

## **CHAPTER III**

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## **CHAPTER III**

### **ZONING**

#### **3.01 Introduction.**

(A) Authority. These regulations are adopted under the authority granted by Sections 61.35, 62.23, and 87.30 of the Wisconsin Statutes. Therefore, the Village Board of West Salem, Wisconsin, does ordain as follows:

(B) Purpose. The purpose of this Section is to promote the health, safety, prosperity, convenience and general welfare of the Village.

(C) Intent. It is the general intent of this Section to regulate and restrict the use of all structures, land and waters; the size and location of all structures; and lot coverage, population distribution and density so as to: Lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding panic and other dangers; provide adequate light, air, sanitation, and drainage; prevent overcrowding; avoid undue population concentration, stabilize and protect property values, facilitate the adequate provision of public facilities and utilities; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the Village; and implement the Village's general plan or plan components. It is further intended to provide for the administration and enforcement of this Section and to provide penalties for its violation.

(D) Abrogation and Greater Restrictions. This Section is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this Ordinance imposes greater restrictions, the provisions of this Section shall govern.

(E) Interpretation. In their interpretation and application, the provisions of this Section shall be held to be

minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

(F) Repeal. All other ordinances or parts of ordinances of the Village inconsistent or conflicting with this Section, to the extent of the inconsistency only, are hereby repealed.

(G) Title. This Section shall be known as, referred to, or cited as the "Zoning Ordinance", Village of West Salem, Wisconsin.

(H) Effective Date. This Section shall be effective after a public hearing, adoption by the Village Board and publication or posting as provided by law.

### **3.02 General Provisions.**

(A) Jurisdiction. The jurisdiction of this Section shall include all lands and waters within the corporate limits of the Village of West Salem.

(B) Compliance. No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or converted without a land permit and without full compliance with the provision of this Section and all other applicable local, county, and state regulations.

The Duty of the Building Inspector, with the aid of the Police Department, shall be to investigate all complaints, give notice of violations, and to enforce the provisions of this Section. The Building Inspector and his duly appointed deputies may enter at any reasonable time onto any public or private land or waters to make a zoning inspection.

(C) Land Use Permit. Applications for a land use permit (i.e. also sometimes referred to as a "building permit") shall be made in duplicate to the Building Inspector on forms furnished by the Building Inspector and shall include the following where applicable:

3.02(C)(1)

(1) Names and Addresses of the applicant, owner of the site, architect, professional engineer or contractor.

(2) Description of the Subject Site by lot, block, and recorded subdivision, or certified survey map designation, or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

(3) Plat of Survey showing the location, boundaries, dimensions, slope of terrain, uses and size of the following: Subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards. In addition, the plat of survey shall show the location, slope or terrain, and use of any abutting lands and their structures within forty (40) feet of the subject site.

(4) Proposed Sewage Disposal Plan if municipal sewerage service is not available this plan shall be approved by an appropriate competent authority who shall certify in writing that satisfactory, adequate and safe sewage disposal is possible on the site as proposed by the plan in accordance with applicable local, county, and state health regulations.

(5) Proposed Water Supply Plan if municipal water service is not available. This plan shall be approved by an appropriate competent authority who shall certify in writing that an adequate and safe supply of water will be provided in accordance with applicable local, county, and state health regulations.

(6) Additional Information as may be required by the Village.

A land use permit shall be granted or denied in writing by the Building Inspector within ten (10) days. The permit shall expire within two (2) years of the date the permit was issued. Any permit issued in conflict with the provisions of this Section shall be null and void.

(D) Certificate of Compliance. No vacant land shall be occupied or used and no structure hereafter erected, altered or moved shall be occupied until a Certificate of Compliance shall have been issued by the Building Inspector. Such Certificate shall show that the building or premises and the proposed use thereof conform to the provisions of this Section. Such Certificate shall be applied for when application is made for a land use permit and shall be issued within ten (10) days after completion of the work specified in the land use permit application, but only if the building or premises and the proposed use thereof conform with all the requirements of this Section.

Under such rules as the Village Board may establish, the Building Inspector may issue a temporary Certificate of Compliance for part of a building.

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

(1) All lots shall abut upon a public street, and each lot shall have a minimum width at the street and at the building setback line of sixty (60) feet. In the situation

3.02(E)(1)

where an original platted lot meets this sixty (60') foot requirement but which has approval for the building thereon of a 2-unit row house with a zero clearance wall separating the units, which lot is then subdivided into two (2) lots along the zero clearance line, there is no minimum width at the street or the building site but subject to approval at the re-plat or certified survey map stage by the Village Board of Trustees. However, in a cul de sac each lot shall have a minimum frontage of forty-five (45) feet at the street.

**(Amended 4/20/2021 - Ord. 501)**

(2) No Land Use Permit shall be issued for a lot which abuts a public street that has not been dedicated to its required width.

(3) Private Sewer and Water: In any district where a public water supply or public sewerage service is not available, the lot area must meet state statute and Administrative Code requirements.

(F) Use Restrictions. The following use restrictions and regulations shall apply:

(1) Principal Uses. Only those principal uses specified for a district and their essential services.

(2) Accessory Uses and structures specifically allowed by this code are not permitted in any district until their principal structure is present or under construction.

(3) Unclassified or Unspecified Uses may be permitted by the Board of Appeals after the Village Planning Commission has made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the district.

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

(5) Performance Standards, listed in Section 3.09, shall be complied with by all uses in all districts.

(G) Reduction or Joint Use. No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this Section. No part of any

3.02(G)

lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

(H) Violations. It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this Section. In case of any violation, the Village Board, the Building Inspector, the Village Planning Commission, or any person who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Section.

(I) Penalties. Any person who fails to comply with the provisions of this Section shall upon conviction thereof, forfeit not less than \$10.00 nor more than \$200.00 and costs of prosecution for each violation. Each day a violation continues is a separate violation.

**3.03 Zoning Districts.**

(A1) Establishment of Districts. Eight (8) zoning districts are provided as follows:

- (1) Residential, single family (R-1)
- (2) Residential, two family units (R-2)
- (3) Business (B)
- (4) Industrial (I)
- (5) Agricultural (A)
- (6) Conservancy (C)
- (7) Planned Unit Development (PUD)
- (8) Flood Districts

(A2) Establishment of Overlay Districts. Three (3) zoning overlay districts are provided as follows:

- (1) Historic Preservation District. Refer to Section 3.15.
- (2) Conservation Design Subdivision District. Refer to Section 3.16.

3.03(A2)(3)

(3) Traditional Neighborhood Development. Refer to Section 3.17.

(A3) Boundaries of These Districts are hereby established as shown on a map entitled "Village of West Salem, Wisconsin Official Zoning Map".

(A4) Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

(B) Zoning Map. A certified copy of the official zoning map shall be adopted and approved with the text as part of this Section and shall bear upon its face the attestation of the President and Village Administrator and shall be available to the public in the office of the Village Administrator.

(C) Rules for Interpretation of Zoning District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

Boundaries indicated as approximately following the centerline of streets, highways, or alleys, platted lot lines, natural features such as streams, or municipal boundaries shall be construed as following such lines or boundaries.

Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

(D) Limited Number of Buildings. There shall be not more than one (1) principal dwelling and two (2) accessory structures in the R-1 and R-2 zones.

