

(8) That in the case of a commercial/apartment Planned Unit Development Overlay District:

- a. The development only be permitted in the Northern Downtown and S. Main Street West redevelopment target areas as described in the 1990-2010 Master Plan, and seen in Figure 3, page 8 of the Master Plan.
- b. Apartment buildings are permitted only as conditional uses in these districts unless the underlying zoning is B-4 or B-5.
- c. The underlying zoning in the two redevelopment target areas not be changed from their present zoning to allow for apartment buildings as permitted uses.
- d. Such development allowed in a commercial/apartment PUD will create an attractive commercial and 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.
- e. The development is compatible with surrounding land uses and will not adversely affect or be adversely affected by neighboring land uses.

E. Determination

- (1) 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 thereto the building, site and operational plans for the development as approved by the Village Board.

F. Changes and Additions

- (1) Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Village Plan Commission and if in the opinion of the Village Plan Commission, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the Village Plan Commission shall be required and notice thereof be given pursuant to the provisions of Section 17.1100 of this ordinance, and said proposed alterations shall be submitted to the Village Board for approval.

G. Subsequent Land Division

- (1) The division of any land or lands within a Planned Development Overlay District for the purpose of change or conveyance of ownership shall be accomplished pursuant to the land division regulations of the Village and when such division is contemplated, a preliminary plat of the lands to be divided shall accompany the petition for PDO approval.
- (2) Construction Routes. A map of the development showing the access points to be used by construction vehicles during the course of construction and which shall become part of the conditional use agreement between the Village and the developer with such provisions for enforcement as provided in the contract.
- (3) Consultant, Engineering and Legal Fees. If the Village incurs consultant, engineering or legal fees to prepare or review any aspect of the proposed planned unit development, the Village will notify the petitioner of what portion of the fees shall be charged to the petitioner. All such charges in facilities agreed upon in the conditional use permit.

- (4) Financial Guarantee to Complete Construction Improvements in the Planned Unit Development. A letter of credit in a Wisconsin financial institution or cash deposit or other satisfactory financial guarantee approved by the Village Attorney to cover the cost of all improvements in facilities agreed upon in the conditional use permit.
- (5) Additional Requirements. The Plan Commission and the Village Board may add any further additional requirements appropriate to each conditional use necessary.
- (6) Recording. The conditional use shall be recorded in the office of the Register of Deeds to affect the real estate upon which a conditional use is granted, which includes all homeowners association documents and deed restrictions and provisions for utilities and other services.

17.0317 **SWO SHORELAND WETLAND OVERLAY DISTRICT**

The SWO Shoreland Wetland Overlay District is intended to preserve, protect, and enhance the ponds, streams, and wetland areas of the Village of Thiensville. 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 water-based recreation resources of the Village.

The boundaries of the C-1 Lowland Conservancy District are based on the Wisconsin Wetland Inventory Map for the Village of Thiensville, dated January 24, 1990, and stamped "FINAL," and include, but are not limited to, all shoreland wetlands, five acres or greater in area shown on that map.

A. Permitted Principal Uses

- (1) Hiking, fishing, trapping, swimming, and boating, unless prohibited by other ordinances and laws.
- (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
- (3) The practice of silviculture, including the planting, thinning, and harvesting of timber.
- (4) Construction and maintenance of fences
- (5) Agricultural cultivation and pasturing provided they do not involve extension of or creation of new drainage systems, and further provided they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
- (6) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system only to the extent necessary to maintain the level of drainage required to continue the existing 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.

B. Permitted Accessory Uses

- (1) None.

C. Conditional Uses

- (1) The construction of streets in the SWO Shoreland Wetland Overlay District 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 wetlands, provided that:
- a. The street cannot as a practical matter be located outside the SWO Shoreland Wetland Overlay District;
 - b. The street is designed and constructed to minimize adverse impact upon the natural functions of the wetland as listed in Section 17.1208(B) of this Ordinance;
 - 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 SWO Shoreland Wetland Overlay District;
 - b. The building is not designed for human habitation and does not exceed 500 square feet in area; and
 - c. Only limited filling or excavating necessary to provide structural support is conducted.
- (3) The establishment and development of public and private parks, recreation areas, recreation trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private habitat areas, provided that:
- a. Parks shall be limited to passive activities. No ball diamond, tennis court, playfield, playground or other active recreational area shall be constructed in a wetland;
 - b. Any private recreation or wildlife habitat area must be exclusively for that purpose;
 - c. No filling is to be done; and
 - d. 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 in the SWO Shoreland Wetland Overlay District, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to members located outside the SWO Shoreland Wetland Overlay District, provided that:
 - a. The transmission and distribution lines and related facilities cannot as a practical matter be located outside the SWO Shoreland Wetland Overlay 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 wetland area.
- (5) The construction and maintenance of railroad lines, provided that:
 - a. The railroad lines cannot as a practical matter be located outside the SWO Shoreland Wetland Overlay 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 wetland area.

D. Prohibited Uses

- (1) Any use not listed as a permitted use or a conditional use is prohibited unless the SWO Shoreland Wetland Overlay District lands concerned 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 high-water mark of any navigable water is prohibited.

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17.0410 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

17.0411 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.

17.0412 FINDING OF FACT

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

17.0413 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

17.0414 TITLE

This ordinance shall be known as the Floodplain Zoning Ordinance for the Village of Thiensville, Wisconsin.

17.0415 GENERAL PROVISIONS

(a) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood.

Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study.

Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(b) OFFICIAL MAPS & REVISIONS

(*)The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Village of Thiensville Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Administrator of the Village of Thiensville. If more than one map or revision is referenced, the most restrictive information shall

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Comment [v1]: "the Village of Thiensville Floodplain Appendix" – Is this a reference to an official document? I recommend the citation include the date of the "Appendix", the holder of the document, or other means to ensure that the reference is clear and dated (e.g. "as amended", as of a date certain, at the time of application, etc.)

apply.

OFFICIAL MAPS : Based on the FIS ~~(select one or more of the following map citations that apply to your community; contact your DNR office if you have questions, or click on <http://store.msc.fema.gov> to access the FEMA Map Store).~~

(1) FEMA Digital Flood Insurance Rate Maps (DFIRM), Panel Nos. 55089C0251F and 200755089C0252F, effective December 4, 2007.

(c) ~~ESTABLISHMENT OF DISTRICTS~~

The regional floodplain areas are divided into three districts as follows:

- (1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- (2) The Flood-fringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- (3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

(c) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (1) or (2) below. If a significant difference exists, the map shall be amended according to s. 17.0480. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 17.0473(c) and the criteria in (1) and (2) below.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 17.0481(f).

(e) REMOVAL OF LANDS FROM FLOODPLAIN

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 17.0480.

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

(f) COMPLIANCE

Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(g) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

(h) ABROGATION AND GREATER RESTRICTIONS

- (1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) INTERPRETATION

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or ~~in effect on the date of the most recent text amendment to this ordinance~~ the date upon which the provision in question was most recently amended.

