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Village Board may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefor. An appeal from a decision of the Village Board under this Section may be taken to the Board of Appeals.

Sec. 13-1-72 Home Occupations and Professional Home Offices.

(a) **Intent.** The intent of this Section is to provide a means to accommodate a small family home-based business or professional home office without the necessity of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.

(b) **Restrictions on Home Occupations; Conditional Uses.** Except as provided in Subsection (c) below, which creates a permitted accessory use exception, home occupations and professional home offices are a conditional use in all Residential Districts and are subject to the requirements of the District in which the use is located, in addition to the following:

(1) The home occupation shall be conducted only within the enclosed area of the dwelling unit or a garage.

(2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.

(3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.

(4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.

(5) Only one (1) sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated and shall comply with district sign regulations.

(6) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises.

(7) The Village Board may determine the percentage of the property that may be devoted to the occupation, but shall not exceed thirty percent (30%).

(8) The home occupation is restricted to a service-oriented business; the manufacturing of items or products or the retail sale of items or products on the premises is prohibited.

(9) The types and number of equipment or machinery may be restricted by the Village Board.

(10) Sale or transfer of the property shall cause the Conditional Use Permit to be null and void.

(11) Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.

(12) No more than one (1) non-resident employee may work on the premises.

(13) No activity associated with the home occupation may occur outside on the premises prior to 8:00 a.m. or after 8:00 p.m.

(c) **Permitted Accessory Use Exception.** A home occupation or professional home office under this Section may be maintained in any Residential District as a permitted accessory use, as opposed to a conditional use, if the standards of Subsection (b) above are complied with, and no sign is erected or maintained regarding the home occupation, no more than one (1) person works on the premises, no customers regularly come to the house ["regularly" defined as averaging more than three (3) customers/clients per week coming to the home occupation premises] and the business is service-oriented and not engaged in retail trade.

Sec. 13-1-73 Public and Semi-Public Conditional Uses.

The following public and semi-public uses shall be conditional uses and may be permitted as specified:

(a) **Governmental and Cultural Uses** such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums in all residential districts, the B-1 Business District, and the M-1, M-2, M-2A and M-3 Industrial Districts.

(b) **Utility Substations,** wells, pumping stations, and towers in all districts provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.

(c) **Public Passenger Transportation Terminals** such as heliports and bus and rail depots, but not including airports, airstrips, and landing fields, in all Business Districts and the M-1, M-2 and M-2A Industrial Districts provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.

(d) **Public, Parochial, and Private Elementary** and secondary schools and churches in all residential districts, provided the lot area is not less than two (2) acres and all principal structures and uses are not less than fifty (50) feet from any lot line.

Sec. 13-1-74 Residential Conditional Uses.

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

(a) **Clubs,** Fraternities, lodges and meeting places of a noncommercial nature in the R-3 Residential District, provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.

(b) **Rest Homes,** nursing homes, elderly housing, clinics, and day care centers in the R-3 Residential District, provided all principal structures and uses are not less than fifty (50) feet from any lot line.

(c) **Conversion of a Single-Family Dwelling** to a two-family dwelling in the R-2 and R-3 Residential Districts, provided that the structure was in existence as of May 2, 1978, and

provided further that each dwelling unit shall have a minimum of seven hundred fifty (750) square feet per unit in an R-2 District and a minimum of five hundred (500) square feet per unit in an R-3 District.

(d) **Community Living Arrangements** which have a capacity for nine (9) or more persons in the R-1 and R-2 Residential Districts.

(e) **Community Living Arrangements** which have a capacity for sixteen (16) or more persons in the R-3 Residential District.

Sec. 13-1-75 Highway–Oriented Conditional Uses.

The following commercial uses shall be conditional uses and may be permitted as specified:

(a) **Drive-In Establishments** serving food or beverages for consumption outside the structure in the B-1 Business District.

(b) **Motels** in the B-1 Business District.

(c) **Funeral Homes** in the B-1 Business District, provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.

(d) **Drive-In Banks** in the B-1 Business District.

(e) **Vehicle Sales and Service Shops,** washing and repair stations, garages, taxi stands, and public parking lots in the Business and Industrial Districts, provided all gas pumps are not less than thirty (30) feet from any side or rear lot line and twenty (20) feet from any existing or proposed street line.

Sec. 13-1-76 Industrial Conditional Uses.

The following business and industrial uses shall be conditional uses and may be permitted as specified:

(a) **Animal Hospitals** in the M-1, M-2, M-2A, and M-3 Industrial Districts, provided that the lot area is not less than nine thousand six hundred (9,600) square feet and that all principal structures and uses are not less than fifty (50) feet from any residential use.

(b) **Animal Motel and Pet Care Centers** in the M-1, M-2, M-2A, and M-3 Industrial Districts, provided that the lot area is not less than nine thousand six hundred (9,600) square feet and that all principal structures and uses are not less than fifty (50) feet from any residential use. The Village Board may permit non-resident sleeping quarters accessory to the animal motel operation.

(c) **Manufacturing and Processing** of abrasives, acetylene, acid, alkalis, ammonia, asbestos, batteries, bedding, bleach, candles, carpeting, celluloid, cereals, chemicals, coffee, coke, cordage, dextrine, disinfectant, dye, excelsior, felt, furs, gelatin, glucose, gypsum, ice, ink, insecticide, lampblack, lime, lime products, linoleum, lubricants, matches, meat, oilcloth,

paint, paper, peas, perfume, pickles, plaster of paris, plastics, poison, polish, potash, pulp, pyroxylin, rope, sausage, shoddy, shoe and lampblacking, size, starch, stove polish, textiles, and varnish in the M-3 Heavy Industrial District.

(d) **Manufacturing, Processing and Storage** of building materials, dry ice, flammables grains, and plastics; manufacture and bottling of alcoholic beverages; bag cleaning operations, bleacheries, and cold storage warehouses; electric and steam generating plants; electroplating; enameling; lacquering; lithographing; oil and coal distillation; refineries; road test facilities; and weaving in the M-3 Heavy Industrial District.

(e) **Outside Storage and Manufacturing Areas** in the M-1, M-2, M-2A, and M-3 Industrial Districts. All storage yards shall be surrounded by a solid fence not less than six (6) feet nor more than eight (8) feet in height completely preventing a view from any other property or right-of-way. All storage yards shall be hard surfaced and properly drained. Storage yards shall be connected to the storm sewer system without the need to cross neighboring properties. The Village Board may require the installation of a catch basin to collect storm water runoff. Storage materials shall not be stored in a front yard or stacked to a height greater than the top of the fence. Single pieces of equipment, such as cranes, shall not be limited to this height requirement.

(f) **Commercial Service Facilities,** such as restaurants and fueling stations, in the M-1, M-2, M-2A, and M-3 Industrial Districts, provided that all such services are physically and saleswise oriented toward industrial district users and employees and that other users are only incidental customers.

(g) **Commercial Service Offices,** primarily serving commercial and industrial users in the M-1, M-2, M-2A, and M-3 Industrial Districts.

(h) **Adult Establishments** in the M-3 Industrial District provided that all of the requirements of Title 7, Chapter 8 of this Code of Ordinances are complied with.

Sec. 13-1-77 Recreational and Conservancy Conditional Uses.

(a) **Recreational Uses.** The following recreational facilities shall be conditional uses and may be permitted as specified:

(1) ***Commercial Recreational Facilities*** such as arcades, bowling alleys, clubs, dance halls, gymnasiums, indoor shooting ranges, lodges, miniature golf courses, physical culture, pool and billiard halls, Turkish baths, skating rinks, and theaters are conditional uses and may be permitted in the B-1 Business and M-2, M-2A, and M-3 Industrial Districts.

(b) **Conservancy Uses.** The following uses are conditional uses in the C-1 Conservancy District and may be permitted as specified. The Village Plan Commission shall transmit a copy of each application for a conditional use in the shoreland portion of the C-1 Conservancy District to the Wisconsin Department of Natural Resources (DNR) at least ten

(10) days prior to the public hearing. Final action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of all shoreland C-1 Conservancy District conditional use permits shall be transmitted to the DNR within ten (10) days following the decision:

(1) ***The Construction of Streets Which Are Necessary for the Continuity of the Village Street System,*** necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses in the C-1 District, provided that:
   a. The street cannot as a practical matter be located outside the conservancy district;
   b. The street is designed and constructed to minimize adverse impact upon the natural functions of the wetland as listed in Section 13-1-182;
   c. The street is designed and constructed with the minimum cross-section practical to serve the intended use;
   d. The street construction activities are carried out in the immediate area of the roadbed only; and
   e. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary for the construction or maintenance of the street.

(2) ***The Construction and Maintenance of Non-Residential Buildings*** used solely in conjunction with raising of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose which is compatible with natural resource preservation, provided that:
   a. The building cannot as a practical matter be located outside the conservancy district;
   b. The building is not designed for human habitation and does not exceed five hundred (500) square feet in area; and
   c. Only limited filing or excavating necessary to provide structural support is conducted.

(3) ***The Establishment and Development of Public and Private Parks*** and recreation areas, recreation trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refugees, game preserves, and private habitat areas, provided that:
   a. Any private recreation or wildlife habitat area must be exclusively for that purpose;
   b. No filling is to be done; and
   c. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance the value of a wetland or other natural resource.

(4) ***The Construction and Maintenance of Electric,*** gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and

cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to members, provided that:

a. The transmission and distribution lines and related facilities cannot as a practical matter be located outside the conservancy district; and

b. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the utility, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the conservancy area.

(5) ***The Construction and Maintenance of Railroad Lines,*** provided that:

a. The railroad lines cannot as a practical matter be located outside the conservancy district; and

b. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the railroad, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the conservancy area.

Sec. 13-1-78 Floodland Conditional Uses.

The following floodland uses are conditional uses and may be permitted as specified. The Village Plan Commission shall transmit a copy of each application for a floodland conditional use to the Wisconsin Department of Natural Resources (DNR) for review and comment at least ten (10) days prior to the public hearing. Final action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. Notice of a floodland conditional use decision shall be transmitted to the DNR within ten (10) days following the decision:

(a) **Open Space and Related Uses in the FWO Floodway Overlay District** may be permitted for the following uses provided that the applicant shows that such use or improvement will not impeded drainage, will not cause ponding, will not obstruct the floodway, will not increase flood flow velocities, will not increase the flood state, and will not retard the movement of floodwaters. Structures, when permitted, shall be floodproofed to the flood protection elevation and shall be anchored to protect them from larger floods. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one hundred- (100-) year recurrence interval flood.

(1) Navigational structures.

(2) Public water measuring and control facilities.

(3) Bridges and approaches.

(4) Marinas.

(5) Filling as authorized by the Wisconsin Department of Natural Resources to permit the establishment of approved bulkhead lines.

(6) Other open space uses consistent with the purpose and intent of the district and compatible with uses in adjacent districts, not including structures.

(b) **Accessory Structures in Any Floodland District** provided that all structures, when permitted, are not designed for human habitation, have a low flood damage potential, are constructed and placed to provide minimum obstruction to flood flows (whenever possible, accessory structures shall be placed with their longitudinal axis parallel to the flow of floodwaters), are firmly anchored to prevent them from floating away and restricting bridge openings, and have all service facilities (such as electrical and heating equipment) at an elevation at least two (2) feet above the one hundred- (100-) year recurrence interval flood. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one hundred- (100-) year recurrence interval flood.

(c) **Residential and Commercial Structures in the FFO Floodplain Fringe Overlay District** provided that the structure is permitted in the underlying basic use district, and provided that such floodplain fringe areas shall be filled to an elevation at least two (2) feet above the elevation of the one hundred- (100-) year recurrence interval flood. Such fill shall extend for at least fifteen (15) feet beyond the limits of the structure placed thereon. All structures shall be provided with dryland access to lands located outside the floodplain. Where existing streets or sewer lines are at elevations which make dryland access impractical, the Village may permit development where access roads are at or below the one hundred- (100-) year recurrence interval flood stage, provided that the Village has written assurance from appropriate police and fire departments and emergency service agencies that rescue and relief service will be provided the properties in the area by wheeled vehicles during a flood event; or the Village has an adopted natural disaster plan concurred with by the Wisconsin Division of Emergency Government and approved by the Wisconsin Department of Natural Resources. The finished surface of the lowest floor (excluding basement or crawlway) shall be constructed or placed at an elevation of the one hundred- (100-) year recurrence interval flood. Basement or crawlway floors may be placed at the one hundred- (100-) year recurrence interval flood elevation provided that the basement or crawlway is floodproofed to the flood protection elevation. Residential structures placed on fill may be removed from the Floodplain Fringe Overlay District, provided that the fill is contiguous to lands lying outside of the floodlands, and further provided that the property owner, or his/her agent, has complied with all the requirements for amending the zoning map as set forth in Article M.

(d) **Industrial Structures in the FFO Floodplain Fringe Overlay District** provided that the structure is permitted in the underlying district and provided that the fill requirements and dryland access requirements for residential structures in the FFO District are complied with.

However, when the intent and purpose of this Chapter cannot be fulfilled by filing the floodplain fringe due to existing and committed development, and when the Village Plan Commission has made a finding to this effect, all new structures and all additions to existing structures in the Floodplain Fringe Overlay District shall be floodproofed to a point two (2) feet above the elevation of the one hundred- (100-) year recurrence interval flood. All floodproofed structures shall be securely anchored to protect them from larger floods. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one hundred- (100-) recurrence interval flood level for the particular stream reach. Structures placed on fill may be removed from the Floodplain Fringe Overlay District provided that the fill is contiguous to lands lying outside of the floodlands, and further provided that the property owner, or his/her agent, has complied with all the requirements for amending the zoning map as set forth in Article M.

(e) **Municipal Water Supply and Sanitary Sewerage Collection Systems in All Floodland Districts,** provided that the system is floodproofed to an elevation of at least two (2) feet above the elevation of the one hundred- (100-) year recurrence interval flood, and is designed to eliminate or minimize infiltration of floodwaters into the system. All floodproofed utilities shall be anchored to prevent flotation. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one hundred- (100-) recurrence interval flood level for the particular stream reach.

(f) **Filling to Remove Lands from the FFO Floodplain Fringe Overlay District** provided that such fill shall be to an elevation at least two (2) feet above the elevation of the one hundred- (100-) year recurrence interval flood and further provided that such lands are contiguous to lands lying outside of the floodlands. No such Floodplain Fringe Overlay District shall be removed from the Supplementary Floodland Zoning Map until the filling is complete and until the property owner, or his/her agent, has complied with all the requirements for amending the zoning map as set forth in Article M.

Sec. 13-1-79 Reserved for Future Use.

Article E: Nonconforming Uses, Structures and Lots

Sec. 13-1-80 Existing Nonconforming Uses.

The lawful nonconforming use of land without structures, or water; or a lawful nonconforming use in a conforming or nonconforming structure; or a lawful nonconforming use on a conforming or nonconforming lot which existed at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter; however:

(a) **Continuation Limited.** Only that portion of the land or water in actual use may be so continued and the use may not be extended, enlarged, substituted or moved; and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.

(b) **Discontinuance.** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Chapter.

(c) **Abolishment or Destruction.** When a structure containing a nonconforming use is damaged by fire, explosion, flood, accident, the public enemy, or other calamity to the extent that the cost of repairs exceeds fifty percent (50%) of its current equalized or fair market value, it shall not be restored except so as to comply with the use provisions of this Chapter. Continued repairs shall not exceed fifty percent (50%) over the life of the structure.

Sec. 13-1-81 Conforming Structures on Nonconforming Lots.

(a) The conforming use of a conforming structure existing at the time of the adoption or amendment of this Chapter may be continued although the lot area or lot width does not conform to the requirements of this Chapter.

(b) Additions and enlargements to the structures are permitted and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Chapter.

Sec. 13-1-82 Nonconforming Structures on a Conforming or Nonconforming Lot.

The conforming use of a nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although the structure's size or location does not

conform with the established building setback line along streets, or other yard requirements, or height provisions of this Chapter.

(a) **Additions or Enlargement.** Additions and enlargements to existing nonconforming structures with a conforming use are permitted and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Chapter.

(b) **Existing Nonconforming Structures.** Existing nonconforming structures with a conforming use which are damaged or destroyed by fire, explosion, flood, or other calamity, to the extent that the cost of repairs exceeds fifty percent (50%) of its current equalized or fair market value may be reconstructed and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Chapter. The Zoning Board of Appeals may, upon the presentation of evidence showing a practical difficulty, permit modification to the yard, height, parking, loading and access requirements.

(c) **Existing Nonconforming Structures; Moving of.** Existing nonconforming structures may be moved and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Chapter.

Sec. 13-1-83 Changes and Substitutions.

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

Sec. 13-1-84 Floodland Nonconforming Uses.

Floodland nonconforming uses repaired or altered under the nonconforming use provisions of this Chapter shall provide for floodproofing to those portions of the structures involved in such repair or alteration. Certification of floodproofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the 100-year recurrence interval flood.

Sec. 13-1-85 Wetland Nonconforming Uses.

Notwithstanding Sec. 62.23(7)(h), Wis. Stats., the repair, reconstruction, renovating, remodeling or expansion of a legal nonconforming structure, or any environmental control facility related to a legal nonconforming structure, located in the C-1 Conservancy District and in existence at the

time of adoption or subsequent amendment of this Chapter is permitted pursuant to Sec. 61.351(5), Wis. Stats.

Sec. 13-1-86 through Sec. 13-1-89 Reserved for Future Use.

Article F: Traffic Visibility, Loading, Parking and Access

Sec. 13-1-90 Visibility Standards.

(a) No obstruction, such as structures, parking, or vegetation, shall be permitted in any district between the heights of two and one-half (2-1/2) feet and ten (10) feet above the plane through the mean curb grades (see Illustration No. 1) within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from their intersection (see Illustration No. 2).

(b) The vision clearance triangle should be seeded or sodded, however, the vision clearance triangle may be paved provided that the owner takes measures to assure that no parking will be permitted in the vision clearance triangle.

Sec. 13-1-91 Loading Requirements.

(a) **Loading Requirements Generally.** In all districts, except residential districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

(b) **Location.** All loading berths shall be located forty-five (45) feet or more from the intersection of two (2) street right-of-way lines. Loading berths shall not be located within any required front yard or street yard setback area. Access to the loading berth shall be located in conformance with this Section. All loading areas shall be located on the private lot and shall not be located within, or so as to interfere with, any public right-of-way.

(c) **Surfacing and Marking.** All required loading areas shall be paved and maintained in a dust-free condition at all times. Said surface shall be marked in a manner which clearly indicates required loading areas.

(d) **Use of Required Loading Areas.** The use of all required loading areas shall be limited to the loading and unloading of vehicles. Said area shall not be used to provide minimum required parking spaces.

Sec. 13-1-92 Parking Requirements.