(E) Zoning Regulations. No person shall use land or a building or structure or erect, construct, reconstruct, move, or structurally alter a building, structure, or part thereof, except in conformance with the following regulations.

Permitted uses in each zone shall be mutually exclusive except as otherwise indicated.

**(F)(1) Residence District, Single Family (R-1).**

(1) Purpose: To provide a quiet pleasant living area protected from traffic hazards and intrusion by incompatible land uses.

(2) Principal Permitted Uses: Single family dwellings; private garage and accessory buildings; library, museum, parks, playground; public and semi-public uses (3.04(C)).

(3) Accessory Uses: Essential services, household occupation and professional home offices as defined in subsection 3.12.

(a) Accessory uses and detached accessory structures are permitted in the rear yard only. Accessory uses and detached accessory structures shall not be closer than ten (10') feet to the principal structure except that such distance may be reduced to not less than five (5') feet when the adjacent wall, roof, and all portions of the accessory structure or detached structure are protected by at least forty-five (45) minute fire-rated construction. Accessory uses and detached accessory structures shall not exceed fifteen (15') feet in height; shall not occupy more than forty (40%) percent of the rear yard area, nor more than one thousand (1,000) square feet; and shall not be closer than three (3') feet to any lot line nor more than five (5') feet to any alley right-of-way line. **(Amended 4/21/2015)**

(b) Residential fences require a building permit. Residential fences are permitted on the property lines in Residential districts but shall not in any case exceed a height of six and one-half (6-1/2) feet; shall not exceed a height of four and one-half (4-1/2) feet in the

street yard and shall not be closer than two (2) feet to any public right-of-way. Provided, however, when Business or Industrial Zoning abuts Residential Zoning, as a condition of plat or certified survey approval or upon re-zoning that creates such a status, the Village Board may require as a condition that the then owner of the Business or Industrial use parcel erect a fence not to exceed ten and one-half (10-1/2) feet in height upon the property line with the Residential zoned property; provided, further, at any time a property owner of a Residential zoned property located adjacent to a Business or Industrial zoned property may petition for a conditional use permit to erect and maintain a fence not to exceed ten and one-half (10-1/2) feet in height upon the property line with the Business or Industrial zoned property. It shall be the obligation of the property owner of the Business or Industrial zoned property to maintain both sides of the fence. In each instance, the fence shall be such height (as measured from the ground), type, and quality as determined by the Village Board after recommendation by the Village Planning Commission.

(c) Security fences require a building permit. Security fences are permitted on the property lines in all districts except residential districts but shall not exceed ten and one-half (10-1/2) feet in height (as measured from the ground) and shall be of an open type similar to woven wire or wrought iron fencing.

(d) Arches and Arbors: Whether made part of a fence line or located elsewhere in a residential yard, if their footing is extended into the earth more than two and one-half (2-1/2) feet or secured by cement or rock or attached to a fence or other structure which is either placed into the ground more than two and one-half (2-1/2) feet or secured there with cement or rock, require a building permit which may be denied by the Building Inspector if that arch or arbor obstructs

3.03(F)(3)(d)

vision at an intersection or causes other significant public safety concern.

(4) Conditional Uses: Two-family dwellings (i.e. duplex), or two-family row house units with zero lot line; conditional uses in plats or Certified Survey Maps existing and approved prior to January 28, 1999; Residential uses (Section 3.04(D); townhouses.

(5) Prohibited Uses: All uses not specifically permitted.

(6) Requirements:

Maximum Building Height -----35 feet

Minimum Side Yard:

Principal Buildings -----10 feet minimum

Accessory Buildings -----3 feet on each side

Minimum Front Yard Setback -----25 feet

Minimum 2nd Street Setback

on Corner Lots -----At the discretion of the  
building  
inspector

Minimum Rear Yard Setback -----25 feet

on Corner Lots -----At the discretion  
of the building  
inspector

Minimum Lot Area Per Family:

Single Family Structures -----8000 square feet

Two-Family Structures -----5000 square feet

Multi-Family Structures -----3500 square feet

**(F)(2) Residence District, Two-Family (R-2).**

(1) Purpose: To provide a quiet pleasant living, two-family area, protected from traffic hazards and intrusion by incompatible land uses.

(2) Principal Permitted Uses: Two-family dwellings (i.e. duplex), or two-family row house units attached with

3.03(F)(2)(2)

zero lot lines; private garage and accessory buildings, library, museum, parks, playground; public and semi-public uses (3.04(C)).

(3) Accessory Uses: Essential services, household occupation and professional home offices as defined in subsection 3.12.

(a) Accessory uses and detached accessory structures are permitted in the rear yard only. Accessory uses and detached accessory structures shall not be closer than ten (10') feet to the principal structure except that such distance may be reduced to not less than five (5') feet when the adjacent wall, roof, and all portions of the accessory structure or detached structure are protected by at least forty-five (45) minute fire-rated construction. Accessory uses and detached accessory structures shall not exceed fifteen (15') feet in height; shall not occupy more than forty (40%) percent of the rear yard area, nor more than one thousand (1,000) square feet; and shall not be closer than three (3') feet to any lot line nor more than five (5') feet to any alley right-of-way line. **(Amended 4/21/2015)**

(b) Residential fences require a building permit. Residential fences are permitted on the property lines in Residential districts but shall not in any case exceed a height of six and one-half (6-1/2) feet; shall not exceed a height of four and one-half (4-1/2) feet in the street yard and shall not be closer than two (2) feet to any public right-of-way. Provided, however, when Business or Industrial Zoning abuts Residential Zoning, as a condition of plat or certified survey approval or upon re-zoning that creates such a status, the Village Board may require as a condition that the then owner of the Business or Industrial use parcel erect a fence not to exceed ten and one-half (10-1/2) feet in height upon the property line with the Residential zoned property; provided, further, at any time a property owner of a Residential zoned property located adjacent to a

3.03(F)(3)(b)

Business or Industrial zoned property may petition for a conditional use permit to erect and maintain a fence not to exceed ten and one-half (10-1/2) feet in height upon the property line with the Business or Industrial zoned property. It shall be the obligation of the property owner of the Business or Industrial zoned property to maintain both sides of the fence. In each instance, the fence shall be such height (as measured from the ground), type, and quality as determined by the Village Board after recommendation by the Village Planning Commission.

(c) Security fences require a building permit. Security fences are permitted on the property lines in all districts except residential districts but shall not exceed ten and one-half (10-1/2) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

(d) Arches and Arbors: Whether made part of a fence line or located elsewhere in a residential yard, if their footing is extended into the earth more than two and one-half (2-1/2) feet or secured by cement or rock or attached to a fence or other structure which is either placed into the ground more than two and one-half (2-1/2) feet or secured there with cement or rock, require a building permit which may be denied by the Building Inspector if that arch or arbor obstructs vision at an intersection or causes other significant public safety concern.

(4) Conditional Uses: Residential uses (Section 3.04(D); townhouses.

(5) Prohibited Uses: All uses not specifically permitted.

(6) Requirements:

Maximum Building Height -----35 feet

Minimum Side Yard:

Principal Buildings -----10 feet minimum

Accessory Buildings ----- 3 feet on each side

Minimum Front Yard Setback -----25 feet

Minimum 2nd Street Setback

on Corner Lots -----At the discretion  
of the building  
inspector

Minimum Rear Yard Setback -----25 feet

on Corner Lots -----At the discretion  
of the building  
inspector

Minimum Lot Area Per Family:

Single Family Structures -----8000 square feet

Two-Family Structures -----5000 square feet

(G) Business District (B) includes areas designated in the Village ordinances as either Business District or Commercial District.