(j) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(l) ANNEXED AREAS FOR CITIES AND VILLAGES

The Ozaukee County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(m) GENERAL DEVELOPMENT STANDARDS

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

17.0416 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

- (1) "A ZONES" - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) "ACCESSORY STRUCTURE OR USE" - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- (3) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- (4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- (5) "BUILDING" - See STRUCTURE.
- (6) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- (7) "CERTIFICATE OF COMPLIANCE" - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
- (8) "CHANNEL" - A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (9) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- (10) "DECK" - An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

- (11) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- (12) "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- (13) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- (14) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- (15) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- (16) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- (17) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - a. The overflow or rise of inland waters,
 - b. The rapid accumulation or runoff of surface waters from any source,
 - c. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
 - d. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (18) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
- (19) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (20) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

- (21) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (22) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the flood-fringe, and may include other designated floodplain areas for regulatory purposes.
- (23) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (24) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (25) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (26) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (27) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- (28) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (29) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (30) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- (31) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- (32) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (33) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

- (34) "HISTORIC STRUCTURE" - Any structure that is either:
- a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- (35) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- (36) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- (37) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- (38) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1988 adjustment.
- (39) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- (40) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (41) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the flood-fringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- (42) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

- (43) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- (44) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in s. 17.0415(b), which has been approved by the Department and FEMA.
- (45) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- (46) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (47) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (48) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (49) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (50) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (51) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (52) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (53) "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or

temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

- (54) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- (55) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- (56) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- (57) "VARIANCE" - An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- (58) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- (59) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- (60) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (61) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

17.0420 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

17.0421 HYDRAULIC AND HYDROLOGIC ANALYSES

(a) Except as allowed in par. (c) below, no floodplain development shall:

- (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
- (2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

- (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (c) are met.
- (c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 17.0480.

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

17.0422 WATERCOURSE ALTERATIONS

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

17.0423 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 17.0480.

17.0430 FLOODWAY DISTRICT (FW)

17.0431 APPLICABILITY

This section applies to all areas within the regional floodway district. The regional floodway district includes all mapped floodway areas so designated on the official floodplain zoning map showing the regional flood limits, which are based on the flood hazard boundary maps or flood insurance study maps and dated March 18, 1991, and also includes the floodway portion of the general floodplain district, as determined pursuant to s. 17.0454.

17.0432 PERMITTED USES

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if

- they are not prohibited by any other ordinance;
 - they meet the standards in s. 17.0433 and 17.0434; and
 - all permits or certificates have been issued according to s. 17.0471:
- (a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (b) Nonstructural commercial uses, such as loading areas, parking areas and airport landing strips.
 - (c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 17.0433(d).
 - (d) Uses or structures accessory to open space uses, or classified as historic structures, that comply with ss. 17.0433 and 17.0434.
 - (e) Extraction of sand, gravel or other materials that comply with s. 17.0433(d).
 - (f) Functionally water dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
 - (g) Public utilities, streets and bridges that comply with s. 17.0433(c).

17.0433 ~~STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS~~

(a) GENERAL

- (1) Any development in floodway areas shall comply with s. 17.0420 and have a low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to s. 17.0421:
 - a. A cross section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (2) above.

(b) STRUCTURES

Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (1) The structure is not designed or utilized for human habitation and does not have a high flood damage potential.
- (2) It must be anchored to resist flotation, collapse, and lateral movement;
- (3) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
- (4) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(c) PUBLIC UTILITIES, STREETS AND BRIDGES

Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate flood-proofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of s. 17.0421.

(d) FILLS OR DEPOSITION OF MATERIALS

Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of s. 17.0421 are met;
- (2) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulk heading; and
- (4) The fill is not classified as a solid waste or hazardous material.

17.0434 PROHIBITED USES

All uses not listed as permitted uses in s. 17.0432 are prohibited, including the following uses:

- (a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;
- (b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;
- (e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (f) Any solid or hazardous waste disposal sites;
- (g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

17.0440 FLOODFRINGE DISTRICT (FF)

17.0441 APPLICABILITY

This section applies to all areas within the regional flood-fringe district. The regional flood-fringe district includes the A zones so designated on the official floodplain zoning map showing the regional flood limits, which are based on the flood hazard boundary maps or flood insurance study maps and dated March 18, 1991, and also includes the flood-fringe portion of the general floodplain district, as determined pursuant to s. 17.0454.

17.0442 PERMITTED USES

Any structure, land use, or development is allowed in the flood-fringe district if the standards in s. 17.0443 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 17.0471 have been issued.

17.0443 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS

S. 17.0421 shall apply in addition to the following requirements according to the use requested.

(a) RESIDENTIAL USES

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the flood-fringe area, shall meet or exceed the following standards:

- (1) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other flood-proofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
- (2) The basement or crawlway floor may be placed at the regional flood elevation if it is flood-proofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

- (3) Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in par. (4).
- (4) In developments where existing street or sewer line elevations make compliance with par. (3) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
- a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - b. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.
- (b) **ACCESSORY STRUCTURES OR USES**
- (1) Except as provided in par.(b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation, provided it is not a habitable structure as defined herein. All habitable structures are subject to the provisions of s. 17.0443(a).
 - (2) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if provided it is not a habitable structure, it is subject to flood velocities of no more than two feet per second, and it meets all of the provisions of Sections 17.0433 (b) (1),(2),(3) and (4) and 17.0443 (e) below.
- (c) **COMMERCIAL USES**
Any commercial structure which is erected, altered or moved into the flood-fringe area shall meet the requirements of s. 17.0443(a). Subject to the requirements of s. 17.0443(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (d) **MANUFACTURING AND INDUSTRIAL USES**
The Village of Thiensville does not have any manufacturing or industrial zoning uses.
- (e) **STORAGE OF MATERIALS**
Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or flood-proofed in compliance with s. 17.0475. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (f) **PUBLIC UTILITIES, STREETS AND BRIDGES**
All utilities, streets and bridges shall be designed to be compatible with comprehensive When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are flood-proofed in compliance with s. 17.0475 to the flood protection elevation; Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (g) **SEWAGE SYSTEMS**
All on-site sewage disposal systems shall be flood-proofed, pursuant to s. 17.0475, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

- (h) WELLS
All wells shall be flood-proofed, pursuant to s. 17.0475, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (i) SOLID WASTE DISPOSAL SITES
Disposal of solid or hazardous waste is prohibited in flood-fringe areas.
- (j) DEPOSITION OF MATERIALS
Any deposited material must meet all the provisions of this ordinance.

17.0450 GENERAL FLOODPLAIN DISTRICT (GFP)

17.0451 APPLICABILITY

The general floodplain district shall include all A zones shown on the official floodplain zoning map, which is based on flood insurance study maps and flood hazard boundary maps showing the Milwaukee River and its tributaries in the village, prepared by the Department of Housing and Urban Development, dated March 18, 1991, and approved by the Department of Natural Resources. Furthermore, the provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and flood-fringe districts shall be delineated when adequate data is available.

17.0452 PERMITTED USES

Pursuant to s. 17.0454, it shall be determined whether the proposed use is located within ~~a the~~ floodway or ~~the~~ flood-fringe ~~are~~ aportion of the general floodplain district. Following that determination, uses located in the floodway are subject to the provisions of s. 17.0432 and uses located in the floodfringe are subject to the provisions of s. 17.0442. Those uses permitted in floodway (s. 3.2) and floodfringe areas (s. 4.2) are allowed within the general floodplain district, according to the standards of s. 5.3, provided that all permits or certificates required under s. 7.1 have been issued.