In all districts and in connection with every use, there shall be provided at the time any use is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the following:

(a) **Access.** Adequate access to a public street shall be provided for each parking space, and driveways shall be at least nine (9) feet wide in all districts except the M-2 and M-3

Industrial Districts, and a minimum of twenty-four (24) feet at the property line in the M-2 and M-3 Districts. Aisles in parking lots shall have a minimum width of twenty (20) feet. In the case of one-way ingress and egress, the minimum may be reduced to fifteen (15) feet.

(b) **Parking in the Street Yard.**

(1) Except as otherwise provided in Subsection (b)(2) below, parking in the street yard, as defined by this Chapter, is prohibited in all districts except the M-1 and M-3 Industrial Districts provided that the property owner has been issued an approved angle parking permit. Parking facilities, driveways, and walkways may occupy a maximum of fifty percent (50%) of the required street yard in the M-3 Heavy Industrial District, provided that a ten (10) foot landscaped buffer is provided between the street right-of-way line and the parking facility. Vehicles may, notwithstanding the street yard prohibition, be parked in driveways in the R-1 and R-2 Residential Districts.

(2) Street yard parking may be allowed as a conditional use in the B-1 Community Business District by the Village Board of Trustees in conjunction with the operation of a highway-oriented conditional use pursuant to Section 13-1-75 of this Zoning Code. Only the parking of automobiles may be conditionally permitted under this Subsection. A recommendation from the Plan Commission and a public hearing shall be required prior to consideration of a request for street-yard parking under this Section. In considering a request for street yard parking for automobiles as a conditional use under this Subsection, the Village Board shall consider the location of the proposed street yard parking in relation to surrounding commercial and residential properties and the proximity of the requested parking to the public right-of-way. The Village Board may approve or reject requests under this Section or may approve subject to reasonable restrictions on the type (e.g. customer, employee, sale/lease), quantity, and placement of automobiles on the subject property to preserve the general welfare of the Village and to preserve property values. Conditional use permits granted under this Subsection shall be for a maximum of five (5) years provided, however, that such five (5) year limitation shall not be deemed to bar a property owner from applying for a subsequent conditional use permit. Subsequent applications for conditional use permits shall be considered in the same manner as the original conditional use permit. Any conditional use permit, whether initial or subsequent, issued under this Subsection shall automatically expire without further action by the Village upon:

a. The expiration of the period for which the conditional use permit was granted;
b. Any transfer of any ownership or leasehold interest in the subject property; and/or
c. Upon any change in the principal use of the subject property.

(c) **Parking Space Dimensions.** The minimum dimensions of each parking space shall be nine (9) feet in width and twenty (20) feet in width, exclusive of the space required for

ingress and egress. Spaces for use by physically disabled persons shall, however, be sized as specified in Subsection (k) below.

(d) **Compact Vehicle Parking.** Parking space dimensions may be reduced to nine (9) feet by sixteen (16) feet for the purpose of compact vehicle parking. Compact vehicle parking shall be identified with appropriate signing or pavement markings. An allotment of compact-sized parking spaces shall be determined by the Building Inspector, with the approval of the Building Board, based on such factors as the configuration of the parking lot; access from the street; site layout; the ability to meet overall parking requirements; and other factors as determined by the Building Inspector and/or Building Board.

(e) **Location.** Location of parking spaces is to be on the same lot as the principal use or not more than four hundred (400) feet from the principal use. Unless offsite parking is owned and maintained by the Village, such facilities shall be in the same ownership as the lot occupied by the principal use to which the parking facility is accessory. A covenant running with the land shall be recorded in the office of the Register of Deeds of Waukesha County, Wisconsin on the lot upon which the accessory offstreet parking lot is located, which prohibits any other use on that lot, and a certified copy by the Register of Deeds of Waukesha County, Wisconsin of the recorded covenant shall be deposited with the Building Inspector. The covenant shall not be released until such time as either one of the following conditions occur:

(1) The structure on the lot containing the principal use is removed and the principal use terminated; or

(2) Another lot of the required size within the required distance is properly developed and used for the required accessory offstreet parking in place of and in lieu of the initial lot used for accessory offstreet parking, with the same requirements, covenants, and conditions attaching to such substitute accessory use lot as required for approval of such initial offstreet parking.

(f) **Landscaping Requirements.**

(1) ***Landscaping.*** All public and private off-street parking areas which serve five (5) vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Code shall be provided with accessory landscape areas totalling not less than ten percent (10%) of the surfaced area. The minimum size of each landscape area shall not be less than one hundred (100) square feet.

(2) ***Location.*** Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Building Inspector.

(3) ***Plans.*** All plans for such proposed parking areas, at the discretion of the Building Inspector, shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.

(4) ***Special Residential Requirements.*** Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density, or other effective means, built and maintained at a minimum height of five (5) feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Said fence shall be located a minimum of one (1) foot from the said lot line.

(5) ***Street Setback Area.*** No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.

(g) **Surfacing.** All off-street parking areas and outside storage areas shall be surfaced with an asphalt or portland cement pavement in accordance with Village standards and specifications so as to provide a durable and dustfree surface, and shall be so graded and drained as to dispose of all surface water without the need to cross neighboring properties. Surfacing shall be completed within eighteen (18) months following construction of the principal structure or use. The Village Board shall require the installation of catch basins in parking areas adjacent to the existing storm sewer system or may require that parking areas be designed to detain storm water. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.

(h) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in association with unenclosed parking facilities provided in residence districts.

(i) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) foot candles measured at the lot line.

(j) **Curbs or Barriers.** Curbs or barriers shall be installed a minimum of four (4) feet from a property line so as to prevent the parked vehicles from extending over any lot lines.

(k) **The Following Guide Specifies the Minimum Number of Parking Spaces Required.** The reference herein to "the work shift with the largest number of employees" means the maximum number of full-time or part-time employees present at the facility at any one (1) time. For example, the largest work shift may be a particular day of the week, or a lunch or dinner period in the case of a restaurant. The reference herein to "maximum capacity" means the maximum number of persons which may be accommodated by the use as determined by its design or by applicable building code regulations, whichever is greater. In the case of structures or uses not specified herein, the number of spaces specified for a use which is similar shall apply. In developments involving the establishment of two (2) or more uses on one (1) lot or parcel, the number of spaces required for each use shall determine the total number of spaces required.

(1) ***Residential Uses.***

a. Single-family, two-family and multiple-family dwelling: Two (2) spaces per dwelling unit.

b. Housing for the elderly: 0.75 space per dwelling unit.

(2) ***Retail Sales and Customer Service Uses; Places of Entertainment.*** Retail sales and customer service uses, and places of entertainment, except as specifically set forth below: one (1) space per one hundred fifty (150) square feet of gross floor area of customer sales and service, plus one (1) space per two hundred (200) square feet of storage and/or office gross floor area, or if the use has at least eighty thousand (80,000) square feet of gross floor area, one (1) space per two hundred (200) square feet of gross floor area. Other retail sales and customer service uses and places of entertainment:

a. Financial institutions: One (1) per one hundred fifty (150) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees. Financial institutions with drive-through service facilities shall provide sufficient space for four (4) waiting vehicles at each drive-through service lane.

b. Funeral homes: One (1) space per four (4) patron seats of maximum capacity of twenty-five (25) spaces per chapel unit, whichever is greater.

c. Grocery stores or supermarkets: One (1) space per one hundred fifty (150) square feet of gross floor area of customer sales and service plus one (1) space per employee for the work shift with the largest number of employees.

d. Motels and hotels: One (1) space per room or suite, plus one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per three (3) persons of maximum capacity of each public meeting and/or banquet room.

e. Lodges and clubs: One (1) space per three (3) persons based on the maximum capacity of the facility.

f. Repair services: One (1) space per three hundred (300) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

g. Restaurant, standard sit-down: One (1) space per one hundred fifty (150) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

h. Theaters, auditoriums and other places of public assembly: One (1) space per three (3) patrons based on the maximum capacity of the facility.

i. Barber shops; beauty shops, health clubs; personal services: One (1) space per two hundred (200) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

j. Convenience grocery stores: One (1) space per one hundred (100) square feet of gross floor area.

k. Restaurants, drive-in: One (1) space per fifty (50) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of

employees. Drive-in restaurants with drive-through facilities shall provide sufficient space for four (4) waiting vehicles at each drive-through service lane.

l. Taverns, dance halls, night clubs and lounges: One (1) space per fifty (50) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

m. Motor vehicle sales establishments: Two (2) customer parking spaces per salesperson for the work shift with the largest number of salespersons, plus one (1) employee parking space per employee (including sales persons) for the work shift with the largest number of employees.

n. Motor vehicle repair, maintenance and service stations: Three (3) spaces per indoor service bay plus one (1) space per employee for the work shift with the largest number of employees.

o. Animal hospitals: Three (3) patron parking spaces per doctor, plus one (1) employee parking space for the work shift with the largest number of employees.

p. Plant nurseries and garden and lawn supply sales establishments: One (1) space per two hundred (200) square feet of gross floor area of inside sales or display, plus one (1) space per five hundred (500) square feet of gross outside sales or display area, plus one (1) space per employee for the work shift with the largest number of employees.

q. Shopping centers [gross leasable area of at least fifty thousand (50,000) square feet]: Five and one-half (5-1/2) spaces per one thousand (1,000) square feet of gross leasable area.

r. Car washes: One (1) space per employee for the work shift with the largest number of employees. Car washes shall provide sufficient space for four (4) waiting vehicles at each washing stall and sufficient space for drying two (2) vehicles after washing stall.

(3) ***Offices.***

a. Medical, dental and similar professional health service offices: Five (5) patron parking spaces per doctor, plus one (1) parking space per employee for the work shift with the largest number of employees.

b. Government, professional and business offices: One (1) space per one hundred fifty (150) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

(4) ***Commercial/Recreational Uses.*** Commercial/recreational uses, except as specifically set for below: one (1) space per four (4) patrons based on the maximum capacity of the facility, plus one (1) space per two (2) employees the work shift with the largest number of employees.

Other Commercial/Recreational Uses:

a. Bowling alleys: Five (5) spaces for each lane, plus one (1) space per employee for the work shift with the largest number of employees.

b. Golf courses: Ninety (90) spaces per nine (9) holes, plus one (1) space per employee for the work shift with the largest number of employees.
c. Golf driving ranges: One (1) space per tee, plus one (1) space per employee for the work shift with the largest number of employees.
d. Indoor tennis, racquetball and handball courts: Three (3) spaces per court, plus one (1) space per employee for the work shift with the largest number of employees.
e. Miniature golf courses: One and one-half (1-1/2) spaces per hole, plus one (1) space per employee for the work shift with the largest number of employees.
f. Skating rinks, ice or roller: One (1) space per two hundred (200) square feet of gross floor area.

(5) ***Industrial and Related Uses.***

a. Manufacturing, processing, fabrication operations, wholesale business and warehousing: One (1) space per two thousand (2,000) square feet.
b. Mini-warehouse: One (1) space per ten (10) storage cubicles.
c. Extractive and related operations: One (1) space per employee for the work shift with the largest number of employees.

(6) ***Institutional and Related Uses.***

a. Churches: One (1) space per three (3) seats based on the maximum capacity of the facility.
b. Libraries: One (1) space per two hundred fifty (250) square feet of gross floor area or one (1) space per four (4) seats of maximum capacity, whichever is greater, plus one (1) space per employee for the work shift with the largest number of employees.
c. Museums: One (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.
d. Rooming and boarding houses, fraternity and sorority houses, dormitories and rectories: One (1) space per bed.
e. Convents and monasteries: One (1) space per three (3) residents, plus one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per five (5) chapel seats if the public may attend.
f. Nursing homes: One (1) space per three (3) patient beds, plus one (1) space per employee for the work shift with the largest number of employees.
g. Hospitals: Two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee for the work shift with the largest number of employees.
h. Schools.
    1. Elementary schools and high schools: One (1) space for each teacher and staff member, plus one (1) space for each ten (10) students sixteen (16) years of age and older.

2. Colleges, universities, and trade schools: One (1) space for each teacher and staff member during the highest class attendance period, plus one (1) space for each two (2) students during the highest attendance period.
3. Children's nursery schools or day schools: One (1) space per employee for the work shift with the largest number of employees, plus one (1) space per six (6) students at the highest class attendance period.

(l) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.

(m) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed. All open off-street parking areas providing more than twenty-five (25) parking spaces, except for parking areas restricted to use by employees only, shall provide parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the following minimum standards:

(1) One (1) parking space shall be provided in parking areas containing twenty-six (26) to forty-nine (49) spaces.
(2) Two percent (2%) of the total number of spaces shall be provided in parking areas containing fifty (50) to one thousand (1,000) spaces.
(3) In addition to the number of spaces required in Subsection (i)(2) above, one percent (1%) of each one thousand (1,000) spaces over the first one thousand (1,000) spaces for parking areas providing more than one thousand (1,000) spaces.
(4) The minimum dimensions for all parking spaces provided for use by physically disabled persons shall be twelve (12) feet by eighteen (18) feet.
(5) Parking spaces provided for the use of physically disabled persons shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.
(6) All parking spaces provided for the use of physically disabled persons shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by physically disabled persons.
(7) In the event that the Wisconsin Statutes or Wisconsin Administrative Code are amended, the amendments will supercede the authority of this Chapter.

(n) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(o) **Off-Lot Parking.**

(1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the Village Attorney.

(2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.

(3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.

(4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

(p) **Fire Lanes.** A fire lane shall be required to provide access to any portion of any structure equal to or less than forty (40) feet tall which is more than one hundred fifty (150) feet from the nearest street right-of-way, and to any portion of any structure greater than forty (40) feet tall which is more than fifty (50) feet from the nearest street right-of-way. The Zoning Administrator may also require the provision of a fire lane or lanes to any part of any structure upon a determination that the distance of the structure from the nearest hydrant, the configuration of development on the site, or other special characteristics of the site otherwise inhibit effective fire extinguishment. All fire lanes shall: provide clear, unobstructed access for vehicles and apparatus at all times through a combination of pavement marking and signage; shall be a minimum of eighteen (18) feet wide; and shall be surfaced as an all-weather roadway.

(q) **Lighting.** All off-street parking and traffic circulation areas serving six (6) or more cars shall be lit so as to ensure the safe and efficient use of said areas during the hours of use. An illumination level of between 0.4 and one (1.0) footcandles is recommended for said areas.

Sec. 13-1-93 Highway Access.

(a) **Private Access Restricted.** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction.

(b) **Public or Private Access Prohibited.** No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

(1) Freeways, interstate highways and their interchanges or turning lanes nor to intersection of interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes.
(2) Arterial streets intersecting another arterial street within one hundred (100) feet of the intersection of the right-of-way lines.
(3) Streets intersecting an arterial street within fifty (50) feet of the intersection of the right-of-way lines.

(c) **Public Access Barriers.** Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.

(d) **Temporary Access.** Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

Sec. 13-1-94 Parking Trucks or Buses in Residential Districts.

No licensed vehicle having a gross weight in excess of ten thousand (10,000) pounds, bus, or licensed trailer shall be parked or stored outside of a fully enclosed structure in any residential district, except when loading, unloading or rendering a service.

Sec. 13-1-95 Parking and Storage or Recreational Vehicles and Equipment.

(a) For the purpose of this Chapter, a "recreational vehicle or equipment" shall include boats and their trailers, motor homes, pickup campers, camping trailers, travel trailers, fifth-wheel trailers, utility trailers, race cars and their trailers, snowmobiles and their trailers, sport aircraft and their trailers, canoes or kayaks and their trailers, all terrain vehicles and their trailers, tent campers, folding campers, and similar equipment and vehicles. For the purpose of administration, two (2) snowmobiles (or similar recreational vehicles) located on a trailer intended for transporting those vehicles shall be considered one (1) unit, however, two (2) such vehicles not located on a trailer shall be counted as two (2) units.

(b) Outside parking or storage of recreational vehicles or equipment shall be subject to the following regulations:
(1) No more than two (2) recreational vehicles (or units) or equipment shall be parked or stored outside.
(2) Recreational vehicles or equipment parked outside shall not exceed twenty-eight (28) feet in length, eight and one-half (8-1/12) feet in width, and ten (10) feet in height.

(3) If the driveway of a residence extends beyond the front yard into the side or rear yard, no parking or storage of recreational vehicles or equipment shall be permitted on the driveway in the front yard.

(4) If the driveway of a residence does not extend beyond the front yard into the side or rear yard, then parking or storage of one recreational vehicle or equipment is permitted in the front yard. One (1) additional recreational vehicle or equipment may be parked or stored in the side or rear yard. Under any circumstances, no parking of recreational vehicles or equipment is permitted in the front yard off the driveway.

(5) Recreational vehicles or equipment shall not be parked closer than two (2) feet from a side or rear property line; or closer than fifteen (15) feet to a neighboring residence, whichever distance is greater.

(6) Recreational vehicles or equipment shall not be parked in an existing or future street right-of-way; a vision clearance triangle; or within drainage or utility easements.

(7) Recreational vehicles or equipment shall be maintained and be in good condition. The exterior of the vehicle or equipment shall be intact.

(8) Recreational vehicles or equipment shall be roadworthy. Vehicles or equipment which require a license shall be properly licensed.

(9) Recreational vehicles or equipment parked outside shall be owned by the resident of the property on which they are located.

(10) Recreational vehicles or equipment shall be parked or stored as inconspicuously as possible on the property. Areas where vehicles and equipment are parked or stored shall be kept weed-free and free of the accumulation of other storage material.

(11) Recreational vehicles and equipment, including those larger than permitted by these regulations, may be parked on a driveway for a reasonable period of time to accommodate loading and unloading, and to accommodate visitors.

Sec. 13-1-96 Specifications for Angle Parking Areas in the M-1 and M-3 Industrial Districts.

To angle park in the M-1 and M-3 Zoning District, one must submit a plan of the parking area. The plan must include:

(a) Plat of survey, if deemed necessary.

(b) Grades: parking area must meet the proper elevation at the back of the curb and must show sufficient grade to allow proper drainage.

(c) Information showing that the parking area is:

(1) Hard surfaced with six (6) inches of compacted stone as a base and a minimum of three (3) inches of bituminous concrete or six (6) inches of portland cement concrete.

(2) At least twenty (20) feet of land is available between the building line and the proposed curb line.