(1) Purpose: To provide an area for business and business needs of the Village.

(2) Permitted Uses: Bakeries, banks, barber shops, bars, beauty shops, clinics, clothing stores, clubs, drug stores, eating and drinking establishments, florists, fish, fruit and vegetable stores, gas station, gift stores, groceries, hardware stores, hotel, hobby shops, laundry, lodges, meat-markets, music stores, package beverage stores, parking lots, places of entertainment, professional, governmental and business offices, retail stores, vehicular sales and service, personal service establishments, and other uses similar or incidental to any of the above uses.

(3) Conditional Uses: Highway-oriented uses (Section 3.04[F]); single and multi-family dwellings; day care centers for children; residential care facilities; all directory signs, advertising a business or activity conducted, an area

3.03(G)(3)

of interest, or a service available at a specific location which exceeds 45 feet in height; apartments incorporated in business use buildings; or mini-warehouses or personal storage units where the storage of all associated items are entirely within a building.

(4) Requirements:

Maximum Building Height ----- 45 feet

Minimum Side Yard:

Fireproof Construction ----- None

Non-Fireproof Construction ----- 9 feet

Minimum Front Yard Setback ----- None

Minimum Rear Yard Setback ----- 9 feet

Minimum Lot Width:

Fireproof Construction ----- 25 feet

Non-Fireproof Construction ----- 45 feet

**Minimum Lot Area Per Family:**

Single Family Structures ----- 8000 square feet

Two-Family Structures ----- 5000 square feet

Multi-Family Structures ----- 3500 square feet

(5) Requirements for "Central Business District" as defined in Section 3.12:

Minimum Lot Area - - - - - 8,000 square feet

Minimum Lot Width - - - - - 100 feet

Building Height - - - - - 60 feet

Provided any lot or adjacent lots platted prior to the enactment of the Code of Ordinances which affords less than above-required minimum area or width may be approved as a permitted use by recommendation of the Planning Commission and approval of the Village Board. (**Amended 4/21/2015**)

**(H) Industrial.**

(1) Purpose: To delineate areas best suited for industrial development because of location, topography, existing facilities and relationship to other land uses. Uses incompatible with industry are not to be permitted.

(2) Principal Permitted Uses: Manufacturing, processing, repairing or warehouse use including mini-warehouses or personal storage units where the storage of all associated items are entirely within a building, wholesale establishments, seed, feed and farm supply stores and mills.

(3) Accessory Uses: Essential Services (Section 3.12(M)).

(4) Conditional Uses: Adult-Oriented Establishment; bulk storage facilities for fuel, Caretaker; chemicals and fertilizers; day care centers for children; dump; junk and salvage yards; mineral extraction; open storage; planned development groups; sanitary landfill; sewer plant; slaughter houses and rendering works; supervisor's dwelling unit; and any permitted use allowed in an area zoned Business. (**Ord. 465 - 8/2015**)

(5) Prohibited Uses: All uses not specifically permitted.

(6) Requirements for "Central Industrial District" as defined in Section 3.12:

Minimum Lot Area ----- 8000 square feet

Minimum Lot Width ----- 100 feet

Building Height ----- 60 feet

Provided any lot or adjacent lots platted prior to the enactment of the Code of Ordinances which afford less than above required minimum area or width may be approved as a permitted use by Village Board resolution which sets forth the extent of the waiver and the use permitted. Prior to action by the Board, the request should be referred to the Village Planning Commission for its advice.

Additional Requirements for All Other Industrial Zoning:

Minimum Front Yard ----- 25 feet

Minimum Rear Yard ----- 40 feet

Where yard is adjacent to R-1 &

R-2 zone and otherwise ----- 30 feet

Minimum Side Yard ----- 25 feet

Where yard is adjacent to R-1 &

R-2 zone and otherwise ----- 10 feet

Minimum Lot Depth ----- 100 feet

**(I) Agriculture (A):**

(1) Purpose: To delineate and protect the areas best suited for agriculture.

(2) Permitted Uses: Agriculture, horticulture (greenhouses), forestry, nurseries, orchards, dairying, hatcheries, poultry and livestock raising and stables; one family dwelling; truck farming and roadside stands; hospitals and clinics; uses incidental to any of the above.

(3) Accessory Uses: Essential Services.

(4) Conditional Uses: Adult-Oriented Establishment (Sec. 11.14); beekeeping; fur farms; kennels; public and semi-public uses (Sec. 3.04(U)); recreation uses (Sec. 3.04[U]); excavation businesses including open storage of excavated and fill materials including gravel and recycled blacktop subject to limiting the quantities of the open storage materials to normal amounts needed for current usage and projects and subject to not allowing the storage of any contaminated or deleterious materials; and other agricultural uses that may cause noxious odors or noise.

(5) Requirements:

Maximum Building Height

Residential Structure ----- 35 feet

Other Structures ----- N/A

Minimum Side Yard

Principal Buildings-----20 feet on each side

Accessory Buildings -----5 feet on each side  
Minimum Front Yard Setback -----50 feet  
Minimum Rear Yard Setback -----50 feet  
Minimum Lot Area Per Family (Residential)-- 40 acres

**(J) Conservancy (C).**

(1) Purpose: To delineate those areas where substantial development of the land in the form of buildings or structures is prohibited due to:

(a) Special or unusual conditions of topography, drainage, or other natural conditions, whereby considerable damage to buildings or structures and possible loss of life may occur due to the processes of nature.

(b) The lack of proper facilities or improvements resulting in the land not being suitable for improvement at the present time.

For the preservation and protection of scenic, historic, scientific and biologically important areas. For the protection of ground water sources.

(2) Permitted Uses: Management of forestry, wildlife and fish; hunting, fishing, trapping; harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and seeds; parks and general recreational areas; uses similar and incidental to any of the above uses.

(3) Conditional Uses: Sewage disposal plant, golf courses and seasonal camping grounds; dams, water storage facilities, power stations and transmission lines; non-metallic mining operations; metallic mining operations; gravel or sand pits and quarries, including washing and grading the products.

(4) Requirements: None.

**(K) Planned Development District (PUD).**

(1) Intent: To permit great flexibility in the use and design of structures and land in situations where modifications of specific provisions of this Section will not be contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the neighborhood in which they occur; "To promote the maximum benefit from coordinated area site planning, diversified location of structures and mixed compatible uses".

(2) Regulations: The PUD District shall contain a minimum of one (1) acre and shall be under unified control, whether by single, corporate, condominium or association ownership. In the Planned Unit Development District, no land shall be used except for group buildings (two or more) and use complexes with design and development continuity.

The use or uses for each PUD District shall be individually or specifically approved and may provide for a combination of single and multi-family developments as well as business and industrial uses.

Height, yard, vision, setback, parking, lot coverage, and other area regulations applicable to similar uses in other districts shall be considered by the Village Planning Commission and the Village Board in establishing individual regulations for each Planned Development District, but such regulations are not required to be applied.