17.0453 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

Pursuant to s. , it shall be determined whether the proposed use is located within the floodway or the floodfringe portion of the general floodplain district. Following that determination, development located in the floodway is subject to the provisions of s. Pursuant to s. 17.0454, it shall be determined whether the proposed use is located within the floodway or the flood-fringe portion of the general floodplain district. Following that determination, development located in the floodway is subject to the provisions of s. 17.0433 and development located in the flood-fringe is subject to the provisions of s. 17.0443. With the exception of regulations exclusive to s. 17.0430 or s. 17.0440, all other provisions of this ordinance apply to the entire general floodplain district. and development located in the floodfringe is subject to the provision. W, all other provisions of this ordin

17.0454 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;

- (b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - (1) A typical valley cross section showing the stream channel, the floodplain adjoining each side of the channel, the cross sectional area to be occupied by the proposed development, and all historic high water information;
 - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - (3) Profile showing the slope of the bottom of the channel or flow line of the stream;
 - (4) Specifications for building construction and materials, flood-proofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (c) Transmit one copy of the information described in pars. (a) and (b) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 17.0471(b)(3) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

17.0460 NONCONFORMING USES

17.0461 GENERAL

- (a) **APPLICABILITY**
If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.
- (b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:
 - (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.
 - (2) The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
 - (3) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
 - (4) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions

which have been permitted, and the percentage of the structure's total current value those modifications represent;

- (5) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 17.0443(a). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (6) Replacement
 - a. Except as provided in sub. b., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
 - b. For nonconforming buildings that are damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the non-flood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.
- (7) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 17.0433 (a), flood resistant materials are used, and construction practices and flood-proofing methods that comply with s. 17.0475 are used.

17.0462 FLOODWAY AREAS

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (1) Has been granted a permit or variance which meets all ordinance requirements;
 - (2) Meets the requirements of s. 17.0461;
 - (3) Will not increase the obstruction to flood flows or regional flood height;
 - (4) Any addition to the existing structure shall be flood-proofed, pursuant to s. 17.0475, by means other than the use of fill, to the flood protection elevation;
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

- c. Mechanical and utility equipment must be elevated or flood-proofed to or above the flood protection elevation; and
 - d. The use must be limited to parking or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
 - (c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

17.0463 FLOODFRINGE AREAS

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or flood-proofed to the flood protection elevation in compliance with the standards for that particular use in s. 17.0443, except where s. 17.0463(b) is applicable.
- (b) Where compliance with the provisions of par. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 17.0473, may grant a variance from those provisions of par. (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) depths will not exceed two feet;
 - (5) Flood velocities will not exceed two feet per second; and
 - (6) The structure will not be used for storage of materials as described in s. 17.0443(e).
- (c) If neither the provisions of par. (a) or (b) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood-fringe, if the addition:
 - (1) Meets all other regulations and will be granted by permit or variance;
 - (2) Does not exceed 60 square feet in area; and
 - (3) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

- (e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

17.0470 ADMINISTRATION AND ENFORCEMENT

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

17.0471 ZONING ADMINISTRATOR

- (a) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
 - (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
 - (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions such as:
 - a. All permits issued, inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - d. All substantial damage assessment reports for floodplain structures.
 - (5) Submit copies of the following items to the Department Regional office:
 - a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - b. Copies of any case by case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
 - (6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - (7) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.
- (b) LAND USE PERMIT

A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(1) GENERAL INFORMATION

- a. Name and address of the applicant, property owner and contractor;
- b. Legal description, proposed use, and whether it is new construction or a modification;

(2) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- a. Location, dimensions, area and elevation of the lot;
- b. Location of the ordinary highwater mark of any abutting navigable waterways;
- c. Location of any structures with distances measured from the lot lines and street center lines;
- d. Location of any existing or proposed on-site sewage systems or private water supply systems;
- e. Location and elevation of existing or future access roads;
- f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
- h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 17.0430 or 17.0440 are met; and
- i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 17.0421. This may include any of the information noted in s. 17.0433(a).

(3) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

- a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
- b. A map showing location and details of vehicular access to lands outside the floodplain; and
- c. A surface drainage plan showing how flood damage will be minimized. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(4) EXPIRATION

All permits issued under the authority of this ordinance shall expire 365 days after issuance.

(c) CERTIFICATE OF COMPLIANCE

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and flood proofing elevations are in compliance with the permit issued. Flood proofing measures also require certification by a registered professional engineer or architect that flood proofing measures meet the requirements of s. 17.0475.

(d) OTHER PERMITS

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

17.0472 ZONING AGENCY

(a) The Village Plan Commission shall:

- (1) Oversee the functions of the office of the zoning administrator; and
- (2) Review and advise the Governing body on all proposed amendments to this ordinance, maps and text.

(b) This zoning agency shall not:

- (1) Grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
- (2) Amend the text or zoning maps in place of official action by the Governing body.

17.0473 BOARD OF ADJUSTMENT/APPEALS

The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

(a) POWERS AND DUTIES

The Board of Adjustment/Appeals shall:

- (1) Appeals - Hear and decide appeals where it is alleged there is an error in any order,

requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

- (2) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (3) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(c) APPEALS TO THE BOARD

- (1) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
- (2) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES
 - a. Notice - The board shall:
 1. Fix a reasonable time for the hearing;
 2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
 - b. Hearing - Any party may appear in person or by agent. The board shall:
 1. Resolve boundary disputes according to s. 17.0473(c).
 2. Decide variance applications according to s. 17.0473(d).
 3. Decide appeals of permit denials according to s. 17.0474.
- (3) DECISION: The final decision regarding the appeal or variance application shall:
 - a. Be made within a reasonable time;
 - b. Be sent to the Department Regional office within 10 days of the decision;
 - c. Be a written determination signed by the chairman or secretary of the Board;
 - d. State the specific facts which are the basis for the Board's decision;
 - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
 - f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) BOUNDARY DISPUTES

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- (2) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
- (3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 17.0480.

(d) VARIANCE

- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - a. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - c. The variance is not contrary to the public interest; and
 - d. The variance is consistent with the spirit, intent and purpose of this ordinance in s. 17.0413.
- (2) In addition to the criteria in par. (1), to qualify for a variance under FEMA regulations, the following criteria must be met:
 - a. The variance may not cause any increase in the regional flood elevation;
 - b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 - c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (3) A variance shall not:
 - a. Grant, extend or increase any use prohibited in the zoning district.
 - b. Be granted for a hardship based solely on an economic gain or loss.
 - c. Be granted for a hardship which is self created.
 - d. Damage the rights or property values of other persons in the area.
 - e. Allow actions without the amendments to this ordinance or map(s) required in s. 17.0481.
 - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

17.0474 TO REVIEW APPEALS OF PERMIT DENIALS

- (a) The Zoning Agency (s. 17.0472) or Board shall review all data related to the appeal. This may include:
 - (1) Permit application data listed in s. 17.0471(b).
 - (2) Floodway/flood-fringe determination data in s. 17.0454.
 - (3) Data listed in s. 17.0433(a)(2) where the applicant has not submitted this information to the zoning
 - (4) Other data submitted with the application, or submitted to the Board with the appeal.
- (b) For appeals of all denied permits the Board shall:
 - (1) Follow the procedures of s. 17.0473;
 - (2) Consider zoning agency recommendations; and
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the Board shall:
 - (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 - (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

17.0475 FLOODPROOFING

- (a) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the flood-proofing measures will protect the structure or development to the flood protection elevation.
- (b) Flood-proofing measures shall be designed to:
 - (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement; and
 - (4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (c) Flood-proofing measures could include:
 - (1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or
 - (2) Adding mass or weight to prevent flotation.
 - (3) Placing essential utilities above the flood protection elevation.

- (4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
- (5) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
- (6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

17.0476 PUBLIC INFORMATION

- (a) Place marks on structures to show the depth of inundation during the regional flood.
- (b) All maps, engineering data and regulations shall be available and widely distributed.
- (c) All real estate transfers should show what floodplain zoning district any real property is in.