(d) Complete set of plans drawn to one-eighth inch equals one foot (1/8":1') scale showing:
   (1) All dimensions of the lot, buildings, proposed parking area, overhead and service doors, loading docks, and dumpsters.
   (2) Any landscaping that may be required.
   (3) The number of signs, and an attached copy of the permit application for signs, that are necessary for orderly parking, also the number of signs and location, if requested, by property owner as per license agreement, paragraph six, "Parallel Parking."
   (4) A detail showing the striping of parking that allows for a minimum nine (9) feet wide stall, and that the stall will be at a ninety degree (90°) angle to the street.
   (5) A plan of maintenance showing:
      a. The conditions under which sealing and restriping will be completed [ten (10) years for sealing and five (5) years for restriping would be considered a maximum].
      b. How snow will be removed and where it will be stored.
      c. Location of fire hydrants if adjacent to the property.
   (6) Completed application for "Permit to Pave or Alter Portions of Village Right-of-Way".

Sec. 13-1-97 Driveways.

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

(a) **Driveway Offsets.** Driveway offsets shall be provided in each zoning district as shown in the following table:

Zoning District	Minimum Distance Between Driveways	Minimum Distance Between Driveway and Side Lot Line
R-1, M-3	24 feet	12 feet
R-3, M-2	10 feet	5 feet
R-2, B-1, M-1	None	None

(b) **Driveway Widths.**
   (1) Driveway widths from the street right-of-way to the rear of the principal structure shall not exceed twelve (12) feet in an R-2 District nor twenty-four (24) feet in an R-1 or R-3 residential district nor forty (40) feet in any other district. No driveway in any district shall be less than nine (9) feet in width and driveways shall maintain a constant width from the street right-of-way to the rear of the principal structure. Driveways which do not lead to a carport or garage shall terminate at the rear of the principal structure. Driveways serving corner lots in an R-2 District may be greater

than twelve (12) feet in width, but not greater than twenty-four (24) feet, when the residential structure faces one street and the garage or carport faces the opposite street (see Illustration No. 3). Furthermore, a driveway in the R-2 District may be up to twenty-four (24) feet in width when it serves a two (2) car or larger garage, provided that such driveway does not vary in width from the street right-of-way to the rear of the principal structure. Driveways serving corner lots in an R-2 District may be greater than twelve (12) feet in width, but not greater than twenty-four (24) feet, when the residential structure faces one street and the garage or carport faces the opposite street (see Illustration No. 3). Furthermore, a driveway in the R-2 District may be up to twenty-four (24) feet in width when it serves a two-car or large garage, provided that such driveway does not vary in width from the street right-of-way to the rear of the principal structure.

(2) A driveway that serves two-car or larger attached garage must maintain a twelve (120) foot width from the street right-of-way to a point twenty (20) feet in front of the garage at which point it may be flared or widened to twenty (20) feet until it meets the garage.

(c) **Hard Surfacing Replacement.** Driveways constructed after July 1, 1992 shall be hard surfaced with concrete, asphalt, or paving bricks for their entire width within eighteen (18) months following construction of the principal structure or use; and shall be properly drained. Ribbon-type driveways utilizing alternating strips of hard-surface materials and sod shall be prohibited.

(d) **Rear Yard Extensions.** Driveways in Single-Family and Two-Family Residential Districts shall not extend into the rear yard beyond the back of the garage or carport; or where there is no garage or carport, shall terminate at the rear of the principal structure.

(e) **Street Address.** Access to a public street in a Residential District shall be provided by not more than one (1) driveway opening per lot except in an R-2 District which may have a total of two (2) driveway if there is a minimum eighty (80) feet street frontage and there are two (2) attached garages.

(f) **Driveway Flare.**

(1) A driveway flare is permitted adjacent to a garage in the R-1 Residential District provided that the existing driveway does not exceed twenty-four (24) feet in width; the driveway flare shall not extend more than ten (10) feet from a garage foundation; shall not be located closer than twelve (12) feet to a lot line, alley line, or other right-of-way; and shall be hard surfaced (asphalt or concrete). A driveway flare may not begin more than twenty (20) feet in front of the garage and no driveway flare may extend beyond the rear of the garage. No more than one parking space shall be provided in a driveway flare and any vehicle shall be parked parallel and adjacent to the garage. (See Illustration No. 4).

(2) In the alternative, a driveway flare may be permitted in front of a garage in an R-1 Residential District provided that the driveway flare shall not exceed ten (10) feet in

width; shall not be located closer than twelve (12) feet to a property line; and shall be hard surfaced (asphalt or concrete). A driveway flare located in front of a garage shall not exceed twenty (20) feet in length and the flare shall not begin more than thirty-five (35) feet in front of the garage. No more than one (1) parking space shall be provided in a driveway flare. (See Illustration No. 5).

Cross-Reference: Sections 6-3-1 and 6-3-2.

Sec. 13-1-98 through Sec. 13-1-99 Reserved for Future Use.

ILLUSTRATION NO. 1

VISION CLEARANCE TRIANGLE (CROSS-SECTIONAL VIEW)

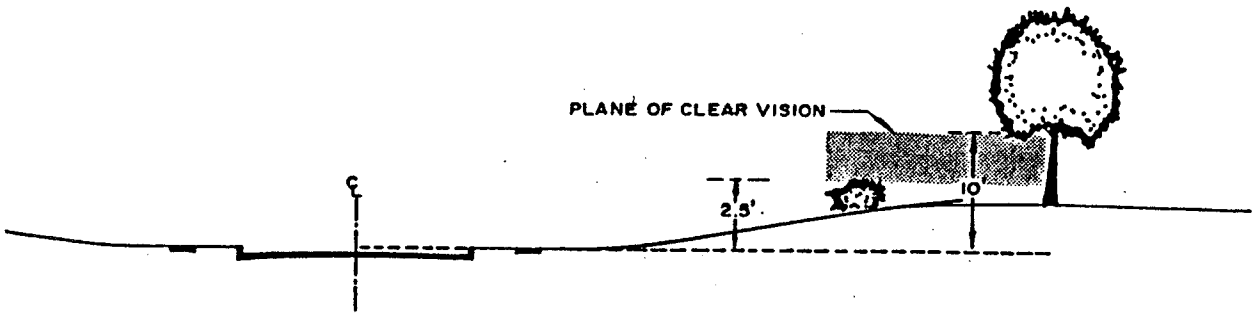


ILLUSTRATION NO. 2

VISION CLEARANCE TRIANGLE (PLAN VIEW)

TWO LOCAL STREETS INTERSECTING

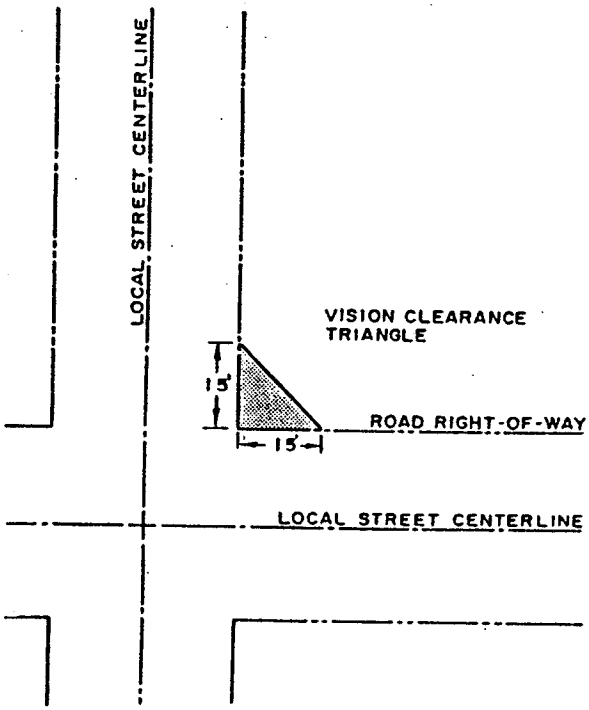
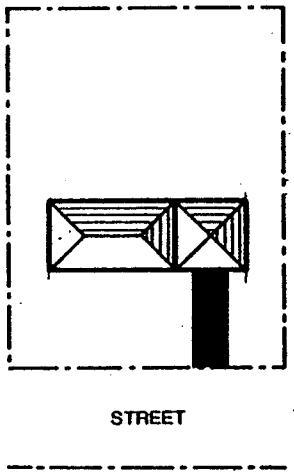
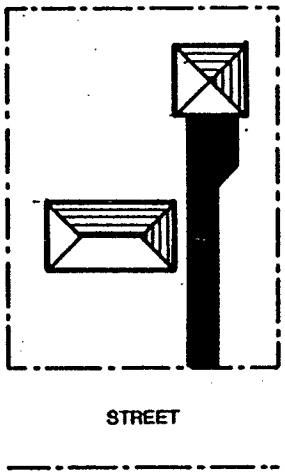


ILLUSTRATION NO. 3

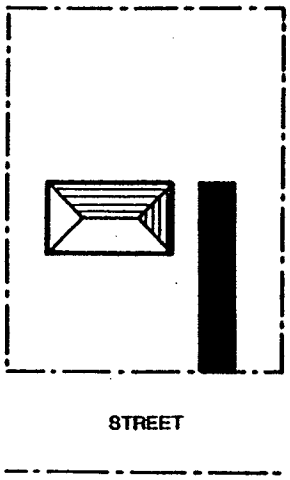
EXAMPLES OF TYPICAL DRIVEWAY CONFIGURATONS



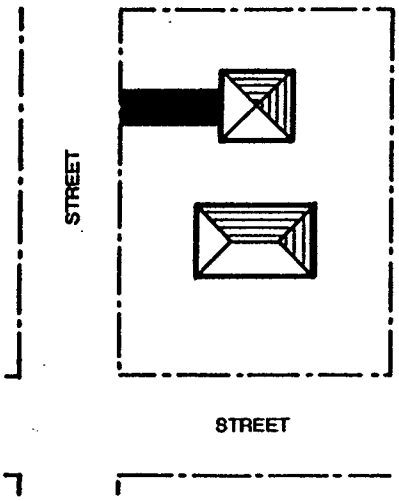
Driveway serving a dwelling with an attached garage



Driveway serving a dwelling with a detached garage featuring a flare behind the principal dwelling

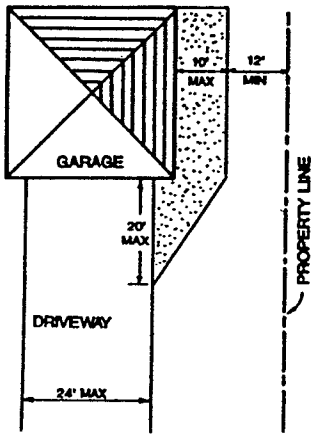


Driveway serving a dwelling with no garage

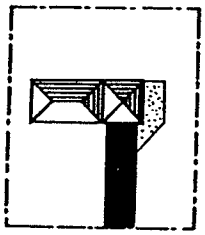


Corner lot constuction where the dwelling faces one street and the garage faces the opposite street

ILLUSTRATION NO. 4
TYPICAL DRIVEWAY FLARE LOCATED ADJACENT TO A GARAGE

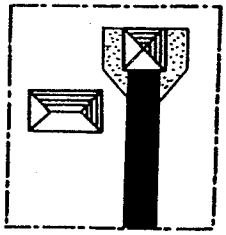


Alternative Driveway Flares



Single-Family Dwelling with Attached Garage

Flare allowed toward the "outside" of the lot

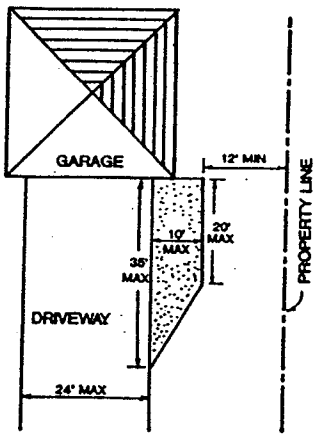


Single-Family Dwelling with Detached Garage

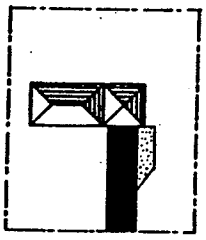
Flare allowed on either side of garage but not both

ILLUSTRATION NO. 5

TYPICAL DRIVEWAY FLARE LOCATED IN FRONT OF A GARAGE

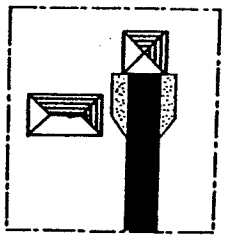


Alternative Driveway Flares



Single-Family Dwelling with Detached Garage

Flare allowed toward the "outside" of the lot



Single-Family Dwelling with Detached Garage

Flare allowed on either side of garage but not both

Article G: Signage Regulations

Sec. 13-1-100 Purpose of Sign Regulations.

(a) The purpose of this Article is to establish standards for the fabrication, erection, and use of signs and signage for all properties within the Village of Butler. This Article regulates the location, type, size, and height of signage in order to protect and promote the public welfare, health, and safety of persons within the community; to aid in the development and promotion of business and industry; and to ensure implementation of the Comprehensive Plan of the Village of Butler within the Village's zoning districts. The adoption of this Article reflects the formal finding of fact on the part of the Village of Butler Plan Commission and the Village Board that regulation of signage furthers four (4) compelling governmental interests:

(1) To promote the public welfare, health, and safety of all persons using the public thoroughfares and right-of-ways within the Village of Butler as to the signage displayed thereon, or overhanging, or projecting into such public spaces;

(2) To advance the aesthetic goals of the Village throughout the community, and to ensure the effectiveness and flexibility in the design of, and the creativity of, the use of such devices without creating detriment to the general public;

(3) To reduce the visual clutter caused by advertising signage which the Village has determined is a significant cause of unsafe traffic and visibility conditions; and

(4) To limit the spread of strip commercial development, of which signs are a primary contributor, so as to be respectful of the reasonable rights of other advertisers and business entities whose messages are also displayed in such areas.

(b) Furthermore, the Village of Butler advocates that this regulation leaves ample and adequate alternative channels of commercial speech communication for the messages portrayed on such advertising signage, namely, print media, broadcast media, and point-of-purchase display, and is narrowly defined so as to limit any prohibitions on commercial speech on exterior signage.

Sec. 13-1-101 Definitions.

The following definitions are used in this Article:

(a) **Area of Sign.** The area is the perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface. The area of the irregularly shaped sign shall be the entire area within a single continuous rectilinear perimeter of not more than eight (8) straight lines.

(b) **Awning.** A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure.

(c) **Awning Sign.** A nonilluminated identification sign affixed flat to the surface of an awning and which does not extend vertically or horizontally beyond the limits of such awning.

(d) **Banner.** A projecting type graphic that may only be displayed by commercial and institutional establishments, delineating a special area or depicting a special announcement.

(e) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.

(f) **Canopy.** A canopy is a shelter, with or without a sign, attached to or connected with a building and extending into a setback or over the public sidewalk.

(g) **Canopy Sign.** A sign suspended from or forming part of a canopy or marquee and which does not extend horizontally beyond the limits of such canopy or marquee.

(h) **Changeable Copy Sign.** Any sign which is characterized by changeable copy, letters, or symbols, regardless of method of attachment.

(i) **Day.** A day shall be designated as a period of time in terms of calendar days.

(j) **Directly Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

(k) **Directory Sign.** Shall mean any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories. Directory signs shall be encouraged for use with advertising of multiple-occupied commercial and industrial buildings.

(l) **Electronic Message Unit Sign**. Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.

(m) **Flags.** Devices generally made of flexible materials, such as cloth, paper, or plastic, and displayed on strings. They may or may not include copy. This definition does not include the flag of any country or state.

(n) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

(o) **Freestanding (Ground and/or Pole Sign).** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.

(p) **Ground Sign.** A sign attached to the ground independent of any buildings.

(q) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.

(r) **Indirectly Illuminated Sign.** Shall mean a sign that is illuminated from a source outside of the actual sign.

(s) **Marquee Sign.** Shall mean any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an

entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather (also known as a canopy sign).

(t) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.

(u) **Off-Premise Advertising Sign.** Any sign, device or display which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the sign is located. Off-premise advertising signs including billboards.

(v) **Political Sign.** Any sign displaying a candidate for an election, or a current election's subject matter.

(w) **Portable Sign/Message Boards.** Any sign not permanently attached to the ground which is designed to be easily moved from one location to another.

(x) **Projecting Sign.** A sign projecting more than twelve (12) inches from the face of the building.

(y) **Real Estate Sign.** Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.

(z) **Roof Sign.** Any sign erected upon or over the roof or parapet of any building.

(aa) **Sign.** A sign shall include anything that promotes, calls attention or invites patronage (or anything similar to the aforementioned) to a business, location or product.

(bb) **Signable Area.** The signable area of a building is designated as the area of the facade of the building up to the roof line which is free of windows and doors or major architectural detail on which signs may be displayed. In computing signable area, any facade which faces or abuts upon a public street right-of-way may be utilized. Calculations may include parapet walls, but shall exclude door and window openings.

(cc) **Temporary Sign.** Any sign which is erected or displayed for a limited period of time not to exceed twenty-eight (28) consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed eight (8) square feet in area. Examples of temporary signs include banners and decorative-type displays. For purposes of this Chapter, a portable sign is not a temporary sign.

(dd) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than twelve (12) inches from such wall and does not extend above the ceiling line of the top floor of the building.

(ee) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way. For purposes of this Chapter a window sign includes any sign permanently attached in the window or directly painted on the glass.

Sec. 13-1-102 Required Permits for Signs.

(a) **Application.** Except those specified in Section 13-1-103, no signs, billboards, awnings or canopies shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with

the provisions of this Article. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the Village of Butler. If the sign will affect the structural strength of a building, is large enough to require structural supports and bracing, or is to have electrical wiring, a building permit from the Building Inspector shall also be required. Signs shall not be erected or altered until a permit has been issued by the Building Inspector. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.

(b) **Required Information.** Application for a sign permit shall be made in writing upon forms furnished by the Village which contain the following information about the sign: dimensions, including display surface; materials; illumination; wiring; height above grade; distance from lot lines; and the person, firm or corporation erecting or altering the sign. A permit is not required for a copy change when no change in business name is involved.

(c) **Permit Fees.** Required permit fees shall be paid to the Building Inspector for each sign permit issued under this Article, provided, however, that a fee shall not be charged for putting an existing sign in conformity with this Article, or for a copy change when no change in business name is involved.

(d) **Measuring Signs.** In calculating the area of a sign to determine whether it meets the requirement of this Chapter, the Building Inspector shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the area calculation. Area of irregular shaped signs or signs contained two (2) or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.

(e) **Insurance.** Any person, firm or corporation engaged in the business of erecting, repairing, maintaining or relocating any sign shall maintain in effect at all times a policy of liability insurance with limits of One Hundred Thousand Dollars ($100,000.00) for bodily injury and Two Hundred Thousand Dollars ($200,000.00) aggregate and One Hundred Thousand Dollars ($100,000.00) property damage. Proof of insurance shall be presented to the Building Inspector before the sign permit is granted. This insurance requirement is also applicable to property owners erecting signs requiring a permit on their own property.

(f) **Inspection.** The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Building Inspector who will assure the sign complies with the regulations of this Article.