**(3) Application:**

(a) The owner shall file with the Village Administrator a proposed site plan and detailed description of the structures to be erected which shall include the following information:

(i) A plat plan including all information required for a preliminary plat under Section 4.05 of this Code of Ordinances together with the

3.03(K)(3)(i)

dimensions and locations of all proposed structures, areas to be reserved for vehicular and pedestrian traffic, parking, public uses and easement.

(ii) Complete drawings showing design of structures and their relationship.

(iii) A description of the land uses.

(iv) Proposed height, yard, area, vision, setback, lot coverage and parking regulations for the specific district.

(b) The plan shall also provide:

(i) Paved streets and sidewalks adequate to serve the needs of the area.

(ii) Adequate access to public streets and proper internal circulation.

(iii) Adequate sewer and water facilities and storm sewer.

(iv) That the development will constitute a reasonable extension of Village living areas and will be compatible with surrounding land uses.

(c) Usual procedures shall otherwise be followed, recognizing that specific regulations are to be approved for each such district which may be at variance with other general ordinances. The Village Planning Commission and the Village Board shall also establish requirements and limitations so as to reduce traffic congestion and hazards, establish adequate landscaping, buffering and screening, and eliminate undesirable effects on nearby development. The comprehensive plan shall not be approve or modified unless adopted by 2/3 vote of the members of the Village Board.

3.03(K)(4)

(4) Plat or Certified Survey Map:

(a) Within six (6) months of the approval of a Planned Unit Development or an amendment to an existing Planned Unit Development, the owner shall record in the Register of Deeds' office either a final plat in compliance with Chapter 236, Wisconsin Statutes, or a Certified Survey Map in accordance with Section 236.34, Wisconsin Statutes, whichever may apply when there already is a plat or certified survey map recorded.

(b) Proof of such recording shall be filed with the Village Administrator.

(5) Building Permits:

(a) No building permits shall be issued for any structure not in strict compliance with the approved plans, drawings and regulations as approved by the Village Board. Changes or amendments shall require the same prior approvals as the original zoning.

(b) Certificates of occupancy shall be withheld until the recording of a plat or certified survey map.

(6) Construction: All construction shall be commenced within one (1) year and completed within three (3) years of final approval. This period may be extended by the Village Board for good cause. Failure to complete construction within the time limit shall justify action to re-zone the area or part thereof.

(7) Standards for Traditional Neighborhood Development (TND): Refer to Section 3.17

**(L) Flood Plain Districts.**

(1) Authorization. This Zoning Ordinance is adopted pursuant to the authorization of Section 61.35, 62.23 and 87.30 of the Wisconsin Statutes and Chapter NR 116 of the Wisconsin Administrative Code.

3.03(L)(2)

(2) Purpose. To provide a uniform basis to regulate all flood plains within the incorporated area of the Village of West Salem to: Protect life, health and property; minimize expenditures of public monies for costly flood control projects; minimize rescue and relief efforts generally undertaken at the expense of the taxpaying public; minimize business interruptions which usually result in the loss of local income; minimize damage to public facilities such as water mains, sewer lines, streets and bridges; minimize the occurrence of future flood blight areas; discourage the victimization of unwary land and home buyers; and prevent increases in the regional flood from occurring which will increase flood damage and may result in conflict and litigation between landowners.

(3) Establishment of Districts. The regional Flood plain areas within Village jurisdiction are hereby divided into the Flood way, the Flood fringe, and the Flood plain Districts as refined in Section 3.12 of this Code of Ordinances.

(4) District Boundaries. The boundaries of the Flood plain, Flood way and Flood fringe Districts shall be consistent with those areas designated as flood plains, flood way and Flood fringe boundaries on the Federal Management Agency map for the national flood insurance program. The boundaries shall be as indicated on the Flood plain overlay districts shown upon the master zoning map on file in the Village Administrator's Office.

(5) Regulations. Chapter NR 116 of the Wisconsin Administrative Code and any future amendment, revision or modification of Chapter NR 116 are hereby incorporated into this Section as if fully set forth herein. The uses permitted within the districts and the administration of this Flood plain Zoning Ordinance shall fully comply with the provisions of Chapter NR 116, provided that the Building Inspector shall perform all duties therein delegated to the Zoning Administrator.

(6) Enforcement and Penalties. Any violation of the provisions of this Section by any person shall be unlawful and shall be referred to the Village Attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the Village a penalty of not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Section is a public nuisance and may be enjoined and the maintenance thereof may be abated by action initiated by the Village, the State, or any citizen thereof, pursuant to Section 87.30, Wisconsin Statutes.

**3.04 Conditional Uses.**

(A) Permit. The Village Board may authorize the Building Inspector to issue a conditional use permit for conditional uses specified in this Section after review and a public hearing before the Village Planning Commission and recommendation thereon, provided such uses are consistent with the purpose and intent of this Section. For all public hearings on conditional uses the Village President shall appoint two (2) additional Village Board Trustees to attend the public hearing for informational gathering purposes.

Notice of the public hearing shall be published in the newspaper published weekly in the Village, or in default of said newspaper publication, in the daily newspaper published in the City of La Crosse at least ten (10) days prior to the hearing. In addition, notice of the public hearing shall be mailed, by the Village Clerk, to all property owners within three hundred (300') feet of the perimeter of the subject property in the Village of West Salem at least ten (10) days prior to the hearing.

Application for conditional use permits shall be submitted to the Village Administrator on forms supplied by the Administration Office. A plan showing the location, size and shape of the lot(s) involved and of any proposed structures and the existing and proposed use of each structure and lot shall be submitted with the

3.04(A)

application along with the conditional use permit fee, as set forth in Appendix "A" Fee Schedule.

(B) Review and Approval. The Village Planning Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.

Any Development within five hundred (500) feet of the existing or proposed right-of-way of freeways, expressways and within one-half mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Village Planning Commission shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.

Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Village Planning Commission upon its finding that these are necessary to fulfill the purpose and intent of this Section. Any and all of these conditions may be required to be included in deed restrictions on the property signed by the owner and recorded in the Register of Deeds office of La Crosse County and the deed restrictions may include a provision that the owner of the land is liable to the Village for attorney's fees and costs incurred in enforcing the deed restrictions in the case of any substantial violation.

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

All conditional use permit applications are subject to review, inspection, and written recommendation by the Village Attorney and Village Engineer as the Village Planning Commission

and Village Board as shall be deemed necessary to assure compliance with Village Ordinances. During the review process the Planning Commission or Village Board shall require the applicant to post collected funds with the Village to cover the costs incurred by the Village with regard to engineering and legal fees and Village actual costs. Once the Village Planning Commission and Village Board have acted on (whether granting or denying) said conditional use permit application, the Village Administrator shall prepare a statement addressed to said conditional use permit applicant detailing all Village Attorney and Village Engineer charges for services and any and all actual costs to the Village for such review, inspection, and recommendation. The applicant shall remit same at the time of applying and shall be so notified in the application.

**(Per Ordinance No. 451 created 5/7/2013)**

(C) Public and Semi-Public Uses. The following public and semi-public uses shall be conditional uses and may be permitted as specified:

(1) Governmental and Cultural Uses, such as administrative offices, fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, in all Residential, Agricultural, Business and Industrial Districts.

(2) Public Passenger Transportation Terminals, such as heliports, bus and rail depots, except airports, airstrips, and landing fields, in all Business and Industrial Districts provided all principal structures and uses and not less than one hundred (100) feet from any Residential District boundary.