17.0477 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$ 5.00 and not more than \$ 2,000.00, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

17.0480 AMENDMENTS

17.0481 GENERAL

The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (a) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (b) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (c) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (d) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (e) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- (f) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the flood-fringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

17.0482 PROCEDURES

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by ss. 5.4 and 7.1(2).

- (a) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment

procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.

- (b) No amendments shall become effective until reviewed and approved by the Department.
- (c) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (d) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. 17.0415(d).)

SECTION 17.0500 TRAFFIC, LOADING, PARKING AND ACCESS

17.0501 TRAFFIC VISIBILITY

No obstructions, such as structures, parking, or vegetation, shall be permitted in any district over 3 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 15 feet from their intersection (See Illustration No. 2)

In the Case of Arterial Streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 50 feet. (See Illustration No. 2)

17.0502 LOADING REQUIREMENTS

On every lot on which a business, trade, or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way.

A. Number of loading and unloading spaces required.

Gross Floor Area of Building <u>In Square Feet</u>	<u>Number of Spaces</u>
5,000 to 24,999	1
25,000 to 49,999	2
50,000 to 99,000	3
100,000 to 174,999	4
175,000 to 249,999	5

For each additional 75,000 square feet (or fraction thereof) of gross floor area, one (1) additional loading and unloading space shall be provided.

B. Each Loading and Unloading Space Shall Have Access to a public dedicated street or alley.

C. The Minimum Area For Each Loading and Unloading Space, excluding the area needed to maneuver, shall be 250 square feet.

D. At No Time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

17.0503 PARKING REQUIREMENTS

In all districts, except the B-1 Central Business District, and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased, or sale of property (within 6 months of sale), off-street parking stalls for all vehicles in accordance with the following, including compliance with all of the requirements for parking, landscaping loading and driveways highway access. Businesses which do provide parking in the B-1 Central Business District shall comply with the surfacing and design requirements of this section.

- A. Parking Lot Setback including parking areas and aisles, shall be set back a minimum of five (5) feet from the base setback line and a minimum of five (5) feet from other lot line. This section is applicable to all off street parking areas in all Business Manufacturing and Industrial Districts.
- B. Adequate Access to a public street shall be provided for each parking space, and driveways shall be at least 12 feet wide for one and two-family dwellings, and a minimum of 20 feet at the property line for all other uses. (See Section 17.0504B.)
- C. The Minimum Dimensions of each parking space shall be 8 feet by 16 feet and a maximum of 9 feet by 18 feet, except for parking spaces provided for use by physically disabled persons.
- D. Parking Spaces for use by physically handicapped persons shall comply with Chapter 69 of the State Code.
- E. Location to be on the same lot as the principal use or not over 400 feet from the principal use and shall be a minimum of 10 feet from an adjoining street right-of-way or lot line. Parking will only be allowed to the side and rear of the principal building(s) on any lot.
- F. Surfacing. All off-street parking areas shall be surfaced with an asphaltic or Portland cement pavement in accordance with the Village of Thiensville standards and specifications so as to provide a durable and dust-free surface, and shall be so graded and drained as to dispose of all surface waters. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.
- G. Landscaping. This section is applicable to all offstreet parking areas in Business Districts. All public off-street parking areas which serve five(5) vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Ordinance shall be provided with accessory landscape areas totaling not less than ten (10) percent of the surfaced area. The minimum size of each landscape area shall not be less than 170 square feet. Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Plan Commission. Landscape islands shall be disbursed throughout the off street parking area. There shall be at least one (1) landscape island for each 10 parking spaces. Landscape islands shall contain a variety of deciduous/evergreen bushes and trees. At least one understory tree and 7 bushes shall be located in each landscape island. All plans for such proposed parking areas 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. 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 six (6) feet. The Plan Commission may modify these landscaping requirements when it is deemed that a hardship will be created.

- H. **Parking Lot Screening.** This section is applicable to all off street parking areas in all business, institutional and park districts and are created or redesigned and rebuilt subsequent to the adoption of this ordinance. A solid masonry wall with plantings as indicated below will be required at the sidewalk. Those parking areas for vehicles if adjoining a residential use or a public right-of-way shall be screened from such use with evergreen/deciduous plantings. Safety issues will be considered by the Plan Commission as they arise. Where safety issues have been determined by the Plan Commission, measures such as lower plantings may be considered. Deciduous material shall not exceed 25% of the planting material. One deciduous hardwood or other acceptable street trees subject to Village approval are required every 15 feet of Frontage Street adjacent to the right-of-way. Such shall be an average of 2 ½ feet to 3 feet in height at planting, between the parking and the street right-of-way. Parking lots adjacent to residential properties shall have a fence or 6 feet of equivalent density of conifers or a combination of both, with the method of screening to be approved by the Plan Commission. All screening materials shall be built and maintained at a minimum height of three (3) feet or six (6) feet if adjacent to residential properties. The Plan Commission may require greater screening requirements for parking of larger trucks, semi-trailers and large equipment or other situations where the need arises.
- I. **Maintenance.** All landscaping installed as required by this ordinance shall be maintained in perpetuity.
- J. **Parking Lot Geometrics.** The minimum length of parking stalls shall be modified in parking lots based on the aisle width and angle parking. Parking stalls shall conform to the following dimensions.

<i>Parking Pattern in degrees</i>	<i>One Way Maneuvering Lane Width</i>	<i>Two Way Maneuvering Lane Width</i>	<i>Parking Space Width</i>	<i>Parking Space Length</i>	<i>Total Width of One Tier of Spaces Plus Maneuvering Lane (1 way)</i>	<i>Total Width of Two Tiers of spaces plus maneuvering lane (2 ways)</i>	<i>Total Width of Two Tiers of spaces plus maneuvering lane (2 ways)</i>
<i>0 (parallel parking)</i>	<i>12 feet</i>	<i>24 feet</i>	<i>9 feet</i>	<i>22 feet</i>	<i>34 feet</i>	<i>30 feet</i>	<i>42 feet</i>
<i>0-30</i>	<i>12 feet</i>	<i>24 feet</i>	<i>9 feet</i>	<i>18 feet</i>	<i>30 feet</i>	<i>48 feet</i>	<i>60 feet</i>
<i>31-60</i>	<i>18 feet</i>	<i>24 feet</i>	<i>9 feet</i>	<i>18 feet</i>	<i>36 feet</i>	<i>54 feet</i>	<i>60 feet</i>
<i>61-90</i>	<i>24 feet</i>	<i>24 feet</i>	<i>9 feet</i>	<i>18 feet</i>	<i>42 feet</i>	<i>60 feet</i>	<i>60 feet</i>

- K. **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.
- L. **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 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 or more uses on one lot or parcel, 85 % of the number of spaces required for each use should determine the total

number of spaces required at a minimum. The Plan Commission may require 100% of the required spaces if warranted by the uses.

- M. Drives. Where possible, parking drives are to be located centered on property line within side setbacks and shared by adjacent properties. Where a parking lot exists on an adjacent property immediately adjacent to a proposed parking lot, traffic drives are to be aligned to allow travel between neighboring parking lots.

(1) Residential Uses

- a. Single-family, two-family and multiple-family dwelling: two (2) spaces per dwelling unit with at least one (1) space per dwelling unit provided in a garage.
- b. Housing for the elderly one (1) space per dwelling unit.