(g) **Appeals.** The Building Inspector may, at any time for a violation of this Article, revoke a permit or require changes so the sign conforms with this Article. The holder of a revoked permit shall be entitled to an appeal before the Village Board. Any person, firm or corporation aggrieved by any permit denial or decision by the Building Inspector relative to the provisions of these sign regulations may appeal and seek review of such decision to the Village Board.

Sec. 13-1-103 Signs Not Requiring a Permit.

The following signs are permitted in all zoning districts without a permit, subject to the following regulations:

(a) **Warning Signs** not to exceed four (4) square feet located on the premises.

(b) **Memorial Signs,** tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.

(c) **Official Signs,** such as traffic control, parking restriction, information and notices.

(d) **Signs Designating Entrances,** exits, service areas, parking areas, restrooms and other such signs relating to functional operation of the building or premises shall be permitted without limitation other than reasonable size and necessity.

(e) **Flags and Insignia** of any government, except when displayed in connection with commercial promotion.

(f) **Legal Notices,** identification information or directional signs erected by governmental bodies.

(g) **Integral Decorative** or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

(h) **Signs Directing and Guiding Traffic** and parking on private property, but bearing no advertising matter.

(i) **Real Estate Ground or Wall Signs,** not exceeding eight (8) square feet in area on one side or sixteen (16) square feet in area on all sides, which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located. No real estate sign shall be erected in a street right-of-way. Real estate signs shall be set back at least ten (10) feet from a side or rear lot line.

(j) **Ground Signs Identifying the Name and Address of the Resident** not exceeding two (2) square feet located on the premises. Name signs shall be set back at least ten (10) feet from a side or rear lot line.

(k) **Home Occupation and Professional Home Office Wall Signs** not exceeding two (2) square feet in area and mounted flush against the dwelling.

(l) **Election Campaign Signs** which address a particular election may be erected on any property provided that they shall comply with the following restrictions:

(1) No election campaign sign shall be placed within the street right-of-way nor so close to a pedestrian way as to hinder or endanger safe passage.

(2) All election campaign signs on non-residential properties which address a particular election may remain erected only from sixty (60) days prior to said election until ten (10) days following said election. All election campaign signs on residential properties which address a particular election may remain erected only during the pertinent "election campaign period" as defined in Sec. 12.04(1)(a), Wis. Stats. The person or party erecting an election campaign sign and the person or party on whose residential property said signs are erected are jointly responsible for their removal within ten (10) days following said election.

(3) No temporary election campaign sign placed on non-residential property shall exceed sixteen (16) square feet in area, the total area of signage of all temporary election campaign signs erected on one (1) non-residential parcel shall not exceed eighty (80) square feet.

(4) All temporary election campaign signs shall be constructed of such a material and posted so as to remain in place under all weather conditions which are reasonable likely to occur during the time which the sign is posted.

(m) **Rummage Sale and Garage Sale Signs,** not exceeding eight (8) square feet in area on one (1) side or sixteen (16) square feet in area on all sides, provided that no such signs shall be erected or placed within a public right-of-way, provided that such signs are placed no more than twenty-four (24) hours before the sale, and further provided that such signs are removed within twenty-four (24) hours following the sale.

(n) **Bulletin Boards on Ground Signs or Wall Signs** for public, charitable or religious institutions not to exceed fifty (50) square feet in area located on the premises. Bulletin boards shall be not less than ten (10) feet from any street right-of-way, or any side or rear lot line.

Sec. 13-1-104 Permitted Commercial and Industrial Signs.

(a) **Permitted Signs.** The following signs shall require a permit to be issued by the Village of Butler. Signs may be permitted in all commercial/business, planned unit development (commercial/industrial) and manufacturing/industrial districts, subject to the following restrictions:

(1) ***Wall Signs*** placed against the exterior walls of buildings shall not extend more than twelve (12) inches outside of a building's wall surface, and shall not exceed in area thirty percent (30%) of the signable area of the building, or three hundred (300) square feet, whichever is smaller, for any one premises. Wall signs shall not extend above the ceiling level of the top floor of the building upon which they are located. Signs attached to fences shall be considered to be wall signs.

(2) ***Projecting Signs, Awning Signs, Canopy Signs, and Marquees*** fastened to, suspended from, or supported by structures shall not exceed one hundred (100) square feet in area for any one premises; shall not extend more than six (6) feet into any required yard; shall not extend into the street yard or street right-of-way closer than one (1) foot to the vertical plane formed by the curbline; shall not be less than ten (10) feet from all side lot and rear lot lines; shall not exceed a height of twenty (20) feet above the mean centerline street grade; and shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.

(3) ***Ground Signs*** shall not exceed twenty (20) feet in height above the mean centerline street grade, and shall not exceed eighty (80) square feet on one (1) side nor one

hundred sixty (160) square feet on all sides for any one premises. Ground signs shall be not less than ten (10) feet from any street right-of-way, or any side or rear lot line. No ground sign shall be placed closer than eighty (80) feet to another ground sign or projecting, awning, canopy, or marquee sign.

(4) ***Marquee, Awning or Canopy Signs.*** Marquee, awning, or canopy signs affixed flat to the surface of the marquee, awning, or canopy are permitted providing that the sign does not extend vertically or horizontally beyond the limits of said marquee, awning, or canopy. A marquee, awning, or canopy may extend to within one (1) foot of the vertical plane formed by the curb. A name sign not exceeding two (2) square feet in area located immediately in front of the entrance to an establishment may be suspended from a canopy provided that the name sign shall be at least ten (10) feet above the sidewalk.

(5) ***Time and Temperature Devices.*** Time and temperature devices may be erected as either ground signs or wall signs and shall meet all requirements attendant to those sign types. No time and temperature device, however, shall be located closer than seven hundred fifty (750) feet to another time and temperature device.

(6) ***Window Signs.*** Window signs shall not exceed fifty percent (50%) of the glass area of the pane upon which the sign is displayed and shall be mounted on the inside of the building.

(7) ***Roof Signs*** shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which they are located, and shall not exceed three hundred (300) square feet on all sides for any one (1) premises.

(b) **Facing.** No sign except those permitted in Subsection (a) shall be permitted to face a Residence District within one hundred (100) feet.

(c) **Lighting.** Business and industrial signs may be internally lighted or illuminated by a hooded reflector, provided, however, that such lighting shall be arranged to prevent glare and no sign shall be lighted by a lighting of intermittent or varying intensity. Animated signs, or signs having moving parts, or signs which may be mistaken for traffic signal devices, or which diminish the visibility or effectiveness of such traffic signal devices are prohibited.

(d) **Signs Causing Obstruction Prohibited.** Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as means of ingress or egress, or for firefighting purposes, or placed so as to interfere with any opening required for legal ventilation is prohibited.

(e) **Signs at Intersection Prohibited.** No sign or advertising device shall be erected or maintained at the intersection of streets in such a manner as to obstruct clear vision of the intersection.

Sec. 13-1-105 Permitted Residential Signs.

In addition to those permitted signs not requiring a permit pursuant to Section 13-1-103(b), the following nonflashing, nonilluminated signs are permitted following issuance of a sign permit

under the conditions specified in all residential and planned unit development (residential) districts established by this Chapter:

(a) **Nameplate and Identification Signs.** Subject to the following:

(1) ***Area and Content — Residential.*** There shall be not more than one (1) nameplate, not exceeding two (2) square feet in area, for each dwelling unit, indicating the name or address of the occupant or a permitted home occupation. On a corner lot, two (2) such nameplates for each dwelling unit (one facing each street) shall be permitted.

(2) ***Projection.*** Such signs shall be affixed flat against the wall of the building.

(3) ***Height.*** No sign shall project higher than one (1) story or fifteen (15) feet above curb level, whichever is lower.

(b) **"For Sale" and "To Rent Signs.** Subject to the following:

(1) ***Area and Number.*** There shall be not more than one (1) sign per zoning lot, except that on a corner zoning lot two (2) signs (one facing each street) shall be permitted. No sign shall exceed eight (8) square feet in area nor be closer than ten (10) feet to any other zoning lot. Such signs shall not be located in a public right-of-way and shall only be located on the property offered for rent or sale, unless written permission is first secured from the property owner.

(2) ***Height.*** No sign shall project higher than one (1) story or fifteen (15) feet above curb level, whichever is lower, when attached to a building; detached or free-standing signs shall not be more than four (4) feet in height, measured from the soil grade to the top of the sign post.

(c) **Signs Accessory to Parking Area.** Subject to the following:

(1) ***Area and Number.*** Signs designating parking area entrances or exits are limited to one (1) sign for each such exit or entrance, and to a maximum size of two (2) square feet each. One (1) sign per parking area, designating the conditions of use or identity of such parking area and limited to a maximum size of nine (9) square feet, shall be permitted. On a corner lot, two (2) such signs (one facing each street) shall be permitted.

(2) ***Projection.*** No sign shall project beyond the property line into the public way.

(3) ***Height.*** No sign shall project higher than seven (7) feet above curb level.

(d) **Permanent Real Estate Development Signs** placed at the entrance to a subdivision or development shall contain only the name of the subdivision or development and shall be not closer than ten (10) feet from a street right-of-way, or side or rear lot line. The Plan Commission shall determine the appropriate size of the sign based on the design of the sign and its compatibility with adjacent land uses.

(e) **Temporary Development Signs** for the purpose of designating a new building or development, or for promotion of a subdivision, may be permitted for a limited period of time provided that the sign shall not exceed forty-eight (48) square feet in area and shall be not closer than ten (10) feet from a street right-of-way, or side or rear lot line. The Building Board shall specify the period of time the sign may remain based on the size of the development allowing a reasonable time to market the development.

(f) **Nonflashing, Illuminated Church Bulletins.** Subject to the following:
   (1) ***Area and Number.*** There shall be not more than one (1) sign per lot, except that on a corner lot, two (2) signs (one facing each street) shall be permitted. No sign shall exceed sixteen (16) square feet in area nor be closer than eight (8) feet from any other zoning lot.
   (2) ***Projection.*** No sign shall project beyond the property line into the public way.
   (3) ***Height.*** No sign shall project higher than one (1) story or fifteen (15) feet above the curb level, whichever is lower.

Sec. 13-1-106 Landscape Features.

Landscape features such as plant materials, berms, boulders, fencing and similar design elements unincorporated or in conjunction with the freestanding signs are encouraged and shall not be counted as allowable sign area.

Sec. 13-1-107 Prohibited Signs.

(a) **Traffic Interference.** Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign, awning or canopy shall be placed so as to obstruct or interfere with traffic visibility.

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

(c) **Signs on Public Rights-of-Way.** Signs shall not be permitted on public rights-of-way, except for municipal traffic control, parking and directional signs and as otherwise specified in this Chapter, or be located within five (5) feet of a property line.

Sec. 13-1-108 Dangerous and Abandoned Signs.

(a) **Removal of Dangerous Signs.** All signs shall be removed by the owner or lessee of the premises upon which the sign is located in the judgment of the Zoning Administrator, such

sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Zoning Administrator may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the decision of the Zoning Administrator to the Village Board.

(b) **Abandoned Signs.** Except as otherwise herein provided, all sign messages shall be removed by the owner or lessee of the premises upon which an off-premise sign is located when the business it advertised is longer conducted where advertised. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner sixty (60) days' written notice to remove said sign and thereafter upon the owner's or lessee's failure to comply may remove such sign, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Zoning Administrator may take any other appropriate legal action necessary to attain compliance.

(c) **Violations**. All signs constructed or maintained in violation of any of the provisions of this Article after the date of adoption are hereby declared public nuisances within the meaning of this Code of Ordinances. In addition to the penalty provisions for violations of this Article, the Zoning Administrator or Village Board may bring an action to abate the nuisance in the manner set forth in the Wisconsin Statutes.

Sec. 13-1-109 Variances or Exceptions.

Variances or exceptions to these sign regulations may be granted by the Board of Appeals following a recommendation from the Village Board and Zoning Administrator, pursuant to the standards of the Village Zoning Code.

Sec. 13-1-110 Construction and Maintenance Regulations for Signs.

(a) **Installation.** All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Zoning Administrator and/or Building Inspector.

(b) **General Requirements.**

(1) ***Construction Standards.*** All signs, except flat signs and those signs weighing less than ten (10) pounds, shall be designed, fastened and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed, attached, fastened or anchored to adequately support the dead load and any anticipated live loads (i.e., ice, snow) of the sign.

(2) ***Illuminated Signs.*** Any illuminated signs shall not interfere with surrounding properties or traffic.
(3) ***Projection.*** Signs including supports shall not interfere with surrounding properties or traffic.
(4) ***Prohibited Mounting.*** No signs shall be painted on, attached to or affixed to any trees, rocks, or other similar organic or inorganic natural matter, including utility poles or apparatus.
(5) ***Blanketing.*** Blanketing of signs on buildings shall not be allowed.
(6) ***Maintenance.*** All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean. All signs shall be kept in good structural condition, well painted, and clean at all times and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.

Sec. 13-1-111 Special Sign Requirements.

(a) **Electronic Message Unit Signs.**
(1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.
(2) Segmented messages must be displayed for not less than one-half (1/2) second and more than ten (10) seconds.
(3) Traveling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.

(b) **Portable Signs/Message Boards.** Portable signs or other portable advertising structures shall be prohibited within the Village.

(c) **Search Lights.** The Zoning Administrator may permit the temporary use of a searchlight for advertising purposes in any district provided that the searchlight will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five (5) days in any six (6) month period.

Sec. 13-1-112 Nonconforming Signs.

(a) **Signs Eligible For Characterization as Legal Nonconforming.** Any sign located within the Village of Butler limits of the date of original adoption of this Article hereafter which does not conform with the provisions of this Article is eligible for characterization as a legal nonconforming sign and is permitted. However, all nonconforming signs shall be deemed to have exhausted their economic life after seven (7) years from the time they

became a nonconforming use. After this seven (7) year period, nonconforming signs shall either be made to conform to the terms of this Article or shall be removed by the owner, agent, or person having beneficial use of the property. During the seven (7) grace period, nonconforming signs shall be kept in good repair, but the cost of maintenance shall not be considered grounds for their continued use beyond the seven (7) year grace period. After the seven (7) year grace period, the Building Inspector shall notify the owner, agent, or person having beneficial use of the property of the expiration of the grace period. After thirty (30) days, if the sign has not been made to conform to this Chapter or removed, the Building Inspector shall initiate appropriate punitive action. Signs which are not repaired, painted, or maintained pursuant to written notification and orders by the Building Inspector shall also be subject to punitive action.

(b) **Loss of Legal Nonconforming Status.** A sign loses its nonconforming status if one (1) or more of the following occurs:

(1) If said sign is damaged by fire, flood, explosion, earthquake, war, riot or Act of God; or structurally altered in any way, except for normal maintenance and repair; the sign may be reconstructed and used as before if it is reconstructed within three (3) months after such calamity, unless the damage to the sign is fifty percent (50%) or more of its replacement value, in which case, the constructed sign shall comply with the provisions of this Article.

(2) The sign is relocated or changed;

(3) The sign fails to conform to the Village requirements regarding maintenance and repair, abandonment or dangerous or defective signs;

(4) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Article with a new permit secured therefor or shall be removed.

(5) The sign is altered. For the purposes of this Section, alteration of a sign is considered to be any change to the structure of any part of the sign, its frame, its supporting structure, or its lighting, including: changing the sign area, height, location, shape, illumination, or any other alterations as determined by the Zoning Administrator. Altering a sign does not include maintaining the existing appearance of the sign or replacing the sign face with comparable materials and colors, nor changing the message of a sign, as determined by the Zoning Administrator. All signs found not to be in compliance with the provisions of this Section shall be removed within thirty (30) days of receiving written notice of noncompliance and removal from the Zoning Administrator.

(c) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Article shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance and repair of signs.

Sec. 13-1-113 Awnings and Canopies.

(a) **Permitted Awnings.** No awnings (non-collapsible tape) shall be erected or maintained, except such awnings as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:

(1) ***Support.*** Awnings shall be securely attached to and supported by the building and shall be without posts or columns beyond the setback line.

(2) ***Height.*** All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than seven (7) feet above the level of the public sidewalk or public thoroughfare.

(3) ***Setback from Curb Line.*** No awning shall extend within one (1) foot of the curb line.

(b) **Permitted Canopies.** No canopies shall be erected or maintained, except such canopies as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:

(1) ***Support.*** The structural support of all canopies shall be approved by the Zoning Administrator as in compliance with the Building Code of the Village and shall meet state building codes. All frames and supports shall be of metal and designed to withstand a wind pressure as provided in Section 13-1-110 of this Code. All canopies shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and the sidewalk or ground below.

(2) ***Height Above Sidewalk.*** All canopies shall be constructed and erected so that the lowest portion thereof shall not be less than eight (8) feet above the level of the sidewalk or public thoroughfare.

(3) ***Setback From Curb.*** No canopy shall extend beyond a point two (2) feet from the curb line.

Sec. 13-1-114 Violations of Sign Code.

(a) **Construction Without Permit.** Any person, firm or corporation who begins, erects or completes the erection or construction of any sign, awning or canopy controlled by this Article prior to the granting of a sign permit shall pay a penalty double the amount of the permit otherwise required.

(b) **Compliance Notice.**

(1) If the Zoning Administrator finds any sign, awning or canopy regulated herein unsafe or insecure or is a menace to the public, it shall give written notice to the sign owner and to the property owner.

(2) If such sign, awning or canopy owner fails to remove or alter the sign, awning or canopy so as to comply with the standards herein set forth within five (5) days after such notice, the Zoning Administrator may cause such sign, awning or canopy to be removed or altered at the expense of the owner of the sign, awning or canopy or the owner of the property upon which it is located so as to comply with the provisions of this Article.

(c) **Violations; Penalties.** Any person who shall violate any of the provisions of this Article shall be subject to a penalty which shall be as follows:

(1) Any person found guilty of violating any part of this Article who has previously been notified of being in violation or been convicted of violating the same Article within one (1) year shall, upon conviction thereof, be subject to a forfeiture as prescribed by Section 1-1-6 for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.

(2) Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Article shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Article.

Sec. 13-1-115 through Sec. 13-1-119 Reserved for Future Use.

Article H: Performance Standards

Sec. 13-1-120 Article Intent.

It is the intent of this Article to use performance standards for the regulation of uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects. This Chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used except in compliance with the district regulations and with the following environmental performance standards.

Sec. 13-1-121 Miscellaneous Noise Standards.

(a) **Water Quality Protection.**

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

(2) In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed, or contribute toward the exceeding of, those standards set forth in the Wisconsin Administrative Code.

(b) **Noise.** No activity or person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making or continuing of such noise cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person.