(3) Public, Parochial, and Private, Licensed Daycare, Preschool, Elementary, and Secondary schools and churches in the Residential and Agricultural Districts provided the lot area is not less than one (1) acre and all principal structures and uses are not less than fifty (50) feet from any lot line.

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(4) Colleges, Universities, Technical Schools, Hospitals, sanitariums, religious, charitable, penal and correctional institutions, cemeteries and crematories in the A District provided all principal structures and uses are not less than fifty (50) feet from any lot line.

(D) Residential Uses. The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified, however, in instances where prior use was as a school, the lot line setback shall not apply:

(1) Clubs, fraternities, lodges, and meeting places of a nonbusiness nature in the Residential Districts provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.

(2) Rest Homes, nursing homes, homes for the aged, clinics, and children's nurseries in the Residential Districts provided in instances of use which involves five (5) or more clients, then it is further required that all principal structures and uses are at least fifty (50) feet from any lot line.

(3) Day Care Centers, for children in either the Residential, Business or Industrial Districts, provided in instances of use which involves five (5) or more children, then it is further required that all principal structures including fenced play yards are at least thirty (30) feet from the street lot line.

(E) Mobile Home Parks. The following are the requirements for Mobile Home Parks:

Minimum size ----- five (5) acres  
Minimum size lot per mobile home ----- 4,000 sq ft.  
Minimum width of mobile home site ----- 40 feet  
Minimum side yard clear area of all  
additions or accessory uses ----- 6 feet  
Minimum distance between mobile home  
trailers ----- 20 feet

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Minimum distance between mobile home  
and service road ----- 15 feet  
Minimum side yard setback at all  
front, side and rear lot lines  
Of the mobile home park ----- 50 feet

(1) Accessory uses and detached accessory structures  
are permitted in the rear yard only; they shall not be closer than 10 feet to the principal structure; shall not exceed 15 feet in height; shall not occupy more than 40 per cent of the rear yard area nor more than 1,000 square feet; and shall not be closer than 3 feet to any lot line nor 5 feet to an alley line.

(2) To provide shade and visual relief from the monotony and density of mobile home parks, each mobile home park shall be variably landscaped with different species of trees, bushes, hedges, perennials, other vegetation, or some combination of these. At a minimum, there shall be one tree capable of reaching a height of 15 feet or 3 bushes capable of reaching a height of 8-12 feet for each 2 mobile home sites. Trees and bushes planted pursuant to this Section shall be pruned to remove dead branches and otherwise maintained by the owner of the mobile home park.

(3) All mobile homes shall meet the construction standards of the Mobile Homes Manufacturing Association.

(4) No mobile home sales office or other business or business use shall be located on the mobile home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage and one office are permitted.

(5) Each mobile home park shall comply with the requirements of Section 11.04 of this Code of Ordinances.

3.04(F)

(F) Highway-oriented Uses. The following business uses shall be conditional uses and may be permitted as specified:

- (1) Drive-in Theaters, in the B District provided that a planting screen at least 25 feet wide is created along any side abutting on a residential district and no access is permitted to or within 1,000 of an arterial street.
- (2) Drive-in Establishments serving food or beverages for consumption outside the structure in the B District.
- (3) Motels, Funeral Homes
- (4) Seed, Feed, and Farm Supply Sales
- (5) Vehicle Sales, service, washing and repair stations, garages, taxi stands, and public parking lots, in the Business District.

(G) Recreational Uses. The following public recreational facilities shall be conditional uses and may be permitted as specified: archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, hunting, ice boating, marinas, riding academies, skating rinks, sport fields, swimming pools, and zoological and botanical gardens in the districts indicated, provided that the lot area is not less than three (3) acres and all structures are not less than fifty (50') feet from any district boundary.

Business Recreation Facilities such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, Turkish baths, skating rinks and theaters are conditional uses and may be permitted in the Business District.

(H) Campgrounds and Camping Resorts. Private camping areas shall have a minimum size of one (1) acre and shall comply with the Wisconsin Administrative Code.

(I) In any case where the holder of a conditional use permit issued under this Ordinance has not instituted the use or completed construction within one (1) year of the date of the approval, the

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permit shall be null and void and subject to formal revocation by the Village Board unless granted an extension. For any conditional use permit which was issued before the adoption of this Subsection, the one (1) year time period would commence on the effective date of the Ordinance creating this Subsection.

(J) Any use for which a conditional use permit has been issued, upon its cessation or abandonment for a period of one (1) year, will be deemed to have terminated and any future use shall be considered terminated and shall be revoked by the Village Board unless granted an extension. For any conditional use permit which was issued before the adoption of this Subsection, the one (1) year time period would commence on the cessation or abandonment of use which exists on the effective date of the Ordinance creating this Subsection, or the date on which the cessation or abandonment of use thereafter commences.

(K) If the Village Board finds that the conditions for avoidance or termination as set forth in subparagraphs (I) or (J) or that any of the conditions stipulated to in the original conditional use permit are not being complied with, the Village Board shall issue a notice of intent to revoke. The Village Board shall then schedule a hearing on the notice of intent to revoke with written notice to the landowner and hold such a hearing.

**3.05 Traffic Parking and Access.**

(A) Parking Requirements. In all districts and in connection with every use, except in the "Central Business District" and in the "Central Industrial District" as defined in Section 3.12, there shall be provided at the time any use or building is erected, off-street parking stalls for all vehicles as follows:

(1) Adequate access to a public street shall be provided for each parking stall, and driveways shall be at least ten (10) feet wide for one- and two-family dwellings and a minimum of fifteen (15) feet for all other uses.

(2) Size of each parking stall shall be not less than 160 square feet.

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(3) Location to be on the same lot as the principal use or not over 400 feet from the principal use. Required off-street parking shall not be located in the front yard or required side yards of all lots used for residential purposes containing more than two dwelling units.

(B) Surfacing. All off-street parking areas shall be graded and surfaced so as to be dust-free and properly drained.

Curbs and barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.

Number of parking stalls required are shown in the following table:

USE	MINIMUM PARKING REQUIRED
Single-family dwellings	2 parking stalls for each dwelling unit
Multi-family dwellings	1.5 parking stalls for each Dwelling unit
Hotels, motels, & boarding houses	1 parking stall for each guest room plus 1 parking stall for each 3 employees
Hospitals & dormitories	1 parking stall for each 2 beds plus 1 parking stall for each 3 employees
Sanitariums, institutions, rest and nursing homes	1 parking stall for each beds plus 1 parking stall for each 3 employees
Medical, dental, chiropractic & veterinary clinics	3 parking stalls for each doctor
Churches, theaters, clubs, lodges, auditoriums, community centers, vocational or night schools & other places of public assembly	1 parking stall for each 5 seats

Restaurants, bars, places of entertainment, repair shops and service stores & funeral homes	1 parking stall for each 400 square feet of floor area
Financial institutions, business, government & professional offices	1 parking stall for each 500 square feet of floor area
Bowling alley	5 parking stalls for each alley
Colleges, technical, secondary & elementary schools	1 parking stall for each 2 employees & 1 parking stall for each 10 students of 16 years of age or more
Manufacturing and processing plants, laboratories & warehouses	1 parking stall for each 4 employees

### **3.06 Modifications.**

(A) Height. The district height limitations stipulated elsewhere in this Section may be exceeded, but such modification shall be in accord with the following:

(1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this Section.