(2) Retail sales and customer service uses, and places of entertainment, except as specifically set forth below: four (4) spaces per 1,000 square feet of gross floor area of customer sales and service, plus one (1) space per 200 square feet of storage and/or office gross floor area. Other retail sales and customer service uses and places of entertainment:

- a. **Financial institutions:** four (4) per 1,000 square feet of gross floor area, plus one (1) space per employees 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 25 spaces per chapel unit, whichever is greater.
- c. **Grocery stores or supermarkets:** four (4) spaces per 1,000 square feet of gross floor area of customer sales and service plus one (1) space per 200 square feet of storage and/or office gross floor area.
- d. **Motels and hotels:** one (1) space per room or suite, plus one (1) space per every two (2) employees 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 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:** four (4) spaces per 1,000 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. **Personal services:** four (4) spaces per 1,000 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 100 square feet of gross floor area.

- k. **Restaurants, with drive in and drive through lanes:** one (1) space per 50 square feet of gross floor area, plus one (1) space per two (2) employees for the work shift with the largest number of employees.
- l. **Taverns, dance halls, night clubs and lounges:** five (5) spaces per 1,000 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 200 square feet of gross floor area of inside sales or display, plus one (1) space per 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 25,000 square feet): four (4) spaces per 1,000 square feet of gross leasable area.

(3) Offices

- a. **Medical, dental and similar professional health service offices:** three (3) 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:** four (4) spaces per 1,000 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, 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 for 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 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 (1.5) 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 200 square feet of gross floor area.

(5) 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 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 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 10 students 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.

17.0504 DRIVEWAYS

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

- A. Islands between driveway openings shall be provided with a minimum of six (6) feet between all driveways and three (3) feet at all lot lines. The Plan Commission may

modify this requirement where lots are so narrow as to require a shared driveway between two adjacent properties.

- B. Openings for vehicular ingress and egress shall not exceed 24 feet at the street line and 30 feet at the roadway. (See Section 17.0503B.)
- C. Vehicular Entrances and Exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; or garages shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.

17.0505 HIGHWAY ACCESS

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

- A. Arterial Streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.
- B. Minor Land Access Streets intersecting an arterial street or another minor land access street within 50 feet of the intersection of the right-of-way lines.
- C. 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 to the above rights-of-way may be granted by the Village Board 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 12 months.

SECTION 17.0600 MODIFICATIONS

17.0601 GENERAL

The Village Zoning Administration, in reviewing Zoning Permit applications, may grant modifications to the district regulations as provided herein.

17.0602 HEIGHT

The district height limitations stipulated elsewhere in this Ordinance may be exceeded, but such modification shall be in accord with the following:

- A. Architectural Projections, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys are exempt from the height limitations of this Ordinance.
- B. Special Structures, such as elevator penthouses, observation towers, and scenery lofts, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.
- C. Essential Services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.
- D. Communication Structures, such as radio and television transmission and relay towers, aerials, roof-mounted satellite dish antennas, radio and television receiving and transmitting antennas shall not exceed in height three (3) times their distance from the nearest lot line and shall be subject to Section 17.0607.

- E. Public or Semipublic Facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, governmental offices and stations, may be erected to a height of 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.

17.0603**YARDS**

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

- A. Uncovered Stairs, landings, and fire escapes may project into any yard but shall not exceed six (6) feet nor be closer than three (3) feet to any lot line.
- B. Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projection shall not exceed one (1) foot.
- C. Fences, walls, and architectural screenings are permitted on the property lines in the side and rear yards, but shall not exceed four (4) feet in height. Patio fences shall not exceed six (6) feet in height and shall comply with the yard requirements for the district in which they are located.
- D. Decorative Fences, such as rail fences or picket fences may be placed in the street yard provided they shall not exceed three (3) feet in height and shall not be located closer than one (1) foot to the street right-of-way. Fences on corner lots shall comply with the traffic visibility requirements set forth in Section 17.0501 of this Ordinance.
- E. Accessory Structures under 150 sq. ft. such as garden or utility sheds, shall be placed or erected in the rear yard provided that no single accessory structure shall exceed 150 square feet in area; no structure shall be closer than 5 feet to the principal structure, no accessory structure shall exceed 12 feet in height; no accessory structure shall be located closer than three (3) feet to any lot line; and all accessory structures shall occupy not more than 20 percent of the rear yard area. One accessory structure under 150 sq. ft. is allowed on a residential parcel.
- F. Detached Accessory Buildings
1. shall be placed or erected in the rear yard provided that not more than one (1) detached accessory building is permitted per dwelling unit; no detached accessory building shall exceed 625 square feet in area; no structure shall be closer than 5 feet to the principal structure, no detached accessory building shall exceed (20) feet in height; no accessory building shall be located closer than three (3) feet to any lot line; and all accessory structures combined shall occupy not more than 20 percent of the rear yard area. One detached accessory building is allowed on a residential parcel.
 2. Subject to the approval by the Plan Commission, one detached private garage not to exceed 625 square feet in area may be placed in a side yard on any property having a residence without an attached garage provided no such garage structure shall be closer than five (5) feet to the principle structure, no detached garage shall exceed twenty (20) feet in height nor shall it be closer than three (3) feet to any lot line. Detached garages may not be sited in front of an existing residence or in such other location as shall unreasonably affect or adversely impact the beauty and general enjoyment of

existing residences or adjoining properties, as determined by the Village of Thiensville Plan Commission.

- G. Satellite Dish Antennas are permitted on the roof of the principal structure in any district or may be located in the rear yard. Satellite dish antennas may be placed not closer than three (3) feet from any lot line or five (5) feet to an alley line provided that the antenna and its component parts do not exceed 15 feet in height. Satellite dish antennas shall be constructed and anchored in such a manner to withstand winds of 80 miles per hour, shall be constructed of noncombustible and corrosive-resistant materials, and should be shielded and/or filtered to prevent the emission and/or reflection of electromagnetic radiation that would interfere with radio and television reception on adjacent properties. There shall be not more than one satellite dish antenna on any residential property.
- H. Essential Services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Ordinance.
- I. Landscaping and vegetation are exempt from the yard requirements of this Ordinance.

17.0604 AVERAGE STREET YARDS

The required street yards may be decreased in any residential or business districts to the average of the existing street yards of the abutting structures on each side but in no case less than 15 feet in any residential district and five (5) feet in any business district except in the B-1 central business district.

17.0605 CORNER LOTS

Structures shall provide a street yard as required by this Ordinance on the street that the structure faces. A second street yard shall be provided on the side of the structure abutting a second public or private street. On the second street yard of the side of the structure, a 20% reduction is allowable from the required street yard.

17.0606 EXISTING SUBSTANDARD LOTS

- A. A lot located in a residential district which does not contain sufficient area to conform to the dimensional requirements of this Ordinance, but which is at least 50 feet wide and 6,000 square feet in area, may be used as a single building site provided that the use is permitted in the zoning district, provided that the lot is a lot of record in the County Register of Deeds Office prior to the effective date of this Ordinance.
- B. A lot located in the business, manufacturing, or institutional districts which does not contain sufficient area to conform to the dimensional requirements of this Ordinance may be used as a building site provided that the lot is a lot of record in the County Register of Deeds Office prior to the effective date of this Ordinance.
- C. If two or more substandard lots with continuous frontage have the same ownership as of the effective date of this Ordinance, the lots shall be considered to be a single parcel for the purpose of this Ordinance.
- D. Substandard lots granted permits under this section shall be required to meet the setback and other yard requirements of this Ordinance. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance by the Board of Appeals.

17.0607 TELECOMMUNICATION TOWERS, ANTENNAS AND RELATED FACILITIES

Purpose and intent. The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development and installation of telecommunication towers, antennas and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of the Village of Thiensville as set forth within the purpose and intent of the Village of Thiensville Zoning Ordinance, to encourage managed development of telecommunications infrastructure, while at the same time not unduly restricting the development of needed telecommunication facilities.