(c) **Vibration.**

(1) No activity in any district shall emit vibrations which are discernable without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (Cycles Per Second)	Displacement in Inches Outside the Premises	Displacement in Inches Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and Over	.0002	.0001

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

(d) **Glare and Heat.** No activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the industrial district which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

(e) **Odor.** No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Ch. NR 154.18, Wis. Adm. Code.

(f) **Fire and Explosive Hazards.** All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive material shall be provided with adequate safety devices against the hazard of fire and explosion, and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system.

Sec. 13-1-122 Hazardous Pollutants.

(a) **Pollutants.** No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 154.19, Wisconsin Administrative Code.

(b) **Air Pollution.**

(1) No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wisconsin Administrative Code.

(2) No activity or operation shall be established or maintained which by reason of its nature causes emission of any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or property. In no case shall any activity emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas, nor any color visible smoke equal to or darker than No. 2 on the Ringlemann Chart described in the United States Bureau of Mines' Information Circular 7718 in any Industrial District.

(c) **Liquid or Solid Wastes.** No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water

supply; can cause the emission of dangerous or offensive elements; can overload the existing municipal utilities; or can injure or damage persons or property.

(d) **Water Quality Protection.**

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

(2) In addition, no activity shall withdraw water or discharge any liquid, or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards and those other standards and the application of those standards set forth in Ch. NR 102, Wis. Adm. Code.

Sec. 13-1-123 Radioactivity and Electrical Disturbances.

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

Sec. 13-1-124 Exterior Lighting Standards.

(a) **Purpose.** The purpose of this Section is to regulate the spill-over of light and glare on operators of motor vehicles, pedestrians, and land uses in the vicinity of a light source in order to promote traffic safety and to prevent the creation of nuisances.

(b) **Applicability.** The requirements of this Section apply to all private exterior lighting within the jurisdiction of this Chapter, except for lighting within public rights-of-way and/or lighting located on public property.

(c) **Depiction on Required Site Plan.** Any and all exterior lighting shall be depicted as to its location, orientation and configuration on the site plan required for the development of the subject property.

(d) **Requirements.**

(1) ***Orientation of Fixture.*** In no instance shall an exterior lighting fixture be oriented so that the lighting element (or a transparent shield) is visible from a property located within a residential zoning district. The use of shielded luminaries and careful fixture placement is encouraged so as to facilitate compliance with this requirement.

(2) ***Intensity of Illumination.*** In no instance shall the amount of illumination attributable to exterior lighting, as measured at the property line, exceed 0.50 footcandles above ambient lighting conditions on a cloudless night.

(3) ***Location.*** Light fixtures shall not be located within required bufferyards.

(4) ***Flashing, Flickering and Other Distracting Lighting.*** Flashing, flickering and/or other lighting which may distract motorists are prohibited.

(5) ***Minimum Lighting Standards.*** All areas designated on required site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 footcandles.

(6) ***Nonconforming Lighting.*** All lighting fixtures existing prior to the effective date of this Section shall be considered as legal conforming uses.

(7) ***Special Events Lighting.*** Any temporary use using exterior lighting which is not in complete compliance with the requirements of this Section shall secure a temporary use permit.

Sec. 13-1-125 Industrial and Commercial Waste Collection.

The collection, removal, and disposal of the waste generated by industrial and commercial facilities shall be conducted in conformity with the provisions of this Section, and with such additional rules and regulations as may be made from time to time by the Village Board:

(a) Waste collectors for industrial and commercial facilities operating regular pickup services with the Village shall not operate between the hours of 7:00 p.m. and 7:00 a.m. They shall, during early morning hours, use every precaution to prevent unnecessary noises.

(b) Every person having garbage, rubbish, or waste matter shall provide and keep the same in suitable containers in good repair, with a clean, painted surface (earth tones). The container shall be of sufficient size to accommodate, the accumulation thereof during the interval between collections or other disposition which in no event shall be less than once in every two (2) weeks, provided, the Building Inspector may require more frequent collections for restaurants, food establishments, and other enterprises demanding more frequent collections to protect the health, safety and welfare.

(c) Dumpsters used for collection of all kinds of matter that may decay or spoil must be covered. Any dumpsters used for collection of other types of waste materials resulting from the manufacture or processing of products need not be covered, provide that said materials cannot spill or be blown from the dumpster.

(d) All industrial, multi-family apartments, and commercial entities not requiring the use of dumpsters shall comply with applicable provisions of the Butler Code of Ordinances.

(e) Outside dumpsters shall be positioned on private property only; shall be placed on a solid concrete or blacktop pad; and shall not be placed in the front yard. Except in the M-2 and M-3 Industrial Districts outside dumpsters shall not be visible from any street or alley. View of outside dumpsters shall be concealed by use of an enclosure, solid fence, hedge, or other similar means.

(f) A plan showing dumpster placement and method of concealment shall be submitted to the Building Inspector prior to the issuance of an occupancy permit for any new occupancies or construction. Such dumpster shall be placed in the location approved by the Building Inspector.

(g) A dumpster shall be relocated in the permitted location after each pickup, in an orderly manner in a fashion either parallel to the building or perpendicular to the street/alley. Waste containers shall be stored on private property only, and those containers placed within view of the fronting street or alley, except in the M-2 and M-3 Industrial Districts shall be concealed from view by an enclosure, solid fence, hedge, or similar means.

(h) Review of waste collection and disposal plans shall be conducted in accordance with the principals set forth in this Chapter. Persons aggrieved by a decision of the Building Inspector or Building Board may appeal the decision as set forth in Article N. Violation of these provisions are considered a zoning violation and may be enforced pursuant to the provisions of Article L of this Chapter.

Sec. 13-1-126 Floodproofing.

Where floodproofing by means of elevating on fill is deemed inappropriate or impractical, and where floodproofing by means other than filling is permitted, floodproofing measures shall be in accordance with the following:

(a) **Floodproofing Measures Shall be Designed** to:

(1) Withstand the flood pressures, depth, velocities, uplift and impact forces, and other factors associated with the 100-year recurrence interval flood; and

(2) Assure protection to an elevation at least two (2) feet above the elevation of the 100-year recurrence interval flood; and

(3) Provide anchorage of structures to foundations to resist flotation and lateral movement; and

(4) Insure that the structural walls and floors are watertight and completely dry without human intervention during flooding to a point at least two (2) feet above the elevation of the 100-year recurrence interval flood.

(b) **No permit** or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect certifying that the floodproofing measures are adequately designed to protect the structure or development to a point at least two (2) feet above the elevation of the 100-year recurrence interval flood for the particular area.

(c) **Floodproofing Measures May Include** but are not limited to:

(1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;

(2) Addition of mass or weight to structures to prevent floatation;

(3) Placement of essential utilities above the flood protection elevation.
(4) Surface subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures;
(5) Construction of water supply wells, and waste treatment and collection systems to prevent the infiltration of floodwater into such systems;
(6) Cutoff valves on sewer lines and the elimination of gravity flow basement drains; and/or
(7) The construction of permanent or moveable watertight bulkheads, erection of permanent watertight shutters and doors, and installation of wire reinforced glass or glass block for windows.

Sec. 13-1-127 through Sec. 13-1-129 Reserved for Future Use.

Article I: Signal Receiving Antennas; Wind Energy Systems; Wireless Telecommunications Systems

Sec. 13-1-130 Signal Receiving Antennas.

(a) **Purpose.** In order to secure uniformity and compliance with Federal Communications Commission rules (FCC 96-328) on over-the-air reception devices implementing Section 207 of the Telecommunications Act of 1996, this Section regulating the placement of signal receiving antennas and over-the-air reception devices is adopted to:

(1) Provide uniform regulation where necessary of all signal receiving antenna devices;

(2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;

(3) Preserve the integrity of historic preservation districts;

(4) Protect the public from injury from roof-mounted antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the roof-mounted antenna; and

(5) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.

(b) **Definitions.**

(1) For purposes of this Section, a "signal receiving antenna" is defined as any outdoor apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas and over-the-air reception devices, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.

(2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his/her interest. The personal representative of at least one (1) owner shall be considered an owner.

(c) **Limited Permit Requirement.**

(1) No owner shall, within the Village of Butler, build, construct, use or place any type of signal receiving antenna or over-the-air reception device that is roof-mounted or proposed to be located in a designated historic preservation district until a permit shall have first been obtained from the Zoning Administrator.

(2) Application for a signal receiving antenna permit when required under Subsection (c)(1) shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a sufficient set of mounting plans and specifications to allow a determination to be made that the device can be safely roof-mounted, or, in the case

of a historic preservation district, can be located in such a manner as to not seriously detract from the historic character of the district. There is no fee for such permit. If such application meets the requirements of this Section, the application shall be approved.

(d) **Exemption.** Signal receiving devices less than twenty-four (24) inches in diameter are exempt from the requirements of this Section, except for the requirements in Subsection (e)(1), (7), (9) and (12).

(e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the Village shall comply with the following provisions:

(1) ***Setbacks.***

a. Any signal receiving antenna and its mounting post shall be located a minimum of five (5) feet from any side or rear property line. The purpose of setback regulations is to protect the aesthetics of the area and to preserve adequate access for emergency equipment and personnel.

b. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property following compliance with Subsection (c) above. For corner lots, a side yard is only a yard that does not face a street.

c. If side yard, front yard or roof mounting is requested, the Zoning Board of Appeals shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.

(2) ***Mounting.*** Signal receiving antennas attached to the roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.

(3) ***Diameter.*** The diameter of the signal receiving antenna shall not exceed twelve (12) feet for the ground-mounted antenna and ten (10) feet for the roof-mounted antenna, except for stations used to provide community antenna television services.

(4) ***Height.*** A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed fourteen (14) feet in height, as measured from the ground to the highest point of the dish.

(5) ***Roof-Mounted Antennas.***

a. In all residential zoning districts, roof-mounted antennas shall only be permitted subject to the provisions contained herein:

1. Earth station dish antennas exceeding thirty-six (36) inches in diameter shall not be permitted on the roof, unless allowed under Subsection (c)(2) above.

2. A roof-mounted dish antenna shall not extent higher than fifteen (15) feet above the highest point of the roof, unless allowed under Subsection (c)(2) above.

b. In the commercial and industrial zoning districts, earth station dish antennas shall not extend more than twenty (20) feet above the height limit established for the district in which the structure is located.

(6) ***Wind Pressure.*** All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.

(7) ***Electrical Installations.*** To safeguard public safety, electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.

(8) ***Temporary Placement.*** No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section.

(9) ***Advertising.*** No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.

(10) ***Interference with Broadcasting.*** Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(11) ***Compliance with Federal Regulations.*** The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder, including Federal Communications Commission rules.

(12) ***Aesthetic Considerations.*** Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.

(f) **Enforcement.**

(1) It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section. In the event of any violation, the Village Board, a Village enforcement official, or any property owner who would be specifi-

cally damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.

(2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-6.

Sec. 13-1-131 Conditional Use Permits Required—Wind Energy Systems.

(a) **Approval Required.** No owner shall, within the Village of Butler, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.

(b) **Separate Permit Required for Each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.

(c) **Basis of Approval.** The Village Board shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.

(d) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

Sec. 13-1-132 Permit Procedure—Wind Energy Systems.

(a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the Village of Butler. The application shall include the following information:

(1) The name and address of the applicant.

(2) The address of the property on which the system will be located.

(3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further

indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

(4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.

(5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.

(6) Any other information which the Zoning Administrator, Village Board or Building Inspector may deem to be necessary to the proper review of the application.

(7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Village Board.

(b) **Hearing.** Upon referral of the application, the Village Board shall schedule a public hearing thereof following the procedures for conditional use permits in Article D.

(c) **Determination.** Following public hearing and necessary study and investigation, the Village Board shall, as soon as practical, render its decision and a copy be made a permanent part of the Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Village Board may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.

(d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Village Board following a public hearing thereon.

(e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Village Board and if, in the opinion of the Village Board, such change or addition constitutes a substantial alteration, a public hearing before the Village Board shall be required and notice thereof be given.

(f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

Sec. 13-1-133 Specific Requirements Regarding Wind Energy Systems.

(a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.

(b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the

generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

(c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.

(d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.

(e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.

(g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.

(h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

Sec. 13-1-134 Wireless Telecommunications Systems.

(a) **Definitions.** For the purpose of this Chapter and any permit issued in accordance herewith, the following terms, phrases, words and their derivations shall have the meaning given herein unless otherwise specifically provided for in this Chapter or unless the context

of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Towers shall not be illuminated by artificial means and shall not display strobe lights except if such lighting is specifically required by the Federal Aviation Administration or other state or federal authority. Any Permittee seeking to operate a Wireless Telecommunications Systems shall provide the Village with a letter of intent signed by the tower owner committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet objectively reasonable terms and conditions for share use.

(e) **Use of Streets and Pole Attachments.**

(1) Before commencing construction of a Wireless Telecommunications System in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the Village, the permittee shall first obtain the written approval of, and all other necessary permits from, all appropriate Village agencies, including, but not limited to, the Zoning Administrator and the Department of Public Works. Applicants for such approval shall be made in the form prescribed by the Village Engineer.

(2) Upon obtaining such written approval, the Permittee shall give the Village Engineer and any other appropriate agency written notice within a reasonable time for proposed construction, but in no event shall such notice be given less than ten (10) days before commencement of such construction, except for emergency repairs of existing lines and cables.

(3) Any entity that submits a request for a Wireless Telecommunications Permit in accordance herewith shall include therein proposed agreements for the use of existing towers and antennas, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed Wireless Telecommunications System.

(4) It shall be unlawful for the Permittee or any other person or entity to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without first obtaining approval to do so after proceeding in the manner described in Subsection (e)(1) and (2). Violation of this Subsection shall subject the Permittee to all penalties and remedies prescribed herein and to all other remedies, legal or equitable, which are available to the Village.

(5) The Permittee shall restore any street or sidewalk it has disturbed in accordance with the provisions of the Village's standard specifications for streets and sidewalks, and shall at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured, by or on account of its activities, to as good as the condition such property was immediately prior to the disturbance, damage or injury, or pay the fair market value of such property to its owner(s), or shall make such other repairs or restoration as outlined in the approved permit.

(6) The Permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such

(c) **Conditions of Permit.**

(1) Any Wireless Telecommunications Permit or Structure Location Permit issued by the Village shall be a non-exclusive permit for the use of those areas within the Village specified in the Wireless Telecommunications Permit or Structure Location Permit.

(2) Any Wireless Telecommunications Permit or Structure Location Permit issued by the Village shall continue in full force and effect so long as the Permittee is in compliance with this Chapter, all applicable federal, state and local ordinances and regulations and the space occupied is not deemed to be needed by the Village for any other public purpose.

(3) In the event any Wireless Telecommunications Permit or Structure Location Permit is revoked by the Village, the Wireless Telecommunications System shall, at the sole option of the Village, be removed within thirty (30) days at the sole expense of the Permittee.

(d) **Permit Locations and Conditions.** Antennas and towers authorized by a Structure Location Permit shall comply with the following requirements:

(1) A proposal for a new antenna or tower shall not be approved unless the Village finds that the telecommunication equipment planned for a proposed antenna cannot be accommodated on an existing or approved tower within a one (1) mile radius of the proposed location due to one or more of the following reasons:

a. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing unit or approved tower cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.

b. The equipment would cause interference materially impacting the usability of other existing or approved equipment at the Tower as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

c. Existing or approved towers within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified and licensed professional engineer.

d. Other unforeseen reasons make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower.

(2) Any proposed tower shall be designed in all respect to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height and for at least one (1) additional user if the tower is sixty (60) to one hundred (100) feet in height. Towers must be designed to allow for future rearrangements of antennas upon the tower and to accept antennas mounted at varying heights. All towers shall be erected and constructed in such a manner as to comply with all applicable Village ordinances. All towers and antennas shall be designed to blend into the surrounding environment through the use

clearly indicates otherwise or unless such meaning would be inconsistent with the manifest intent of the Village of Butler:

(1) ***Antenna.*** Any structure or device for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

(2) ***Village Engineer.*** The Village Engineer of the Village of Butler.

(3) ***Entity.*** Any individual, corporation, partnership, association or other legal entity which seeks to provide a Wireless Telecommunications System.

(4) ***FCC.*** The Federal Communication Commission or its legally appointed successor.

(5) ***Permittee.*** Any entity or its legal successor in interest who is issued a Wireless Telecommunications Permit and/or a Structure Location Permit in accordance with the provisions of this Chapter for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repair, rebuilding, or replacing of a Wireless Telecommunications System in the Village.

(6) ***Street.*** Any area established for vehicular or public access use of the entire width between the property lines of every way publicly maintained when any part thereof is open for public purposes. "Street" includes, but is not limited to, a highway, avenue, road, alley, right-of-way, lane, boulevard, concourse, bridge, tunnel, parkways and waterways.

(7) ***Structure Location Permit.*** A permit issued by the Zoning Administrator which authorizes the location of an Antenna or Tower at a particular geographic location.

(8) ***Total Gross Revenue.*** All cash, credits or other property of any kind or nature reported as revenue items to the Permittee's audited financial statements arising from or attributable to the sale, lease, rental or exchange of Wireless Telecommunications Services or the equipment by the Permittee within the Village or in any way derived from the operation of its Wireless Telecommunications System, including, but not limited to, any interconnection between its system and the Village and any system whatsoever. This shall be the basis for computing the fee imposed pursuant to Subsection (b)(2). Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits or sales, service, occupation or other excise tax to the extent that such taxes are charged separately from normal services charges and are remitted by the Permittee directly to the taxing authority.

(9) ***Tower.*** Any ground, building or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna.

(10) ***Wireless Telecommunications Permit.*** The privilege granted by the Village by which it authorizes an entity to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, build or replace a Wireless Telecommunications System. Any permit issued in accordance herewith shall be a non-exclusive permit.

(11) ***Wireless Telecommunications Service.*** A licensed commercial wireless telecommunications service including cellular, Personal Communication Services ("PCS"), Specialized Mobile Radio ("SMR"), Enhanced Specialized Mobilized Radio ("ESMR") paging, and similar services that are marketed to the general public.

(b) **License Requirements; Fees.**

(1) No entity may construct, operate or continue to operate a Wireless Telecommunications System within the Village without having been issued a Wireless Telecommunications Permit by the Zoning Administrator.

Only if in Public R-o-w or on Pub. Property

(2) It shall be a term and condition of any Wireless Telecommunications Permit issued in accordance herewith and part of the consideration supporting the issuance of such Wireless Telecommunications Permit that the Permittee shall pay to the Village the sum of five percent (5%) of all Total Gross Revenue derived from the operation of Wireless Telecommunications System. Such payments shall be made annually within one hundred twenty (120) days after the close of the calendar year. All fee payments shall be subject to audit by the Village and assessment or refund if the payment is found to be in error. In the event that an audit by the Village results in an assessment of an additional payment to the Village, such additional payment shall be subject to interest at the rate of one and one-half percent (1-1/2%) per month retroactive to the date such payment originally should have been made. Such payment shall be due and payable immediately and shall include the costs of conducting said audit.