(2) Special structures such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Section, provided that any such structure in a residential district shall be located at least 25 feet from any lot line.

(3) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Section.

(4) Communication structures, such as radio and television transmission and relay towers, aerials, and

observation towers, shall not exceed in height 3 times their distance from the nearest lot line.

(5) Residences may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by one (1) foot for each foot by which the residence exceeds the height limit of the district in which it is located.

(6) Public or semi-public facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60') feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

(B) Yards. The yard requirements stipulated elsewhere in this Section may be modified as follows:

(1) Uncovered stairs, landings, and fire escapes may project into any yard but not to exceed 6 feet and not closer than 3 feet to any lot line.

(2) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard; but such projection shall not exceed 30 inches.

(3) Residential fences require a building permit. Residential fences are permitted on the property lines in Residential districts but shall not in any case exceed a height of six and one-half (6-1/2) feet; shall not exceed a height of four and one-half (4-1/2) feet in the street yard and shall not be closer than two (2) feet to any public right-of-way. Provided, however, when Business or Industrial Zoning abuts Residential Zoning, as a condition of plat or certified

survey approval or upon re-zoning that creates such a status, the Village Board may require as a condition that the then owner of the Business or Industrial use parcel erect a fence not to exceed ten and one-half (10-1/2) feet in height upon the property line with the Residential zoned property;

3.06(B)(3)

provided, further, at any time a property owner of a Residential zoned property located adjacent to a Business or Industrial zoned property may petition for a conditional use permit to erect and maintain a fence not to exceed ten and one-half (10-1/2) feet in height upon the property line with the Business or Industrial zoned property. It shall be the obligation of the property owner of the Business or Industrial zoned property to maintain both sides of the fence. In each instance, the fence shall be such height (as measured from the ground), type, and quality as determined by the Village Board after recommendation by the Village Planning Commission.

(4) Security fences require a building permit. Security fences are permitted on the property lines in all districts except residential districts but shall not exceed ten and one-half (10-1/2) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

(5) Accessory uses and detached accessory structures are permitted in the rear yard only; they shall not be closer than 10 feet to the principal structure; shall not exceed 15 feet in height; shall not occupy more than 40 per cent of the rear yard area, nor more than 1,000 square feet; and shall not be closer than 3 feet to any lot line nor 5 feet to an alley line.

(6) Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Section.

(7) Landscaping and vegetation are exempt from the yard requirements of this Section.

(C) Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two (2) districts which abut the district boundary lines.

3.06(D)

(D) Where fifty (50%) percent or more of a frontage is occupied by buildings having setbacks which are greater or less than the setback required by this Section for the district in which such frontage is located, the setback on the remainder of such frontage shall, be the average setback of such buildings.

(E) Where less than fifty (50%) per cent of a frontage is occupied by buildings, the following setbacks shall apply:

(1) Where a vacant lot abuts a lot occupied by a building which has a setback greater than is required by this Section, the setback on the abutting vacant lot shall be the average of the setback required by this Section for the district in which such lot is located and the setback on the occupied lot, or the average of such required setback and the lesser of the setbacks on the occupied lots, if the vacant lot abuts more than one occupied lot in the same frontage.

(2) Where a vacant lot abuts a lot occupied by a building which has a setback less than is required by this Section, the setback on the vacant lot shall be the setback required by this Section for the district in which such lot is located.

(F) No part of any building which has a setback less than is required by this Section shall be enlarged or structurally altered within the front yard established by the setback required by this Section for the district in which such building is located.

(G) Buildings on through lots and extending from street to street may meet the requirements for a rear yard by furnishing an equivalent open space on the same lot provided that the setback requirements on both streets be complied with.

(H) Additions. Additions in the street yards of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

(I) Average Street Yards. The required street yard may be decreased in any residential or business districts to the average

3.06(I)

of the existing street yards of the abutting structures on each side but in no case less than fifteen (15') feet in any residential district.

**3.07 Signs, Canopies, Awnings and Billboards.**

(A) Purpose of Sign and Billboard Regulations. The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards. The provisions herein contained shall be binding alike upon every owner of a building, every lessee and every person in charge or responsible for or who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the Village of West Salem painting, posting and general maintenance are excepted.

(B) Signs, Canopies, Awnings And Billboards-Definitions. The following definitions are used in this Article:

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

(2) Animated Sign. An animated sign shall mean a sign projecting moving motion pictures, moving images, film, or videos.

(3) Billboard. A sign which advertises goods, products or facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.

(4) Blanketing. Blanketing is the unreasonable obstruction of view of a sign caused by the placement of another sign.

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

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

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

(8) Directory Sign. Shall mean any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories.

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

(10) Erect. Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish. Erect does not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of a sign structure.

(11) Festoons. A garland, flag, or wreath hanging in a depending curve or graceful loop used in decoration for festivals, special events, etc. or anything arranged in this way.

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

(13) Free Standing Sign. A free standing sign is any sign supported by structures or supports in or upon the ground

and independent of support from any building. (Also referred to as "Ground and/or Pole Sign").

(14) Ground and/or Pole Sign. A ground and/or pole sign is any sign supported by structures or supports in or upon the ground and independent of support from any building. (Also referred to as "Free Standing Sign").

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

(16) Illuminated Sign. An illuminated sign is lighted from a source inside of the actual sign. Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

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

(18) Marquee Sign. Shall mean any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall an generally designed and constructed to provide protection against weather.

(19) Nonconforming Sign. A nonconforming sign is any sign, which does not conform to the regulations of this Article.

(20) Off-Premise Sign. Any sign, devise or display, which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the service is located.

(21) Operational Modes for Message Sign Transitions.

- (a) Level 1: Segmented static display only (messages change with no transition).
- (b) Level 2: Static display with "fade" or "dissolve" transitions, or similar subtle transitions and frame effects that do not have the appearance of moving text or images.
- (c) Level 3: Static display with "travel" or "scrolling" transitions, or similar transitions and frame effects that have text or animated images that appear to move or change in size, or be revealed sequentially rather than all at once.
- (d) Level 4: Full animation, flashing, and video.

(22) Portable Sign. Any sign not permanently attached to the ground, which is designed to be easily moved from one location to another.

(23) Projecting Sign. Any sign installed on an arm or mast or spar that is not permanently fastened to an adjacent wall or upright pole to limit or prevent free swing. A projecting sign is any sign extending more than eighteen (18) inches, but less than four (4) feet from the face of a wall or building; such sign may not extend more than three (3) feet into the right-of-way.

(24) Real Estate Sign. Any sign offering for sale, lease, or rent the property upon which the sign is placed.

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

(26) Segmented Message. A static display Level 1 Operational Mode for message transitions. A static or segmented message display changes with no transitions.

(27) Static Display. A static display is a Level 1 Operational Mode for message transitions. A static display means messages change with no transition.

(28) Swinging Sign. Any sign installed on an arm or mast or spar that is not permanently fastened to an adjacent wall or upright pole to limit or prevent free swinging. See definition of Projecting Sign.

(29) Temporary Sign. Any sign intended to be displayed for a short period of time, including real estate, political or construction site signs, and banners, decorative-type displays or anything similar to the aforementioned.

(30) Tethered Balloons. Inflatable signs or balloons fastened by a rope or chain.

(31) Wall Sign. Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than eighteen (18) inches from such wall.