- A. It is intended that the Village shall apply these regulations to accomplish the following:
 - (1) Minimize adverse visual effects of telecommunication towers, antennas and related facilities through design and siting standards.
 - (2) Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996

are provided to serve the community, as well as serve as an important and effective part of the police, fire and emergency response network.

- (3) Provide a process for obtaining necessary permits for telecommunication facilities while at the same time protecting the interests of the Village of Thiensville citizens.
- (4) Protect environmentally sensitive areas of Village by regulating the location, design and operation of telecommunication towers, antennas and related facilities.
- (5) Encourage the use of alternative support structures, co-location of new antennas on existing telecommunication towers, camouflaged towers, and construction of towers with the ability to locate three or more providers.

Furthermore, this Ordinance is not intended to regulate residential satellite dishes or residential television antennas that are used privately. Additionally it is not intended to regulate satellite dishes/antennas whose regulation is prohibited by sec. 59.69(4d), or its successor sections, of the Wisconsin Statutes as amended from time to time or as preempted by Federal law.

B. DEFINITIONS

For the purpose of Section 17.0607, the following terms and phrases shall have the meaning ascribed to them in this section:

- (1) **Alternative Support Structure:** Clock towers, steeples, silos, light poles, water towers, buildings or similar structures that may support telecommunication facilities.
- (2) **Antenna:** Any system or wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.
- (3) **Antenna Building Mounted:** Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.
- (4) **Antenna Ground Mounted:** Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.
- (5) **Camouflaged Tower:** Any telecommunication tower that due to design or appearance entirely hides, obscures, or conceals the presence of the tower and antennas.
- (6) **Guyed Tower:** A telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.
- (7) **Height, Telecommunications Tower:** The distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, protection devices (e.g. lightning rods) and lighting.
- (8) **Lattice Tower:** A telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

- (9) **Monopole:** A telecommunication tower of a single pole design.
- (10) **Navigable Stream or Lake:** As designated on the United States Geological Survey (USGS) map and/or the Village of Thiensville Zoning maps.
- (11) **Non-Conforming:** Any pre-existing telecommunications facility that was in existence prior to the adoption of this ordinance and that has not been issued a conditional use permit or was issued a conditional use permit prior to the adoption date of this Ordinance. This definition shall only apply to this specific Ordinance and shall not apply to other Village of Thiensville Zoning Ordinances.
- (12) **Operation:** Means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications it shall be deemed in operation.
- (13) **Platform:** A support system that may be used to connect antennas and antenna arrays to telecommunication tower or alternative support structures.
- (14) **Satellite Dish:** A device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.
- (15) **Telecommunication Facility:** A facility, site, or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunications signals, excluding those facilities exempted under Section 17.0607.
- (16) **Telecommunication Facility CoLocated:** A telecommunication facility comprised of a single telecommunication tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.
- (17) **Telecommunication Support Facility:** The telecommunication equipment buildings and equipment cabinets.
- (18) **Telecommunication Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those facilities exempted under Section 17.0607.
- (19) **Utility Pole Mounted Antenna:** An antenna attached, without regard to mounting, to or upon an existing or replacement electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar structure approved by the Village of Thiensville Zoning Department.

C. **EXEMPT FROM VILLAGE REVIEW**

The following shall be permitted without Village approvals:

- (1) The use of all television antennas, satellite dishes and receive only antennas, provided that the primary use of the property is not a telecommunications facility and that the antenna is accessory to the primary use of the property.
- (2) Mobile services providing public information coverage of news events of a temporary or emergency nature.

D. AREAS PERMITTING TELECOMMUNICATIONS FACILITY LOCATION WITH CONDITIONAL USE APPROVAL

Telecommunication facilities may be permitted in the following zoning districts, subject to Conditional Use review and approval by the Village Board and, in compliance with Section 17.1205 of the zoning code and all other applicable Sections of this Ordinance.

E. AREAS LIMITING TELECOMMUNICATION FACILITY LOCATION

- (1) Telecommunications facilities may be permitted, subject to Conditional Use review and approval by the Village of Thiensville Plan Commission as identified in Section 17.0607 but are subject to review and approval of the Federal Aviation Administration (FAA), Wisconsin State Bureau of Aeronautics and other appropriate agencies, if applicable.
 - a. ½ mile radius from heliports
 - b. 1 mile radius from private airport runway(s)
 - c. 3 mile radius from public use airport runway(s)

F. CONDITIONAL USE APPLICATION

Locating and constructing a telecommunication tower of a new alternative support structure, including the buildings or other supporting equipment use in connection with said tower shall require a conditional use permit. The Village may authorize to issue a conditional use permit after review and a public hearing, and recommendation by the Plan Commission, provided that such Conditional Use is in accordance with the purpose and intent of this Ordinance.

- (1) **Submittal Information.** For all telecommunication facilities, except facilities as defined in Section 17.0607, the Village shall require the following information to accompany every application. Said information shall include, but may not be limited to:
 - a. Completed conditional use application and fee as determined by the Village.
 - b. Original signature of applicant and land owner (if the telecommunication facility is located in an easement or pursuant to a ground lease, the beneficiaries of the easement or ground lease and underlying property owner must authorize the application.)
 - c. The identity of the carrier, provider, applicant, landowner and service provider and their legal status.
 - d. The name, address and telephone number of the officer, agent and/or employee responsible for the accuracy of the application.
 - e. A plat of survey, showing the parcel boundaries, tower, facilities, location, access, landscaping and fencing.

- f. A written legal description of the site.
- g. In the case of a leased site, a lease agreement or binding lease memorandum which shows on its face that it does not preclude the tower owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.
- h. A description of the telecommunications services that the applicant offers or provides, to persons, firms, businesses or institutions.
- i. Federal Communication Commission (FCC) license numbers and registration numbers, if applicable.
- j. Copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.
- k. An alternative analysis shall be prepared by the actual applicant or on behalf of the applicant by its designated technical representative, except for exempt facilities as defined in Section 17.0607. Subject to the review and approval of the Village, which identifies all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies which could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the Village.

The analysis shall address the potential for colocation and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of relative merits of any of the feasible alternatives. Approval of the project is subject to the review and approval of the Village. The Village may require independent verification of this analysis at the applicants' expense, the consultant or the alternate chosen by the Village from a list mutually agreed upon by the Village and the Telecommunications Industry.

- l. Plans indicating security measures (i.e. access, fencing, lighting, etc.)
- m. Shall include a tabular and map inventory of all the applicants existing telecommunications towers that are located within Ozaukee County and including all of the applicants existing towers within fifteen hundred (1500) feet of the County boundary. The inventory shall specify the location, height, type and design of each of the applicants existing telecommunication towers, and the ability of the tower or antenna structure to accommodate additional co-location antennas.
- n. A report prepared by an Engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate additional antennas.
- o. Proof of liability coverage.
- p. Such other information as the Village may reasonably require.
- q. Copies of Affidavit of Notification indicating that the airport operator and airport property owner(s), within the areas limiting telecommunication facility locations as identified under Section 17.0607, if applicable, have been notified via certified mail.