(3) Structure Location Permit Fees.

a. All applicants for a Structure Location Permit shall pay to the Village a permit request fee as prescribed in Section 1-3-1.

b. Any entity operating a Wireless Telecommunications System shall pay to the Village an annual Structure Location Permit Fee as prescribed in Section 1-3-1.

(4) The request fee shall be paid to the Zoning Administrator at the time of making application for a Structure Location Permit. The annual Structure Location Permit Fee provided for in Subsection (~~c~~) above shall be paid to the Zoning Administrator annually on or before October 1 of each calendar year for the portion of the Wireless Telecommunications System within the Village right-of-way on January 1 of that year, and a prorated license fee, based upon the calendar quarter in which the application is filed, shall be paid at the time of the application for a Structure Location Permit. Such quarterly fees are due on January 1, April 1, July 1 and September 1.

(3)

(5) Fees not paid within ten (10) days after the due date shall incur interest at the rate of one and one-half percent (1-1/2%) per month from the date due until paid.

(6) The acceptance of any fee payment required hereunder by Village shall not be construed as an acknowledgment that the payment paid is the correct amount due, nor shall such acceptance of payment be construed as release of any claim which the Village may have for additional sums due and payable.

Article J: Accessory Uses and Structures; Fences; Swimming Pools

Sec. 13-1-140 Accessory Uses or Structures.

(a) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.

(b) **Placement Restrictions — Residential Districts.** An accessory use or structure in a residential district may be established subject to the following regulations:

(1) Accessory uses and detached accessory structures, such as garages, and garden or utility sheds may be placed or erected in the rear yard, upon the issuance of a building permit, provided that there is no more than one (1) of each type of accessory structure.

(2) No accessory structure shall be closer than ten (10) feet to the principal structure.

(3) No accessory structure shall exceed fifteen (15) feet in height.

(4) No accessory structure shall be located closer than three (3) feet to any lot line.

(5) No residential accessory garage shall exceed sixty hundred fifty (650) square feet in area.

(6) No other accessory structure shall exceed two hundred fifty (250) square feet in area, and the total of all accessory structures shall not exceed fifty percent (50%) of the rear yard area. However, no detached garage or carport shall be placed or erected in the rear yard of a lot in the R -1 Single-Family Residential District.

(c) **Use Restrictions — Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined and authorized herein and shall not be occupied as a dwelling unit.

(d) **Use Restrictions — Nonresidential Districts.** An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall have setbacks as prescribed in each zoning district.

(e) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than five (5) feet to the side line of the adjacent structure.

(f) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.

(g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent

structure may be permitted by the Zoning Administrator, and shall be removed within thirty (30) days of occupancy of the project.

(h) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, following approval by the Village Board, provided as follows:
   (1) That such private garage shall be located not less than five (5) feet from the front lot line;
   (2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
   (3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.

(i) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

(j) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.

(k) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.

(l) **Offensive Uses Prohibited.** No accessory use shall be dangerous, obnoxious or offensive to persons residing in the vicinity, nor shall impair the use, enjoyment or value of any property.

(m) **Prohibited Dwelling Use.** No accessory dwelling unit in any Residential District shall be used or let for living purposes except as permitted by this Chapter.

(n) **Gardening.** Home gardening may be an accessory use on any dwelling lot or the principal use on any vacant lot or parcel.

Sec. 13-1-141 Outside Storage of Firewood.

(a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.

(b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.

street or other public place, any of its property when required to do so by the Village because of street or other public excavation, construction, repair, regrading or grading, traffic conditions, installation of sewers, drains, water pipes, Village-owned power or signal lines, tracts, vacation or relocation of streets or any other type of construction or improvement of a public agency, or any type of improvement necessary for the public health, safety or welfare, or upon termination or expiration of the permit.

(7) The Permittee shall maintain all wires, conduits, cables or other real and personal property and facilities in good condition, order and repair. The Permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the Village Engineer governing the construction and installation of Wireless Telecommunications Systems.

(8) The Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the Village and shall furnish, as soon as they are available, two (2) complete copies of such maps and records, including as-built drawings, to the Village Engineer.

(9) The Permittee shall comply with all rules and regulations issued by the Village Engineer governing the construction and installation of Wireless Telecommunications Systems.

(f) **Violation and Penalties.** Any entity who shall carry on or conduct any business or occupation or profession for which a Wireless Telecommunications Permit or a Structure Location Permit is required by this Section without first obtaining such a permit shall be considered to be in violation of this Section and, upon conviction, shall be punished as provided in Section 13-1-176. Each day any violation continues shall be deemed a separate, chargeable offense. No tower or antenna may be sited on residential property within the Village. Placement of towers or antennas on such residentially-zoned property shall be a violation of this Section and shall be subject to a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) per day for each day that the tower or antenna is in place. Any other violation of this Section shall be punished as provided in Section 13-1-176.

(g) **Restrictions on Assignment, Transfer, Sale and Subleasing.**

(1) The rights and privileges hereby granted are considered personal, and if the Permittee sells, assigns, transfers, leases or pledges such rights or privileges, or both, in whole or in part, either directly or by operation of the law, then the Village shall have the right to terminate any and all permits issued hereunder for no other cause. The Village shall terminate such permits in writing, by certified mail, return receipt requested, to the Permittee, and such termination shall be effective sixty (60) days from said date of mailing. The rights and privileges hereby granted shall not be mortgaged or encumbered without the prior consent and approval of the Village given by written resolution.

(2) In addition to the provisions of termination provided for in Subsection (g)(1), the Village shall have the right to terminate any and all permits issued hereunder upon any actual or pending change in, or transfer of, acquisition by any other party, or

control of Permittee. The word "control" as used in this context is not limited to major stockholders, but includes actual working control in whatever manner exercised. The Permittee shall annually submit to the Village a list of all shareholders and a list of all officers and directors. By acceptance of the Wireless Telecommunications Permit, the Permittee specifically agrees that any violation of this Section shall, at the Village's option, cause any and all permits granted the Permittee under this Section to be revoked.

(h) **Reports.**

(1) Entities requesting a Wireless Telecommunications Permit may be required by the Village to submit evidence of financial capability to construct and operate a Wireless Telecommunications Permit. Such evidence may include, but is not limited to, previous years' audited financial statements for the entity, individual financial statements of principals or investors or such other financial information as the Village may desire.

(2) The Permittee shall provide the Village with a written statement from an independent certified public accountant within one hundred twenty (120) days after the close of the calendar year that such certified public accountant has reviewed the books and records of the Permittee as they related to any permits issued under this Section, and based upon such review, the certified public accountant believes the payment received by the Village property reflects the fee due to the Village with respect to this Section. The Village shall have the right to reasonable inspection of the Permittee's books and records during normal business hours.

Sec. 13-1-135 through Sec. 13-1-139 Reserved for Future Use.

(c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.

(d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.

(e) Not more than fifteen percent (15%) of the side and rear yard may be used for storage of firewood at any one (1) time.

Sec. 13-1-142 Fences.

(a) **Fences Defined.** For the purpose of this Section,

(1) ***Fence.*** An enclosed barrier consisting of wood, stone or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.

(2) ***Boundary Fence.*** A fence placed the property lines of adjacent properties.

(3) ***Protective Fence.*** A fence constructed to enclose a hazard to the public health, safety and welfare.

(4) ***Architectural or Aesthetic Fence.*** A fence constructed to enhance the appearance of the structure or the landscape.

(5) ***Hedge.*** A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.

(6) ***Picket Fence.*** A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.

(b) **Fence Permit Required.** No person shall erect a fence in the Village without first obtaining a fence permit from the Building Inspector and paying a fee as prescribed in Section 1-3-1. The applicant shall provide the Building Inspector with accurate design information for the proposed fence. Permits may only be issued for proposed fences complying with this Section.

(c) **Fence Location.** Except as provided in Subsection (e) below, residential fences are permitted, upon the issuance of a building permit, in the side and rear yards of residential districts and in the street yard along interior side lot lines (see Illustration No. 6), but shall not in any case exceed a height of five (5) feet above the ground, and shall not be closer than two (2) feet to any public right-of-way. Residential fences in the street yard shall be constructed to be open for at least fifty percent (50%) of their surface area. When a property in a residential district abuts a property in an industrial district, the fence height may be up to eight (8) feet above the ground.

(d) **Front Yard Fences.** Fences in the front yard may be permitted on corner lots in the R-2 Residential District subject to approval by both the Building Board and the Village Board, provided the fence is located no closer than two (2) feet to a street right-of-way or ten (10) feet from the back of the curb, whichever distance is greater; the fence does not extend

beyond the front building face line (see Illustration No. 6); and the fence owner enters into an agreement holding the Village harmless from any damage to the fence.

(e) **Ornamental Fences** are permitted, upon the issuance of a building permit in the street yard in any district, but shall not be erected in a street right-of-way and shall not exceed a height of three (3) feet. Ornamental fences exceeding two and one-half (2-1/2) feet in height shall not extend into a vision clearance triangle as set forth in Section 13-1-90. Ornamental fences shall not exceed an aggregate length in all locations of fifty percent (50%) of the width of the street yard on any lot or thirty-two (32) feet, whichever is greater. Corner lots may be permitted an ornamental fence in only one street yard. Ornamental fences shall be constructed to be open for at least fifty (50) percent of their surface area.

(f) **Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed eight (8) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

(g) **Prohibited Fences.** No fence shall be constructed which is of an otherwise dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.

(h) **Fences to be Repaired.** All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.

(i) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.

(j) **Nonconforming Fences.** Any fence existing on the effective date of this Municipal Code and not in conformance with this Section may be maintained, but any alteration, modification or improvement of more than fifty percent (50%) of said fence shall result in the entire fence being brought into compliance with this Section.

(k) **Location Determination.** The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his/her property.

Sec. 13-1-143 Swimming Pools.

(a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet located above or below the surface of ground

elevation, used or intended to be used solely by the owner, operator or lessee thereof and his/her family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.

(b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of fifteen (15) inches and which are so constructed that they may be readily disassembled for storage and reassembled to their original integrity, are exempt from the provisions of this Section.

(c) **Permit Required.** Private swimming pools are permitted, upon the issuance of a building permit, in the rear yard in any district, except the C-1 Conservancy District, the FWO Floodway Overlay District, or the FFO Floodplain Fringe Overlay District. Before work is commenced on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted in writing to the Building Inspector. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector at the time of application. The building permit application shall show the location and dimensions of the pool; the volume of water in gallons; the location of the required fence and other means of securing the pool; and the location of all pool appurtenances. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. The minimum building permit fee pursuant to the Village Building Code shall accompany such application.

(d) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in Subsection (b), unless the following construction requirements are observed:

(1) All materials and methods for construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and codes and with any and all ordinances of the Village now in effect or hereafter enacted.

(2) All plumbing work shall be in accordance with all applicable ordinances of the Village and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located or in the general vicinity.

(3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and Village ordinances regulating electrical installations.

(e) **Setbacks and Other Requirements.**

(1) Private swimming pools shall be erected or constructed on rear or side lots only, and only on a lot occupied by a principal building. No swimming pool shall be erected

or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.

(2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, but in no case shall the water line of any pool be less than three (3) feet from any lot line.

(f) **Fence.**

(1) Pools within the scope of this Section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing two hundred fifty (250) pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four (4) feet nor more than five (5) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension.

(2) The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing or uncovered sidewalls a minimum of thirty-six (36) inches high, provided that ladder or stairs access can be restricted.

(3) Access to swimming pools shall be controlled. Access to inground swimming pools shall be controlled by a self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner is not present at the pool. For an above-ground swimming pool, a tip-up ladder may be provided in lieu of a gate. There shall further more be no uncontrolled access from a residence to the pool area.

(g) **Electrical Service.** Swimming pools shall not be constructed directly under or over electric transmission lines or within ten (10) feet of overhead electrical transmission lines. All electrical connections to a swimming pool shall be properly grounded to that no electrical current can be discharged into any part of the swimming pool or the surrounding fence.

(h) **Draining and Approval Thereof.** No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Building Inspector.

(i) **Filter System Required.** All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

(j) **Dirt Bottoms Prohibited.** All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

(k) **Miscellaneous Provisions.**

(1) Heating units, pumps, and filter equipment shall be screened from view, and shall be adequately housed and muffled;

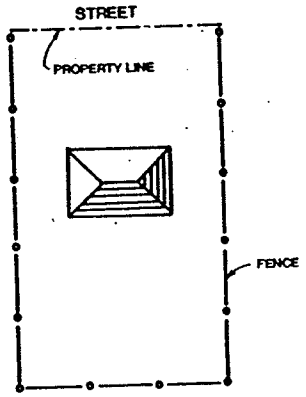
(2) No lighting installed around swimming pools shall throw any rays onto adjacent properties; and

(3) Swimming pool installations shall comply with any additional requirements for private swimming pools set forth in the Village of Butler Building Code.

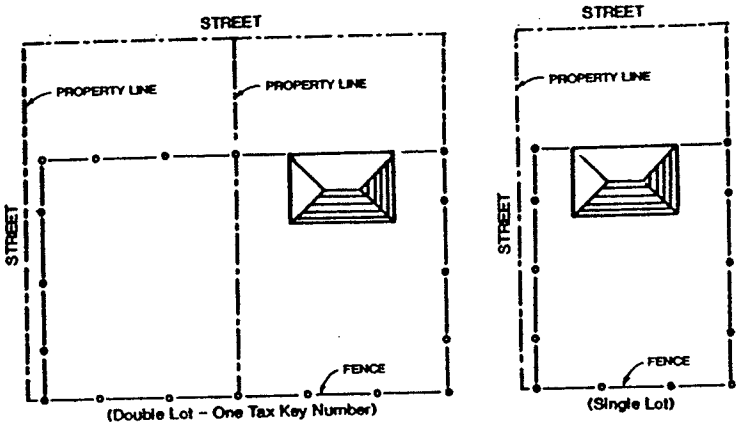
Sec. 13-1-144 through Sec. 13-1-149 Reserved for Future Use.

ILLUSTRATION NO. 6

PERMITTED RESIDENTIAL FENCE LOCATIONS



Permitted Residential Fence Location on an Interior Lot



Permitted Residential Fence Location on a Corner Lot

Post-it® Fax Note 7671	Date 6-25-03	# of pages ▶ 1
To Shawna	From Village of Butler	
Co./Dept.	Co.	
Phone # 414-302-	Phone #	
Fax # 414-302-8628	Fax #	

Article K: Modifications

Sec. 13-1-150 Height Modifications.

The District height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:

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

(b) **Special Structure Height Limitations.** Special structures such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smokestacks are exempt from the height limitations of this Chapter.

(c) **Essential Services Height Limitations.** Essential services, utilities, water towers, and electric power and communication transmission lines are subject to conditional use permit.

(d) **Communications Structures Height Restrictions.** Communications structures such as radio and television transmission and relay towers, aerial and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.

(e) **Public Facilities Height Restrictions.** Public or semi-public facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the District's maximum height requirement.

Sec. 13-1-151 Yards Modifications.

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

(a) **Uncovered Stair Restrictions.** Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than six (6) feet to any lot line, and must be eight (8) feet or more above ground.

(b) **Architectural Projection Restrictions.** Architectural projections such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard (setback requirements), but such projection shall not exceed two (2) feet.

(c) **Cul-de-Sac and Curve Restrictions.** Residential lot frontage on cul-de-sacs and curves may be less than sixty (60) feet provided the width at the building setback line is at least sixty (60) feet and the street frontage is no less than forty-five (45) feet.

(d) **Essential Services Exemptions.** Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.

(e) **Awnings, Canopies and Marquees.** Awnings, canopies and marquees are permitted, upon the issuance of a building permit, to extend into any yard in the B-1 District. However, awnings, canopies and marquees shall not extend more than twelve (12) feet beyond the building; shall not extend more than six (6) feet into a required side yard or rear yard; and shall not extend into the street yard or street right-of-way closer than one (1) foot to the vertical plane formed by the curbline. Awnings, canopies, and marquees shall not be less than ten (10) feet above the sidewalk nor less than fifteen (15) feet above a driveway or alley.

(f) **Average Street Yard Restrictions.** The required street yards may be decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side, but in no case less than fifteen (15) feet in any residential district.

(g) **Additions.** Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

(h) **Corner Lots.** Structures shall provide a front yard setback as required by this Chapter on the street that the structure faces as established by this Zoning Code. A second front yard setback shall be provided on the side of the structure abutting a public or private street. The second front yard setback shall be the same setback as required in that district, except in the R-2 Residential District. For corner lots in the R-2 Residential District the minimum front yard setback on the shortest street frontage shall be twenty-five (25) feet from the street right-of-way. The minimum front yard setback on the longest street frontage shall be eight (8) feet. (See Illustration No. 7).

(i) **Double Frontage Lot.** Lots abutting two opposite streets shall provide the front yard setback required by the district in which the lot is located from each street upon which the lot abuts. (See Illustration No. 7).

(j) **Measuring Setbacks on Cul-De-Sacs.** The required setback on cul-de-sacs and curved streets shall be determined by measuring the required setback along side lot line and connecting those two (2) points with a straight line. (See Illustration No. 8).

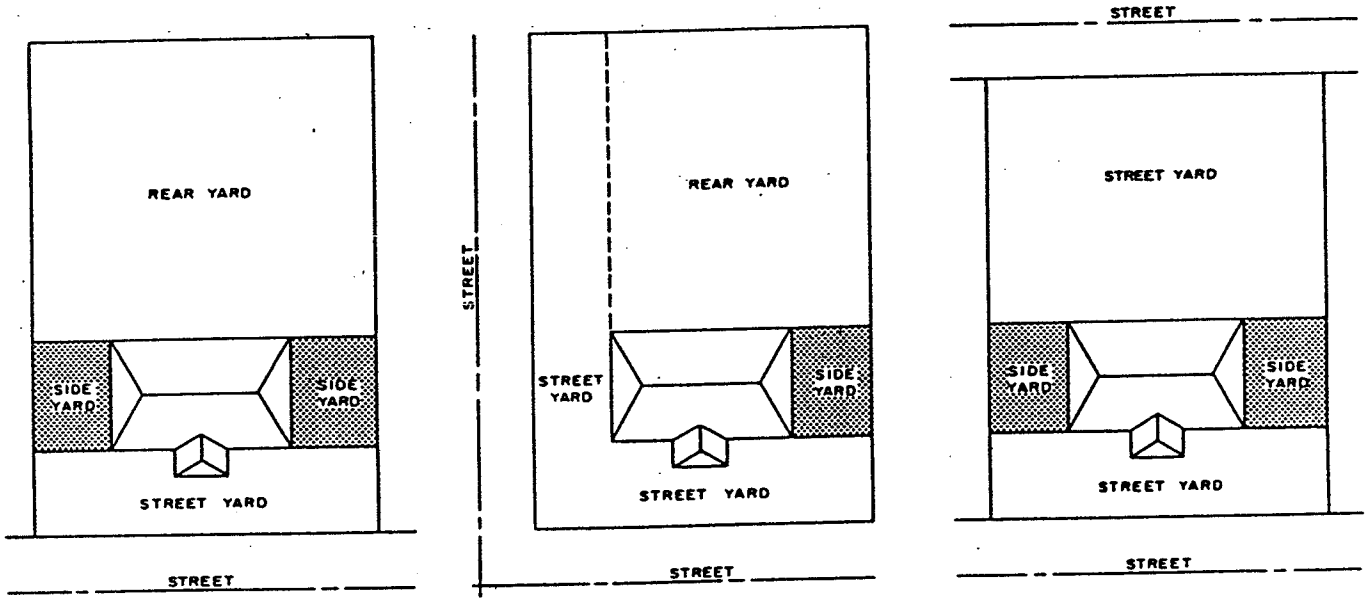
Sec. 13-1-152 Existing Substandard Lots.