(32) Window Sign. Any sign located completely within an enclosed building and visible from a public way.

(C) Required Permits For Signs, Canopies, Awnings And Billboards.

(1) Application. Except those specified in Section 3.07(D), no signs, billboards, awnings or canopies shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Article. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the Village of West Salem. Signs shall not be erected or altered until the Building Inspector has issued a permit. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.

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(2) Required Information. Application for a sign permit shall be made in writing upon forms furnished by the Village Administrator which contain the following information about the sign: drawing or picture of sign applied for; dimensions, including display surface; materials; illumination; wiring; height above grade; distance from lot lines; and the person, firm or corporation erecting or altering the sign.

(3) Fee. The fee for each sign permit shall be as set forth in Appendix "A" Fee Schedule.

(4) Insurance. Any person, firm or corporation engaged in the business of erecting, repairing, maintaining or relocating any sign shall maintain in effect at all times a policy of liability insurance with limits of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury and One Million Dollars (\$1,000,000.00) aggregate and One Hundred Thousand Dollars (\$100,000.00) property damage. Proof of insurance shall be presented to the Village Administrator before the sign permit is granted.

(5) Inspection. Every sign shall be inspected and approved by the Building Inspector within thirty (30) days after it is erected or altered.

(D) Signs Excepted. All signs, awnings and canopies must have a sign permit, except the following, provided that the following exempt signs may not be located over a public road right-of-way or in, on, or over public water:

(1) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.

(2) Real estate signs not to exceed eight (8) square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.

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(3) Name, occupation and warning signs not to exceed four (4) square feet located on the premises.

(4) Bulletin boards for public, charitable or religious institutions not to exceed thirty-five (35) square feet in area located on the premises.

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

(6) Official signs, such as traffic control, parking restriction, information, and notices.

(7) Temporary signs for a period not to exceed sixty (60) days.

(8) Rummage sale and auction sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale.

(9) A sign for the purpose of designating a new building or development, for promotion of a subdivision, for announcement of a special event or for similar promotion of a subdivision, for announcement of a special event or for similar special informational purposes may be permitted for a limited period of time in any district with the approval of the Building Inspector and subject to the following:

(a) Drawings showing the specific design, appearance and location of the sign shall be submitted to the Building Inspector for approval.

(b) The permitted size and location of any such sign shall be at the discretion of Building Inspector based upon the character of the area, the type and purpose of the sign and the length of time permitted.

(c) Where the sign is to be located on the premises involved, such may be permitted for a period up to one (1) year. An extension may be permitted for a period not to exceed two (2) years total.

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(d) Where the sign is not to be located on the premises involved, such sign may be permitted for a period not to exceed nine (9) months.

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

(11) Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers or names of occupants of premises.

(12) Flags and insignia of any government, (not affiliated with a religion or fascist creed), except when displayed in connection with business promotion.

(13) Legal notices, identification information, or directional signs erected by governmental bodies.

(14) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

(15) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

(16) Sandwich board signs. Sandwich board signs cannot be more than three (3') X four (4') foot and no more than four (4') feet tall and are limited to one (1) per business to be located not more than twenty (20') feet from the main entrance of the business they advertise. Sandwich board signs cannot be illuminated nor interfere with pedestrian or vehicular traffic to or from the business and must allow at least four (4') feet of sidewalk for pedestrians. Sandwich board signs are allowed only during business hours.

(E) **Signs Permitting.**

(1) **Business and Industrial Districts.** Signs are permitted in all Business Districts and the Industrial Districts subject to the following restrictions:

(a) **Downtown Business District.** No animated, illuminated, electronic, flashing, or static signage is allowed in the downtown Business District described as Leonard Street between Jefferson Street and Franklin Street; Mill Street between Jefferson Street and Franklin Street; Hamilton Street between Youlon and Mill Streets; and Jefferson Street between Youlon and Mill Streets.

(b) **Wall Signs** placed against the exterior walls of buildings shall not extend more than twelve (12") inches out from a building's wall surface, shall not exceed five hundred (500) square feet in area or forty percent (40%) of the wall surface (whichever is smaller) for any one (1) premises, and shall not exceed twenty (20') feet in height above the centerline street grade.

(c) **Projecting signs** fastened to, suspended from or supported by structures shall not exceed one hundred (100) square feet in area for any one (1) premises, shall not extend more than six (6') feet into any required yard, shall not extend into any public right-of-way, shall not be less than ten (10') feet from all side lot lines, shall not exceed a height of twenty (20') feet above the mean centerline street grade and shall not be less than eight (8') feet above a driveway or an alley.

(d) **Ground signs or free standing signs** shall not exceed forty-five (45') feet in height above the centerline of the grade of the street from which access to the premises is obtained, shall be set back a minimum of ten (10') feet from the property line or meet all yard requirements for the district in which it is located (whichever is less), and shall not exceed two hundred (200) square feet on one (1) side, nor four hundred (400)

square feet on all sides for any one (1) premise. The lowest sign on a sign cabinet shall be no less than ten (10') feet from grade unless the sign is setback ten (10') feet from property line. Any sign in excess of forty-five (45') feet in height requires a conditional use permit.

(e) Roof signs shall not exceed fifteen (15') feet in height above the roof, shall meet all yard requirements for the district in which it is located, shall be considered part of the structure in meeting all height requirements for the district in which it is located and shall not exceed three hundred (300) square feet on all sides for any one (1) premises.

(f) Window signs shall be placed only on the inside of business buildings and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed. Temporary painted specials on windows shall not be considered signs, but limited to twenty-five (25%) percent of glass area.

(g) Off-premise signs, displays and devices on or within the "adjacent areas" of all State, Freeway and Federal Aid Primary Systems, as defined in Chapter 84.30 of the Wisconsin Statutes, shall be regulated pursuant to Chapter 84.30 of the Wisconsin Statutes and Chapter Trans. 201, as revised, of the Wisconsin Administrative Code, provided, however, that where this Section (g) establishes more restrictive criteria for signs, then the provisions of this Section (g) shall supersede the State criteria. Spacing of signs along non-interstate highways shall be measured from other off-premise signs along the same side of the street and shall be at least three hundred (300) feet apart and not cover two hundred (200) square feet per side. A State permit must be issued before a Village permit is issued. This is the sole Section for regulating off-premise signs for size and spacing.

(h) Directory signs for multi-tenant building complexes are permitted as an alternative to ground

signs, free standing signs, projecting signs, and roof signs for individual stores in the multi-tenant building complex. The top of a directory sign shall not exceed thirty (30') feet in height above the mean centerline street grade. The supporting structure shall not be greater than ten (10) feet wide. That portion of the directory sign which advertises the multi-tenant building complex name shall not exceed eighty (80) square feet for one (1) side and a total of one hundred sixty (160) square feet for all sides. That portion of the directory sign which advertises the individual business name shall not exceed fifteen (15) square feet for one (1) side and a total of thirty (30) square feet for all sides. Directory signs measuring less than ten (10') feet from grade to the bottom sign cabinet must be set back ten (10') feet and shall meet all yard requirements for all zoning district in which the signs are located.

(i) Any sign qualifying as more than one (1) of the above-listed types shall meet the requirements for each type.

(j) Bills and posters shall not be posted on the exterior of buildings or windows.