- (2) **CoLocation.** All tower owners shall make available unused space for colocation of other telecommunication facilities, including space for those entities providing similar, competing services. Colocation is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline. All collocated and multiple-user telecommunication support facilities shall be designed for compatible joining to facilitate site sharing. Towers shall be designed to support and provide room for at least two more carriers to colocate with a maximum of four carriers.
- (3) **Submittals required following the Conditional Use Approval.** For each conditional use permit approved the applicant shall submit the following before the conditional use permit will be used:
- a. Copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings and the Wisconsin State Bureau of Aeronautics, if applicable.
 - b. Copies of any Environmental Assessment (EA) reports or Form 600 or Form 854 submitted to the Federal Communication Commission (FCC), if applicable.
 - c. Copies of any filings submitted to the Federal Communication Commission (FCC) shall be submitted within 30 days of filing, subject to the review of the Zoning Manager.
 - d. Proof of Bond as security for removal.

G. ANNUAL INFORMATION REPORT

The purpose of the annual review report under this Section is to provide the Village with accurate and current information concerning the telecommunications tower owners and providers who offer or provide telecommunications services with the Village, or that own or operate telecommunications facilities with the Village, to assist the Village in enforcement of this chapter, and to assist the Village in monitoring compliance with the conditional use permit and this ordinance.

- (1) Annual Information Report. All telecommunications tower owners of any new or existing telecommunication tower shall submit annually on or before January 31 of each year, to the Village Administrator telecommunications Facility Annual Information Report. The Annual Report shall include the tower owner name(s), address (s), phone number(s), contact Person(s), annual review fee, proof of bond as security for removal. The tower owner shall supply the tower height and current occupancy, if applicable. This information shall be submitted on a county form, designated for such use, and shall become evidence of compliance.

H. REMOVAL/SECURITY FOR REMOVAL

- (1) It is that express policy of the Village and this ordinance that telecommunication facilities be removed once they are no longer in use and not a functional part of providing telecommunications service and that it is the telecommunications tower owner responsibility to remove such facilities and

restore the site to its original condition or a condition approved by the Village Plan Commission. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility down to 10 feet below the surface. This depth of removal requirement may be modified by the Village after public hearing and review. After a telecommunications facility is no longer in operations, the tower owner shall have 90 days to effect removal and restoration unless weather prohibits such efforts.

- (2) **Security for Removal.** The telecommunications tower owner shall provide to the Village, prior to the issuance of the conditional use permit or the issuance of a zoning permit, a performance bond in the amount of twenty thousand dollars (20,000) or a bond equal to a written estimate from a qualified tower removal contractor to guarantee that the telecommunications facility will be removed when no longer in operation. The Village of Thiensville will be named obligee in the bond and must approve the bonding company.

I. COMPLIANCE

- (1) **Revocation.** Grounds for revocation of the conditional use permit shall be limited to one of the following findings as determined by the Village:
- a. The owner of such site, service provider and/or tower owner fails to comply with the requirements of this ordinance as it existed at the time of the issuance of the conditional use permit
 - b. The permittee has failed to comply with the conditions of approval imposed
 - c. The facility has not been properly maintained
- (2) **Abandonment.** Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Time may be extended upon review and approval of the Village Plan Commission, if the tower owner demonstrates a good faith effort to secure new tenants. In such circumstances, the following shall apply:
- a. The owner of such antenna or tower shall remove said antenna and/or tower including all supporting equipment and building(s) within ninety (90) days of receipt of notice from the Plan Commission notifying the owner of such abandonment. If removal to the satisfaction of the Plan Commission does not occur within said ninety (90) days, the Village of Thiensville may order removal utilizing the established bond as provided under Section 17.0607 and salvage said antenna or tower and all supporting equipment and building(s). If there are two or more users of a single tower, then this provision shall not become effective until all operations of the tower cease.
 - b. The recipient of a conditional use permit or zoning permit for a telecommunications facility under this ordinance shall notify the Village of Thiensville Plan Commission when the facility is no longer in operation.

- J. **STRUCTURAL, DESIGN AND ENVIRONMENTAL STANDARDS** (except exempt facilities as defined in Section 17.0607)
- (1) Tower, antenna and facilities requirements. All telecommunications facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:
- a. All telecommunication facilities shall comply at all times with all Federal Communication Commission (FCC) rules, regulations, and standards. To that end no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the Federal Communication Commission (FCC) adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the Federal Government. All telecommunication tower and antenna shall meet or exceed the standard and use regulations, in place at the time of the issuance of the conditional use permit, of the Federal Aviation Administration (FAA), the Wisconsin State Bureau of Aeronautics, Occupational Safety and Health Association (OSHA), the Federal Communication Commission (FCC) and any other agency of the State and/or Federal Government with the authority to regulate towers and antennas
 - b. Telecommunication towers shall be constructed out of metal or other nonflammable material, unless specifically permitted by the Village to be otherwise
 - c. All ground mounted telecommunication towers shall be self-supporting monopoles or lattice towers except where satisfactory evidence is submitted to the Village that a guyed tower is required
 - d. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function
 - e. Telecommunication support facilities (i.e., equipment rooms, utilities, and equipment enclosures) shall be constructed out of nonreflective material (visible exterior surfaces only). Telecommunications support facilities shall be no taller than one story fifteen feet (15') in height, measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility; and
 - f. Telecommunication towers, facilities and antennas shall be designed and constructed in accordance with the State of Wisconsin Uniform Building Code, National Electric Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code, Erosion Control and Stormwater Management Ordinance, Electronic Industries Association (EIA), American National Steel Institute Standards (ANSI), American National Standards Institute (ANSI), and Electronic Industry Assoc./Telecommunication Industry Association (EITT/TIA) 222-E.3., in effect at the time of manufacture.

- g. Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the Village.
- (2) **Height.** The height of a telecommunication tower shall be measured from the original grade at the base of said tower to the highest part of the tower itself. In the case of building mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of "crankup" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised. The maximum height of telecommunication towers shall be subject to Section 17.0602D.
 - (3) **Lighting.** Telecommunication towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other applicable regulatory authority.
 - (4) **Site Development, Roads and Parking.**
 - a. All sites must be served by a minimum thirty (30) foot wide easement with a turn around. The Village of Thiensville Plan Commission may modify the easement and turn around requirement after public hearing and review. All sites shall use existing access points and roads whenever possible. The access point to the site shall be approved by the Village of Thiensville, State of Wisconsin Department of Transportation, or the applicable Township depending on road jurisdiction.
 - (5) **Vegetation Protection and Facility Screening**
 - a. Except exempt facilities as defined in Section 17.0607, all telecommunications facilities shall be installed in such a manner so as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this section, "mature landscaping" shall mean trees, shrubs or other vegetation of a size that will provide the appropriate level of visual screening immediately upon installation.
 - b. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible of maintenance and replacement of all required landscaping during the current growing season.
 - c. Facility structures and equipment, including supporting structures, shall be located, designed and screened to blend with the existing natural or built surroundings, so as to reduce visual impacts.
 - (6) **Fire Prevention.** All telecommunication facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.
 - (7) **Noise.** All telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties.

- a. Backup generators shall only be operated during power outages and for testing and maintenance purposes.

K. SEPARATION AND SETBACK REQUIREMENTS (except exempt facilities as defined in Section 17.0607)

(1) Minimum Separation between telecommunication towers (by tower type)

PROPOSED TOWER TYPES	LATTICE	GUYED	MONOPOLE 85 FT. IN HEIGHT OR GREATER
Lattice	1,500 ft.	1,500 ft.	750 ft.
Guyed	1,500 ft.	1,500 ft.	750 ft.
Monopole-85 ft. in height or greater	750 ft.	750 ft.	750 ft.