A lot which does not contain sufficient area to conform to the dimensional requirements Chapters may be used as a single-family building site provided that the use is permitted in the zoning district, provided that the lot is of record in the County Register of Deed's Office prior to the effective date of this Chapter, and provided that the lot is in separate ownership from abutting lands. If two (2) more substandard lots with continuous footage have the same ownership as of the effective date of this Chapter, the lots involved shall be considered to be an individual parcel for the purpose of this Chapter. Substandard lots shall be required to meet the setback and other yard requirements of this Chapter.

Sec. 13-1-153 through Sec. 13-1-169 Reserved for Future Use.

ILLUSTRATION NO. 7

LOCATION OF YARDS ON TYPICAL
INTERIOR, CORNER, AND DOUBLE FRONTAGE LOTS



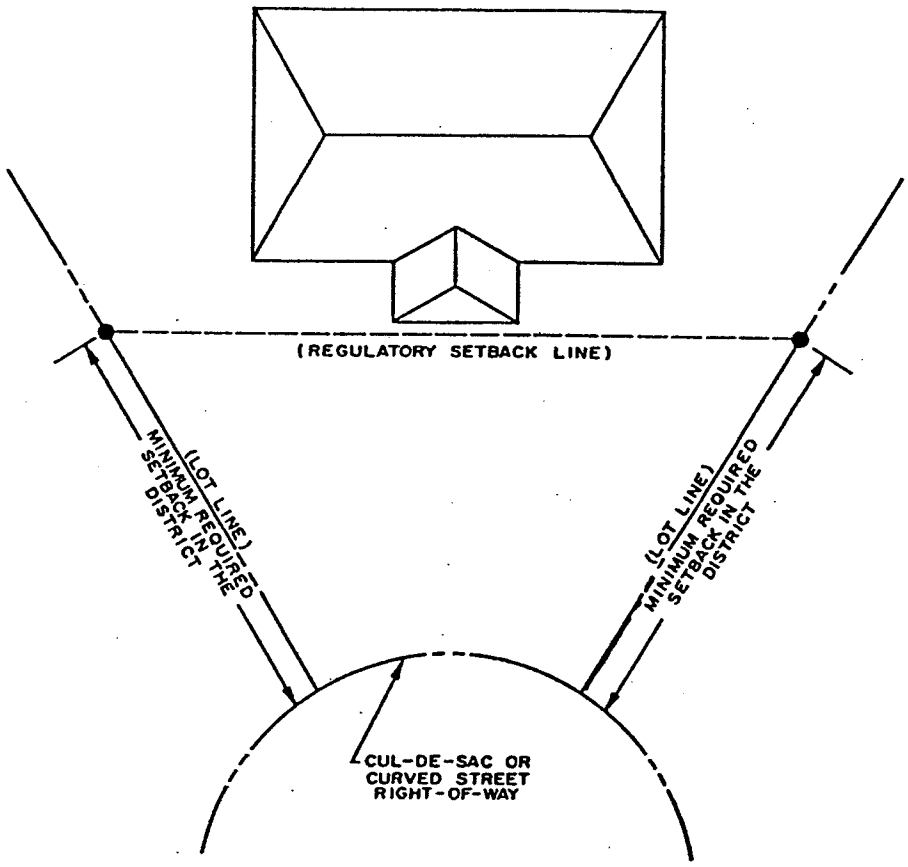
INTERIOR LOT

CORNER LOT

DOUBLE FRONTAGE LOT

ILLUSTRATION NO. 8

DETERMINING SETBACK LOCATION ON A CUL-DE-SAC LOT



Article L: Administration

Sec. 13-1-170 General Administrative System.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and action by the Village Board. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

Sec. 13-1-171 Zoning Administrator.

The Building Inspector is hereby designated as the primary administrative officer for the provisions of this Chapter, and shall be referred to as the Zoning Administrator. The Zoning Administrator shall be appointed by resolution of the Plan Commission. If none is appointed, the Village Administrator shall serve as the Zoning Administrator. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue all permits required by this Chapter. The Zoning Administrator shall further:

(a) Issue all building/zoning permits, and make and maintain records; which records shall be maintained in the Village hall.

(b) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this Chapter.

(c) Maintain permanent and current records of this Chapter, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications therefore.

(d) Provide and maintain a public information function relative to all matters arising out of this Chapter.

(e) Receive, file and forward to the Village Administrator all applications for amendments to this Chapter.

(f) Receive, file and forward to the Plan Commission all applications for conditional uses.

(g) Receive, file and forward to the Board of Appeals all applications for appeals, variances, or other matters on which the Board of Appeals is required to act under this Chapter, and shall attend all Board of Appeals meetings to provide technical assistance when requested by the Village Board.

(h) Initiate, direct and review from time to time a study of the provisions of this Chapter, and make recommendations to the Plan Commission not less than once a year.

Sec. 13-1-172 Role of Specific Village Officials in Zoning Administration.

(a) **Plan Commission.** The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Village to

the Village Board, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Chapter, one of its functions is to make recommendations to the Village Board pursuant to guidelines set forth in this Chapter as to various matters and always being mindful of the intent and purposes of this Chapter. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion and of its own volition, conduct its own public hearing.

(b) **Village Board.** The Village Board, the governing body of the Village, subject to recommendations by the Plan Commission, has ultimate authority to make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map; and to amend the text of this Chapter. The Board may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this subchapter and other provisions therefore elsewhere in this Chapter.

(c) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article N of this Chapter for detail provisions.

Sec. 13-1-173 Building/Zoning Permit.

(a) **Building/Zoning Permit Required.** No building shall be erected, moved, constructed, placed, altered, enlarged, or razed without first obtaining a building/zoning permit unless otherwise exempted by Subsection (c) below. Applications for a building/zoning permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Village.

(b) **Application.** Applications for a building/zoning permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:

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

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

(3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Plan Commission or Zoning Administrator: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water;

channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within forty (40) feet of the subject site.

(4) Additional information as may be required by the Zoning Administrator or Village officials.

(5) Existing signs and other design standards.

(6) Certificate of compliance.

(c) **Foundation Survey Required.** Any person erecting, moving, enlarging, or reconstructing a structure which, under this Chapter, requires a building permit, shall upon completion of the construction of footings, concrete slab, or other foundations submit to the Building Inspector a plat of survey prepared by a registered land surveyor showing the locations, boundaries, dimensions, elevations, and size of the following: The boundaries of the lot and all existing structures (including foundations) and their relationship to the lot lines. The Building Inspector shall compare the location of all new or extended foundations with the location of all proposed construction activity reported on the building permit application. No further construction may commence unless the Building Inspector shall find that the foundation location is consistent with the building permit application and shall so certify in writing. The Building Board may waive this requirement for accessory structures or additions not exceeding one hundred fifty (150) square feet in area.

(d) **Action.**

(1) A building/zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days of application and the applicant shall post such permit in a conspicuous place at the site.

(2) The permit shall expire within six (6) months unless substantial work has commenced or within twelve (12) months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration, the application shall reapply for a building/zoning permit before commencing work on the structure.

(3) Any permit issued in conflict with the provisions of this Chapter shall be null and void.

Sec. 13-1-174 Occupancy Permit Required.

(a) No vacant land shall be occupied or used; and no building or premises shall be erected, altered, or moved, or a change in use created for; and no nonconforming use shall be maintained, renewed, changed, or extended until an occupancy permit shall have been issued by the Building Inspector. Such occupancy permit shall show that the building or premises or part thereof is in compliance with the provisions of this Chapter. Such occupancy permit shall be applied for at the time of occupancy of any land and/or building.

(b) No land within the floodland districts shall be developed, occupied or used, and no structure hereafter erected, altered, or moved shall be occupied until the applicant submits to the Building Inspector a certification by a registered professional engineer or land surveyor that the floodland regulations set forth in this Chapter have been fully complied with. Such certification shall include the first floor and basement floor elevations of any structure erected on the site.

(c) No building in any district shall have the use changed without the issuance of a new occupancy permit by the Building Inspector. No building used for business or industrial purposes shall be occupied by a new tenant or a new owner without the issuance of a new occupancy permit by the Building Inspector. Such occupancy permit shall show that the building or premises has no visual violations of any provisions of this Chapter, the Uniform Dwelling Code, Electrical Code, Fire Prevention Code and the Plumbing Code of the Village of Butler and State of Wisconsin. In multi-tenant buildings such as a shopping center or a multi-family residential building proposed to be constructed in stages, an occupancy permit may be issued for the part of the building that has been completed when the Building Inspector has determined that the occupancy of the partially completed building will not create a hazard to life and property. Such occupancy permit for the occupation of a previously existing building by a new tenant or use shall be applied for at the time of any remodeling of the building or prior to the occupancy for the new use or by the new owner.

(d) Application for an occupancy permit shall be made in the same manner as for a building permit pursuant to Section 13-1-173.

(e) Upon written request from the owner, the Building Inspector may issue an occupancy permit for any building or premises existing at the time of adoption of this Chapter, certifying, after inspection, the extent and kind of use being made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

Sec. 13-1-175 Site Plan Approval; Architectural Control.

(a) **Purpose and Intent.**

(1) For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure, including single-family and two-family dwellings, without first obtaining the approval of the Building Board of detailed site and architectural plans as set forth in this Section.

(2) The Building Inspector or Building Board shall review the site, existing and proposed structures, architectural plans, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading in the case of commercial and industrial uses, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.

(b) **Principles.** To implement and define criteria for the purposes set forth in Subsection (a), the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses:

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

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

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

(4) No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.

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

(6) Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The Building Board may require that drainage easements be executed.

(7) Buildings and uses shall provide for safe traffic circulation and safe driveway locations.

(8) Buildings and uses shall provide adequate parking and loading areas.

(9) Buildings and uses shall provide for adequate trash removal and all dumpsters shall be adequately screened.

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

(11) Buildings and uses shall make appropriate use of open spaces and the Building Board may require appropriate landscaping and planting screens.

(12) Structures shall be compatible with neighboring properties with respect to size, scale, proportion and materials.

(13) Materials shall be selected for suitability to the type of structures and the design in which they are used. In developments with multiple structures, all structures shall be constructed with the same materials or those that are architecturally harmonious.

(14) Materials shall be of durable quality.

(15) Structure components shall be proportionally related to one another.

(16) Principal structure colors and color accents used on trims, fascia and signage shall be coordinated and harmonious.

(17) Mechanical equipment or other utility hardware shall be fully screened with materials that are coordinated with the colors of the principal structure.

(18) Principal buildings shall be constructed such that all sides are substantially parallel to lot lines, except for lots located on cul-de-sacs or for platted lots having corners that are not at substantially right angles.

(c) **Administration.** Plan data shall be submitted to the Zoning Administrator who shall transmit all applications and their accompanying plans to the Building Board for their review. Plan data to be submitted with all plan review applications shall include the following:

(1) Site plan drawn to a recognized engineering scale.
(2) Name of project noted.
(3) Owner's and/or developer's name and address noted.
(4) Architect and/or engineer's name and address noted.
(5) Date of plan submittal.
(6) Scale of drawing noted on plan.
(7) Existing and proposed topography shown at a contour interval not less than two (2) feet.
(8) The characteristics of soils related to contemplated specific uses.
(9) Total number of parking spaces noted.
(10) The type, size, and location of all structures with all building dimensions shown.
(11) Indicate height of building(s).
(12) Existing and proposed street names indicated.
(13) Indicate existing and proposed public rights-of-way and widths.
(14) North arrow shown.
(15) Locate existing and general location of proposed sanitary sewers, storm sewers, and water mains.
(16) Locate any proposed storm water management facilities, including detention/retention areas. The applicant shall submit a detailed stormwater management plan.
(17) Locate existing trees.
(18) Note location, extent, and type of proposed plantings.
(19) Note location of pedestrian sidewalks and walkways.
(20) A graphic outline of any development staging which is planned is required to be shown on the site plan.
(21) Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.

(d) **Review and Findings.** The Building Board shall review the referred plans at the first regular Building Board meeting following their submittal. The Building Board shall render a decision no later than the following regular Building Board meeting. The Building Board shall not approve any plans unless they find after viewing the application that the structure or use, as planned, will not violate the intent of this Chapter or the principles set forth in Subsection (b). The Building Board will approve said plans, and authorize the Building Inspector to issue a building permit, only after determining the proposed building or

buildings will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety. All decisions of the Building Board shall be made in writing and shall be filed with the Village Administrator.

(e) **Sureties.** The Building Board may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Building Board may require appropriate sureties to guarantee that improvements will be completed on schedule.

(f) **Appeals.** Any person or persons aggrieved by any decisions of the Building Board related to plan review may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the Village Administrator within thirty (30) days after filing of the decision with the Building Inspector.

Sec. 13-1-176 Violations and Penalties.

(a) **Permit Revocation.** If any permittee does not cease violation(s) and/or comply with permit conditions within ten (10) calendar days after being notified, the Village Administrator shall administratively revoke the permit.

(b) **Cease and Desist Order.** If no permit has been issued and the landowner or land user fails to cease and remedy the noticed violation(s) within ten (10) calendar days, the Village Administrator may request the Village Attorney to obtain a cease and desist order from the Circuit Court.

(c) **Appeals.** The Board of Appeals may rescind a stop work order or a permit revocation following an appeal pursuant to Article N of this Zoning Code.

(d) **Penalties.** Any person violating any of the provisions of this Zoning Code shall, upon conviction, be subject to a forfeiture, which shall be as follows:

(1) ***First Offense; Penalty.*** Any person who shall violate any provision of this Zoning Code shall, upon conviction, forfeit not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), together with the costs of prosecution. In default of payment, the Court shall order in accordance with Sec. 800.095, Wis. Stats., that the defendant be imprisoned until the forfeiture, assessments, surcharge and costs are paid, except that the defendant reduces the amount owed at a rate of at least Twenty-five Dollars ($25.00) for each day of imprisonment, including imprisonment following an arrest but prior to the findings under this Subsection, and the maximum period of imprisonment is ninety (90) days. In addition to the procedures under this Section, the Village may enforce the judgment in the same manner as for a judgment in an ordinary civil action.

(2) ***Second Offense; Penalty.*** Any person found guilty of violating any provision of this Zoning Code who shall previously have been convicted of a violation of the same provision or ordinance within one (1) year shall, upon conviction, forfeit not less than Two Hundred Dollars nor more than One Thousand Dollars ($1,000.00) for each such

offense, together with costs of prosecution. In default of payment, the Court shall order in accordance with Sec. 800.095, Wis. Stats., that the defendant be imprisoned until the forfeiture, assessments, surcharge and costs are paid, except that the defendant reduces the amount owed at a rate of at least Twenty-five Dollars ($25.00) for each day of imprisonment, including imprisonment following an arrest but prior to the findings under this Subsection, and the maximum period of imprisonment is ninety (90) days. In addition to the procedures under this Section, the Village may enforce the judgment in the same manner as for a judgment in an ordinary civil action.

(e) **Each Day a Violation.** Each day a violation continues or exists shall constitute a separate offense.

(f) **Additional Penalties.** Nothing in this Zoning Code shall be construed to preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Zoning Code in addition to the penalties expressly provided for under this Section.

Sec. 13-1-177 Public Hearings.

Notice of any public hearing which the Village Board, Village Plan Commission, or Zoning Board of Appeals is required to hold under the terms of this Chapter shall specify the date, time, and place of said hearing and shall state the matter to be considered at said hearing. Notice shall be posted in three (3) public places likely to give notice to persons affected by the hearing at least fifteen (15) days prior to the hearing. The Village Board shall also give at least ten (10) days' prior written notice to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed action and to all parties in interest.

Sec. 13-1-178 Stormwater Management; MMDS Regulations.

(a) **Stormwater Management Requirements.** No person shall proceed with any residential, commercial, industrial or institutional land use development or redevelopment, or with the division or subdivision of property, without providing appropriate stormwater management facilities that adequately control stormwater runoff from such development or redevelopment or subdivided property. A site-specific stormwater management plan must be submitted and approved by the Village Engineer before any required new stormwater management facilities are constructed, unless exempted or waived pursuant to the provisions of this Section. An approved site-specific stormwater management plan is also required before an existing drainage system is relocated, deepened, widened, enlarged, filled, obstructed or otherwise altered in preparation for land use development and redevelopment or division or subdivision of property. The plan must be submitted and approved before

any land use development and redevelopment is commenced or a land subdivision plat or certified survey map is approved and recorded.

(b) **MMSD Regulations Adopted; Compliance.**

(1) Milwaukee Metropolitan Sewerage District Rules ("MMSD Rules") contained in Chapter 13 on "Surface Water and Stormwater Runoff Management" (effective 01/01/02) and all future amendments thereto are hereby adopted by reference.

(2) There shall be compliance with all applicable provisions contained in MMSD Rules Chapter 13 as may be amended from time to time that pertain to stormwater runoff management and plan submittal requirements, in addition to the stormwater requirements of the Village of Butler ordinances. This shall include, but not be limited to, plat approval under Ch. 236, Wis. Stats., and Title 14 of this Code of Ordinances, construction site erosion control and post construction stormwater quality "best management practices" to abate pollutant runoff.

(3) The Village Adminstrator/Clerk shall have available a current copy of MMSD Rules Chapter 13, which shall be open to public inspection.

Sec. 13-1-179 Reserved for Future Use.

Article M: Changes and Amendments to the Zoning Code

Sec. 13-1-180 Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the advisory review of the Plan Commission.

Sec. 13-1-181 Initiation of Changes or Amendments.

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

(b) **Petitions.** Petitions for any change to the District boundaries or amendments to the regulations shall be filed with the Village Administrator and shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

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

(2) The owners' names and addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.