- a. Two (2) towers may be permitted to be located within 100 feet of each other subject to Conditional Use review and approval of the Village and subject to meeting setback requirements.
- b. Three (3) towers may be permitted subject to conditional use review and approval of the Village when needed to satisfy the requirements of AM Broadcast operation.
- c. Camouflaged towers are exempt from separation between towers requirement listed above.
- (2) Setbacks. All setbacks shall be measured from the base of the tower or structure.
- a. Setbacks from all habitable residential buildings, except building located on the subject parcel. All new towers shall be setback a distance equal to 125% of the height of the tower.
- b. Setbacks from all historic sites and districts. All new towers shall be setback a distance equal to 125% of the height of the tower from historic sites and districts.
- c. Setbacks from the road right-of-ways of all streets. All new towers shall be setback from all streets a minimum as defined in the Village Zoning Ordinances.
- d. Setbacks from property lines. All new towers shall be setback a minimum of fifty (50) feet from all property lines. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property line.) This setback requirement may be modified by the Village after public hearing and review.
- e. Setback from the Ordinary High Water Mark (OHWM). All new towers shall be setback a minimum of seventy Five (75) feet from the Ordinary High water Mark (OHWM) of a navigable stream and a minimum 125% of the tower height from the Ordinary High Water Mark (OHWM) of a navigable water way.

- f. Guy Wire Anchor Setback. All guy wire anchors shall be at least twenty-five feet (25 feet) from all property lines. This setback requirement may be modified by the Village after public hearing and review.

L. ZONING AND BUILDING PERMITS

Prior to the construction of all telecommunication facilities a zoning and building permit is required as stated in Section 17.1203 of the zoning code.

17.0802 NONCONFORMING USES, STRUCTURES AND LOTS

- A. Intent: Within the jurisdiction and the districts established by this ordinance, there are lots, structures and uses of land which were lawful before the passage or amendment of this ordinance or prior zoning regulations, but which are prohibited, regulated, or restricted under the terms of this ordinance. The intent of this ordinance is to allow these nonconformities to continue, subject to limitations, until they are removed and to not assist or encourage their survival. It is the further intent of this ordinance that nonconforming lots, structures and or uses of land shall not be enlarged, expanded, extended or enhanced, nor used as grounds for adding other prohibited structures or uses. Nonconforming uses are declared to be incompatible with permitted uses in the various districts.
- B. Application: This ordinance shall affect all land, structures, and uses of land and structures and shall apply as follows:
- (1) New Uses and Construction: After the effective date of this ordinance all new uses, structures and development shall comply with this ordinance, including district regulations.
 - (2) Conforming Uses and Structures: Land, structures, and uses of land which comply with this ordinance, including district regulations, may be continued, provided that any structural changes or additions or changes in use must conform fully to this ordinance.
 - (3) Nonconforming Uses and Structures: Land, structures and 1 or more uses of land or structures which are prohibited by- or are inconsistent with this ordinance shall be considered nonconforming may be continued only subject to the limitations stated herein, and should be eventually discontinued under the provisions of this ordinance.
- C. Continued Use of Nonconforming Property: Nonconforming properties may be continued in use as set forth below:
- (1) Nonconforming Lots of Record: In any district permitting single family dwellings by right, a single family dwelling and customary accessory buildings may be erected on any single lot lawfully recorded before the adoption of this ordinance or amendments hereto provided this single lot is not adjacent to any other lot of record under the same ownership which, if combined, would allow for the meeting of area and setback requirements. This provision shall apply if the single lot fails to meet the minimum lot size or width requirements of the district. Yard space and other dimensional requirements of the district shall continue to apply.
 - (2) Adjoining Lots: When two or more lots with continuous frontage are in one ownership at any time after the adoption of this ordinance and such lots are individually less than the minimum area or width required in a district, such lots shall be considered as a single lot or (if sufficient land exists) several lots of required area and width and shall be combined to the extent necessary to achieve a lot or lots of the area and width required in the district. Such lots shall comply with all yard spaces and other dimensional requirements of the district.
- D. Nonconforming Structure: A lawful structure which existed at the time of adoption or amendment of this ordinance, but which does not comply with this ordinance by

other restrictions relating to the structure, may be continued, so long as it remains otherwise lawful, subject to the following limitations:

- (1) Enlargement and Alterations: Nonconforming structures shall not be enlarged and shall not be altered in any way which increases their nonconformity, but may be altered to decrease their nonconformity.
 - (2) Moving: If nonconforming structures are moved, for any reason, they shall thereafter conform to the regulations of the ordinance.
 - (3) Repairs and Maintenance: Ordinary maintenance, repairs and alterations of a nonconforming structure are permitted, provided that they do not increase area or nonconformity. Normal maintenance, repairs, and alterations shall be considered work not exceeding fifty (50) percent of the structures replacement cost.
 - (4) Deteriorated and Dilapidated Structures: If any nonconforming structure becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by an authorized official to be unsafe or unlawful by reason of its physical condition, the structure shall not be restored, repaired, or rebuilt except in conformity with this ordinance.
 - (5) Substantially Damaged Structures: If a nonconforming structure or nonconforming portion of a structure is damaged or destroyed by any means to an extent greater than fifty (50) percent of its replacement cost at the time of the damage, it may be reconstructed only in conformity with this ordinance.
- E. Nonconforming Uses: A use of land/or structures which was lawful prior to the adoption of this ordinance, but which does not comply with the use regulations of this ordinance, may be continued, so long as it remains otherwise, subject to the following provisions:
- (1) Extension or Enlargement: No conforming use of land or structures shall be enlarged, expanded, increased, or extended beyond the floor space and land area occupied or be carried on in a more intensive manner than existed at the time of adoption of this ordinance, except that a nonconforming use may be extended within a building to any parts already clearly arranged and designed for such use.
 - (2) Relocation on Lot: No nonconforming use of land shall be relocated or significantly rearranged in whole or in part on the same lot unless it thereafter conforms to this ordinance.
 - (3) Discontinuance: If active operation of a nonconforming use is discontinued for any reason for a continuous period of 180 days, or suspended at any time by a permitted use, any subsequent use of the land shall conform fully to this ordinance.
 - (4) Damage or Dilapidated Structure: If a structure or part thereof occupied by a nonconformity use is damaged, destroyed, or becomes deteriorated to an extent greater than fifty (50) percent of its replacement cost at the time of damage or discovery of deterioration, the structure may not be repaired for or to a nonconforming use.

If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water, shall conform to the provisions of this Ordinance.

- A. When a Nonconforming Structure is Damaged by fire, explosion, flood, or other calamity, to the extent of more than 50 percent of its current equalized value, it shall not be restored except so as to comply with the use provisions of this Ordinance.
- B. A Current File of all nonconforming uses and structures shall be maintained by the Zoning Administrator listing the following: property location, use of the structure, land, or water; and the date that the structure or use became nonconforming.

17.0804**EXISTING SUBSTANDARD STRUCTURES**

The use of a structure existing at the time of the adoption or amendment of this Ordinance may be continued although the structure's size or location does not conform with the established building setback line along arterial streets and highways, or the yard, height, parking, loading, access, and lot area provisions of this Ordinance.

- A. Additions and Enlargements to existing substandard structures on conforming or nonconforming lots shall be permitted as long as the addition or enlargement does not further encroach on side, rear, or front lot lines than the existing structure. However, height, parking, loading and access provisions of this ordinance must be maintained.
- B. Existing Substandard Structures which are damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed and insofar as is practicable shall conform with the established building setback lines along arterial streets and highways and the yard, height, parking, loading, and access provisions of this Ordinance.
- C. Existing Substandard Structures may be moved and, insofar as is practicable, shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Ordinance.