(3) Additional information required by the Plan Commission, Village Board or staff.

(c) **Recommendations.** The Plan Commission shall hold a public hearing as provided for in Sec. 62.23(7)(d), Wis. Stats., and review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made in writing to the Village Board.

(d) **Hearing; Village Board's Action.** The Village Board shall hold a public hearing as provided in Sec. 62.23(7)(d), Wis. Stats. and Section 13-1-177 of this Chapter, review the Plan Commission's recommendation and make its determination.

Sec. 13-1-182 Floodland District Boundary Changes Limited.

The Village Board shall not permit changes to the Floodland District boundaries that are inconsistent with the purpose and intent of this Chapter or in conflict with the applicable rules

and regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA):

(a) **Changes in the FWO Floodway Overlay District Boundaries** shall not be permitted where the change will increase the flood stage elevation by 0.01 foot or more, unless the petitioner has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase. In no event shall a change be permitted that would increase the flood stage elevation by more than 1.0 foot. Petitions for Floodway District changes shall show the affects of the change within the associated flood fringe, and shall provide adjusted water surface profiles and adjusted floodland limits to reflect the increased flood elevations.

(b) **Removal of Land from the Floodland Districts** shall not be permitted unless the land has been filled to an elevation at least two (2) feet above the elevation of the one hundred-(100-) year recurrence interval flood and provided that such land is contiguous to lands lying outside of the floodlands.

(c) **Amendment of Floodlands Which Were Delineated by Approximate Methods** shall not be permitted unless the petitioner provides the Village with engineering data showing the flood profile, necessary river cross-sections, flood elevations, and any effect the establishment of a floodway/flood fringe will have on flood stages. The effects shall be limited as set forth above for changes in the FWO District. If the Approximate Flood Zone is less than five (5) acres in area, and where the cost of the proposed development is estimated to be less than One Hundred Twenty-five Thousand Dollars ($125,000.00), the Department of Natural Resources (DNR) will assist the petitioner in determining the required flood elevations.

(d) **No River or Stream Shall Be Altered or Relocated** until a floodland zoning change has been applied for and granted in accordance with the requirements of this Section, and until all adjacent communities have been requested to review and comment on the proposed alteration or relocation. The flood carrying capacity of the altered or relocated watercourse shall not be reduced to less than the flood carrying capacity before the watercourse was altered or relocated.

(e) **Notice to DNR and FEMA.** A copy of all notices for amendments or rezoning in the Floodland Districts shall be transmitted to the Wisconsin Department of Natural Resources (DNR) and to the Federal Emergency Management Agency (FEMA) at least ten (10) days prior to the public hearing. No amendments to the floodland district boundaries or regulations shall become effective until approved by the DNR.

Sec. 13-1-183 Shoreland C-1 Amendments.

(a) **Notice to DNR.** The Village shall transmit a notice of any change (text or map) in the C-1 District if such change affects land in the shoreland to the Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:

(1) A copy of every petition for a text or map change mailed within five (5) days of filing with the Village Administrator.
(2) At least ten (10) days prior notice of any public hearing on a Shoreland C-1 zoning amendment.
(3) Notice of a Village Plan Commission recommendation no later than ten (10) days following the recommendation.
(4) Notice of a Village Board decision no later than ten (10) days following the decision.

(b) **Review Standards.** No wetland in a Shoreland C-1 District shall be rezoned if the rezoning may result in a significant adverse impact on storm or floodwater storage capacity; maintenance of dry season streamflow, the discharge of groundwater from the wetland to another area, or the flow of groundwater through a wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning, breeding nursery or feeding grounds; wildlife; habitat; or areas of special recreational, scenic or scientific interest, including scare wetland types.

(c) **DNR Objections.** If the DNR has notified the Village Plan Commission that an amendment to the shoreland portion of the C-1 District may have a significant adverse impact upon any of the criteria listed in the foregoing Subsection that amendment, if approved by the Village Board, shall contain the following provision:

> "This amendment shall not take effect until more than thirty (30) days have elapsed since written notice of the Village Board's approval of this amendment was mailed to the Department of Natural Resources. During that thirty (30) day period, the Department of Natural Resources may notify the Village Board that it will adopt a superseding shoreland ordinance for the Village pursuant to Sec. 61.351, Wis. Stats. If the Department does so notify the Village Board, the effect of this amendment shall be stayed until the Sec. 61.351, Wis. Stats., adoption procedure is completed or otherwise terminated."

Sec. 13-1-184 Protest.

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

(b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Village Board membership to adopt such amendment.

Sec. 13-1-185 through Sec. 13-1-189 Reserved for Future Use.

Article N: Appeals

Sec. 13-1-190 Appeals to the Zoning Board of Appeals.

(a) **Scope of Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the administrative officer. Such appeal shall be taken within reasonable thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Village Board. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.

(b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(c) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:

(1) ***Errors.*** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.

(2) ***Variances.*** To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.

(3) ***Interpretations.*** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Village Board has made an advisory review and recommendation.

(4) ***Substitutions.*** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Village Board has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

(5) ***Unclassified Uses.*** To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Village Board has made a review and recommendation.

(6) ***Temporary Uses.*** To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Village Board has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.

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

Sec. 13-1-191 Hearing on Appeals.

The Board of Appeals shall fix a reasonable time for the hearing as prescribed in Section 13-1-177.

Sec. 13-1-192 Decisions of Board of Appeals.

(a) **Timeframe.** The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.

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

(c) **Validity.** Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

Sec. 13-1-193 Variations.

(a) **Purpose.**

(1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.

(2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect

of allowing in any district uses prohibited in that district, permit a lower degree of flood protection that the flood protection elevation for the particular area or permit standards lower than those required by state law.

(3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

(b) **Application for Variation.** The application for variation shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:

(1) Name and address of applicant and all abutting and opposite property owners of record.

(2) Statement that the applicant is the owner or the authorized agent of the owner of the property.

(3) Address and description of the property.

(4) A site plan showing an accurate depiction of the property.

(5) Additional information required by the Village Engineer, Village Board, Zoning Board of Appeals or Zoning Administrator.

(6) Fee receipt in the amount as determined by the Village Board.

(c) **Public Hearing of Application.** The Board of Appeals shall conduct at least one (1) public hearing on the proposed variation as prescribed in Section 13-1-177. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board of Appeals shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.

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

(1) ***Preservation of Intent.*** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

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

(3) ***Economic Hardship and Self-Imposed Hardship Not Grounds for Variance.*** No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

(4) ***Preservation of Property Rights.*** The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

(5) ***Absence of Determent.*** No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this Chapter or the public interest.

(6) ***Variances Granted to Lot Size, Width, or Yard Requirements.*** Variances granted to lot size, width or yard requirements shall not generally exceed fifteen (15) percent of the requirement being varied.

(7) ***Additional Requirements in Floodland Districts.*** No variance shall be granted where:

a. Filling and development contrary to the purpose and intent of the UF Urban Floodwall District would result.

b. A change in the boundaries of the UF Urban Floodway District or the FFO Floodplain Fringe Overlay District would result.

c. A lower degree of flood protection that a point two (2) feet above the 100-year recurrence interval flood for the particular area would result.

d. Any action contrary to the provisions of Ch. NR 116, Wis. Adm. Code would result.

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

Sec. 13-1-194 Review by Court of Record.

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

Sec. 13-1-195 Wetland and Floodland Mapping Disputes.

(a) **Wetland Disputes.** Whenever the Board of Appeals is asked to interpret a C-1 Conservancy District boundary where an apparent discrepancy exists between the Village's Final Wetland Inventory Map and actual field conditions, the Village shall contact the Wisconsin Department of Natural Resources (DNR) to determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was incorrectly mapped as a wetland, the Board of Appeals shall direct the Village Plan Commission to initiate appropriate action to rezone the property within a reasonable amount of time.

(b) **Floodland Disputes.** Whenever the Board of Appeals is asked to interpret a floodland boundary where an apparent discrepancy exists between the federal Flood Insurance Study and actual field conditions, the following procedure shall be used. The floodland boundary shall be determined by use of the flood profiles contained in an engineering study, or where such information is not available, by experience flood maps or any other evidence available to the Board of Appeals. The person contesting the location of the district boundary shall be given the opportunity to present his/her own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the Board of Appeals shall advise the Plan Commission of its findings and the Plan Commission shall proceed to petition the Village Board for a map amendment.

(c) **Notice to Department of Natural Resources.** The Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in a shoreland or to floodland regulations, and a copy of all shoreland and floodland appeals, to the Wisconsin Department of Natural Resources (DNR) for review and comment at least ten (10) days prior to any public hearings. Final action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to variances to conservancy regulation in a shoreland or to floodland regulations, and a copy of all decisions to shoreland and floodland appeals, shall be transmitted to the DNR within ten (10) days of the date of such decision.

(d) **Decision.**

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

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

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

(4) Applicants receiving variances in floodlands shall be notified, in writing, by the Board of Appeals that increased flood insurance premiums and greater risk to life and property may result from the granting of the variance. The Board shall keep a record of the notification in its files.

APPENDIX A

SUMMARY OF AREA, YARD, AND HEIGHT REQUIREMENTS
VILLAGE OF BUTLER, WAUKESHA COUNTY, WISCONSIN

District		Minimum Lot Area			Minimum Building Area				Minimum Side Yard (ft.)	Minimum Rear Yard (ft.)	Maximum Height (ft.)
		Total Area (sq. ft.)	Area Per Family (sq. ft.)	Lot Width At The Setback (ft.)	Total Area (sq. ft.)	Area Per Family (sq. ft.)	First Floor Area (sq. ft.)	Minimum Setback (ft.)			
R-1	Single-family Residential District	10,000	10,000	80	1,200	1,200	1,200	30	12	30	30
R-2	Two-family Residential District	4,800	3,600	40	1,000	1,000	800	25	6	30	30
R-3	Multiple-family Residential District	15,000	3,000	120	800	500	800	30	15	25	30
B-1	Community Business District	4,800	--	40	--	300	--	--	--	25	45
M-1	Industrial District	4,800	--	40	--	--	--	12	5	30	45
M-2	Light Industrial and Warehousing District	15,000	--	90	--	--	--	25	8	25	45
M-3	Heavy Industrial District	40,000	--	150	--	--	--	50	15	30	60
C-1	Wetland Conservancy District	--	--	--	--	--	--	--	--	--	--
FWO	Floodway Overlay District	--	--	--	--	--	--	--	--	--	--
FFO	Floodplain Fringe Overlay District	--	--	--	--	--	--	--	--	--	--
PUD	Planned Unit Development Overlay District	Varies: See Section 17.413 of this Ordinance.									

NOTE: Zoning of annexed land shall be in compliance with the requirements of Section 17.0401(F) of this Ordinance.

Source: SEWRPC

Title 13 ▸ Chapter 2

Community Development Authority

13-2-1 Purpose
13-2-2 Community Development Authority Created
13-2-3 Authorized Area and Powers
13-2-4 Funding
13-2-5 Modifications

Sec. 13-2-1 Purpose.

(a) The Butler Village Board hereby finds, determines and declares that the undertaking of programs and projects for blight elimination and prevention, redevelopment, and community development and redevelopment within the area of the Village of Butler described in Exhibit A (collectively, "qualified redevelopment projects") will encourage well-planned, stable, adequate places of employment for the people of the Village of Butler and an increase in the general property tax base of the Village of Butler.

(b) The Village Board hereby finds, determines and declares that there exists within the area of the Village of Butler described on Exhibit A a need for qualified redevelopment projects and that creation of a community development authority authorized to act in this area will serve the public interest.

Sec. 13-2-2 Community Development Authority Created.

(a) **Creation.** Pursuant to Secs. 66.1339 and 1335, Wis. Stats., the Village Board hereby creates a community development authority, which authority shall be known as the "Community Development Authority of the Village of Butler, Wisconsin". Said authority (the "Authority") shall be a separate body politic for the purpose of carrying out qualified redevelopment projects within the area described on Exhibit A, and shall have all powers, duties and functions of community development authorities contained in Sec. 66.1335, Wis. Stats., except as otherwise limited by this Chapter.

(b) **Appointment.** The Community Development Authority shall be appointed as prescribed in Section 2-4-7.

(c) **Bylaws; Officers.** As a means of more clearly setting forth its powers and rules of procedure, the Community Development Authority shall adopt a set of bylaws which shall, among other things, establish the general policy duties and provide for the appointment of the chairperson, treasurer, secretary and executive director. The initial bylaws and subsequent amendments must also be approved by a majority vote of the Village Board.

Sec. 13-2-3 Authorized Area and Powers.

(a) The area specified in Exhibit A is the only area within the Village in which the Community Development Authority is authorized to act. The Village Board finds that this area is in need of the assistance that a community development authority can provide, but the Village Board does not find the existence of such need in any other area of the Village at this time. The authority of the Community Development Authority to undertake projects in any other area of the Village can only be acquired through an amendment of this Chapter.

(b) The Community Development Authority is not granted the authority to act as the agent of the Village in planning and carrying out community development programs and activities under the Federal Housing and Community Development Act of 1974, nor is it authorized to act as agent of the Village to perform the acts which may otherwise be performed by the Plan Commission pursuant to Sec. 66.1301 through 66.1329, Wis. Stats. The Community Development Authority will be authorized to undertake projects relating to blight elimination, slum clearance, urban renewal and redevelopment programs proceeding under Secs. 66.1301 to 66.1329, 66.1331, 66.1333, 66.1337 or 66.1105, Wis. Stats.

(c) As guidance to the Community Development Authority in determining what projects to undertake, it is the intent of the Village Board that the Community Development Authority only pursue projects that will bring or retain significant commercial and light industrial businesses (together with the stable, high quality jobs and tax base that they bring) to the Village. It is the intent of the Village Board that the Community Development Authority aid the Village in competing with other potential sites for such businesses.

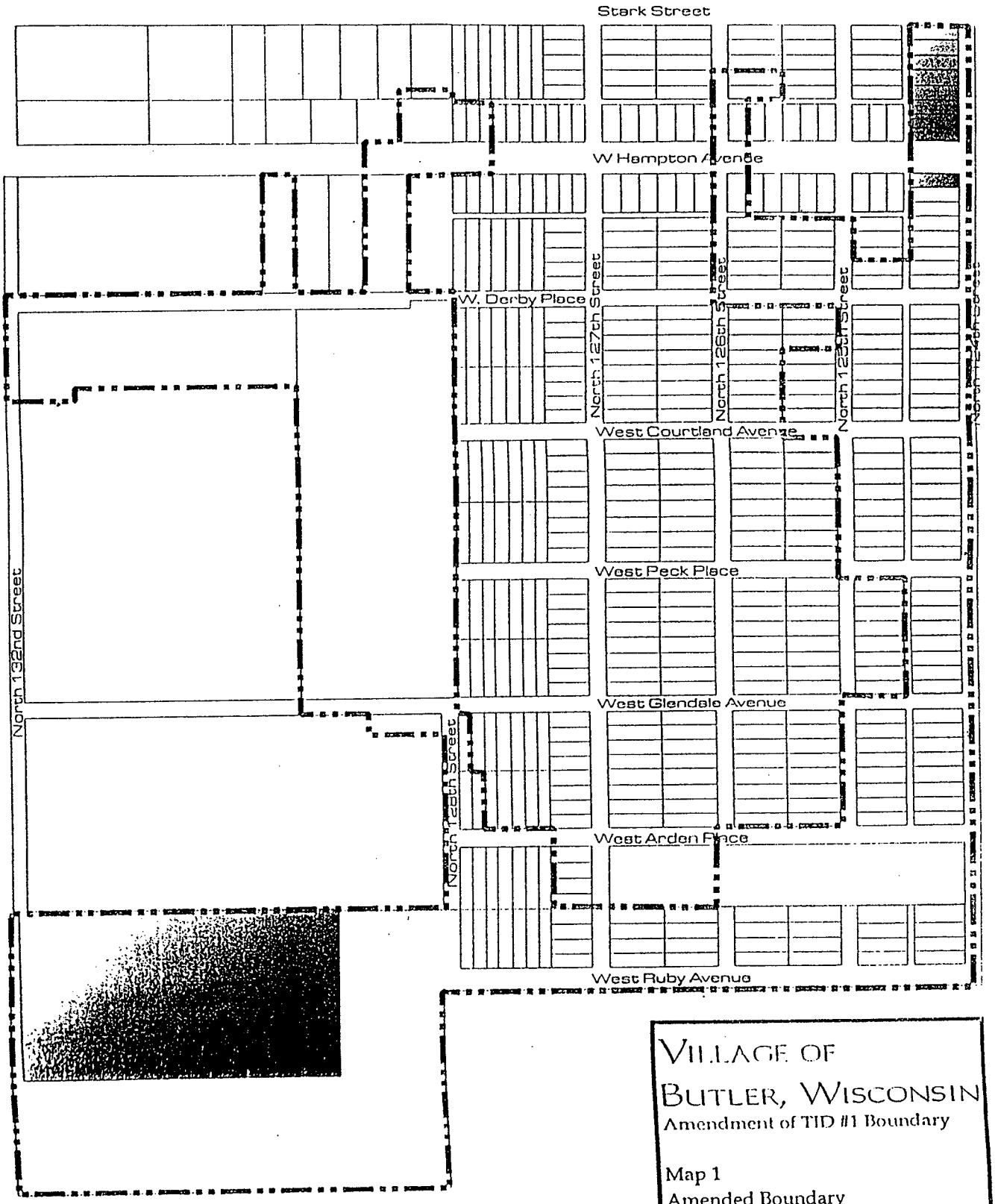
Sec. 13-2-4 Funding.

The Community Development Authority shall have no separate source of funding except for funds allocated on a case-by-case basis by the Village Board or monies received from borrowings or bond issuance by the Community Development Authority, after approval by the Village Board on a case-by-case basis. Whenever the Community Development Authority desires to undertake a project, it is instructed to submit a proposal to the Village Board for the allocation of funds to investigate the proposal, receive the approval or disapproval of the Board, and implement the proposal (if approved by the Board).

Sec. 13-2-5 Modifications.

At any time, the Village Board may, by a vote of two-thirds (2/3) of the members of the Board, amend this Chapter so as to alter or abolish the duties, authority or existence of the Community Development Authority. Provided, however, that the Village Board first make legally sufficient alternatives available for the satisfaction of any contractual obligations previously incurred by the Community Development Authority.

Cross-Reference: Section 2-4-7.
State Law Reference: Secs. 66.1105, 66.1301 to 66.1329, 66.1331, 66.1333, 66.1335, 66.1337, 66.1339, Wis. Stats.



Village of Butler, Wisconsin

Amendment of TID #1 Boundary

Map 1
Amended Boundary

Added Parcels

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VANDEWALLE & ASSOCIATES
Planning Design & Development Consultants