(2) Residential, Conservancy and Agricultural Districts. All signs are prohibited in the R-1 Residential, R-2 Residential, Conservatory, Agricultural, Planned Unit Development, Flood Districts, including all Traditional Neighborhood Development and Conservation Design Subdivision Overlay Districts, except the following, but in no case are private signs permitted in any public rights-of-way:

(a) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed four (4) square feet.

(b) Real estate signs not to exceed four (4) square feet in area which advertise the sale, rental or

lease of the premises upon which said signs are temporarily located.

(c) Name, occupation and warning signs not to exceed two (2) square feet located on the premises.

(d) Bulletin boards for public, charitable or religious institutions not to exceed eight (8) square feet in area located on the premises.

(e) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

(f) Official signs, such as traffic control, parking restrictions, information and notices.

(g) Temporary signs or banners, when authorized by the Village Administrator.

(h) Awnings or canopies servicing only a particular single-family dwelling unit, provided the same shall conform to the regulations applicable to the zoning district in which the same are located.

(i) House numbers or signs identifying parks or country clubs or official bulletin boards.

(j) An approved professional sign shall be a sign not exceeding three (3) square feet in area, stating only the name and business or profession of the occupant or the character or the use of the premises on which the sign is maintained. It shall not be illuminated and shall not move. Only one (1) such approved professional sign shall be maintained on a premise.

(F) Construction and Maintenance Regulation For Signs.

(1) Installation. All signs shall be properly secured, supported, and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted

at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors, and supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector.

(2) General Requirements.

(a) Construction Standards. Signs shall be constructed in a safe structural manner in accordance with the National Building Code and the National Electrical Code with fireproof and fire-resistant materials and the Wisconsin State Codes, if more restrictive. All signs shall withstand a wind load pressure of thirty (30) p.s.f. of surface and shall also be fastened, supported and maintained so as to withstand a wind loan pressure of thirty (30) p.s.f. per American Society of Engineering.

(b) Roof Signs. No sign shall be located so as to project above the parapet line, unless approved by the Village Planning Commission. Roof sign structures shall be constructed entirely of steel or aluminum, and all faces shall be constructed of fire-resistant materials and shall withstand a wind pressure of thirty (30) p.s.f. per American Society of Engineering.

(c) Illuminated Signs, intermittent signs, flashing signs, or moving light signs. Any illuminated signs shall not interfere with surrounding properties or traffic. Signs may be illuminated, subject to the following restrictions:

(i) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those specified in (d) below, and those giving public service information such as time, date, temperature, weather, or similar information.

(ii) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the

interstate or federal-aid primary highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(iii) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

(d) Signs may contain multiple or variable messages, including messages on louvers that are rotated and messages formed solely by use of lights or other electronic digital displays that may be changed by any electronic process, subject to all of the following restrictions:

(i) Each change of message shall be accomplished in one (1) second or less.

(ii) Each message shall remain in a fixed position for at least six (6) seconds.

(iii) The use of "traveling" or "scrolling" messages are set forth in (3) Specific Requirements below.

(iv) The Building Inspector may prohibit or establish restrictions on the illumination of messages to a degree of brightness that is greater than necessary for adequate visibility.

(e) Prohibited Mountings. No signs shall be painted on, attached to or affixed to any trees, rocks, or other similar organic or inorganic natural matter, including utility poles or apparatus.

(f) Blanketing. Blanketing of signs shall not be allowed.

(g) Maintenance. All signs, including supports

and attachments, shall be properly maintained and have an appearance that is neat and clean. All signs shall be kept in good structural condition, well painted, and clean at all times and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.

(h) Annexed Areas. All signs in newly annexed areas shall comply with this Article within five (5) years of annexation.

(3) Specific Requirements.

(a) Electronic Message Unit Signs.

(i) All electronic message unit signs must obtain a conditional use permit with the exception of electronic numeric price message units.

(ii) Such signs may be used only to advertise activities conducted on the premises or to present public service information pursuant to Section 3.07(F)(1)(c).

(iii) Operational Mode Level 1 as defined in 3.07(B)(20) is the only Level allowed for electronic message unit signs, and all messages must be displayed in a fixed position for at least six (6) seconds.

(iv) Traveling or scrolling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.

(v) The Building Inspector may prohibit or establish restrictions on the illumination of messages to a degree of brightness that is greater than necessary for adequate visibility.

(b) Portable Signs. Portable signs shall be limited to use to thirty (30) days at a time following approval by the Village Administrator, provided,

however, that the Village Administrator shall not give approval for placement of a portable sign if it presents a vision obstruction and not more frequently than four (4) times per year at any one (1) location. The maximum sign of portable signs shall be twenty-five (25) square feet on each face, back-to-back.

(4) Search Lights. Temporary use of search lights, pennants, streamers, or spinners for advertising purposes are allowed in any district, provided, that the use will not be located in any public right-of-way, will not be located closer than ten (10') feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Temporary use shall not be granted for a period of more than five (5) days in any six (6) month period.

(5) Festoons. Festoons and all other fluttering, spinning, or similar type devices are prohibited except for national flags and flags of political subdivisions of the United States, of bona fide civic, charitable, fraternal, and welfare organizations and except during federal legal public holidays, or during a special civic event, or for a time period not to exceed thirty (30) consecutive days.

(6) Tethered Signs. Only one (1) inflatable sign or tethered balloon shall be allowed per zoning lot. Display of inflatable signs or tethered balloons shall be limited to one (1) week per month.

(7) Signs on Public Rights-of-Way. Signs shall not be permitted on public rights-of-way except for traffic control, parking and directional signs and as otherwise specified in this Chapter.

**(G) Prohibited Signs.**

(1) Signs Facing Residential Districts. No sign, except those permitted in Section 3.07(D) shall be permitted to face a Residential district within fifty (50') feet of such district boundary.

(2) Traffic Interference. Signs shall not resemble, imitate or approximate the shape, size, form or color of

3.07(G)(2)

railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape. No sign, awning or canopy shall be placed so as to obstruct or interfere with traffic visibility. No signs, billboards or other advertising media, which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.

(3) Number of Signs Permitted. No more than one (1) ground sign or free standing sign exceeding ten (10') feet in height and one (1) ground sign less than ten (10) feet in height shall be located on any one premise. No more than two (2) signs of all other types shall be located on any premise. Said sign shall not exceed two hundred (200) square feet on one side nor more than four hundred (400) square feet on all sides for any one premise. Premises occupied by a multi-tenant building complex may, as an alternative, have one (1) detached sign plus one (1) flat sign illuminated or otherwise for each place of business located in said multi-tenant building complex provided that the aggregate total of all signs located on any premises so occupied shall not exceed six (600) hundred square feet. This Paragraph shall not apply to directional on-site signs or flat identification signs attached to buildings.

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

**(H) Dangerous And Abandoned Billboard Signs.**

(1) All billboards and/or sign messages shall be removed by the owner or lessee of the premises upon which an

off-premise or premise sign/billboard is located when the business it advertised is no longer conducted where advertised or when, in the judgment of the Building Inspector, such sign is so old, dilapidated, or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove the sign/billboard, the Village Administrator, or its designee, shall give the owner thirty (30) days' written notice to remove said sign/billboard, and,

thereafter, upon the owner's or lessee's failure to comply, may remove such sign/billboard, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Village Administrator or designee may take any other appropriate legal action necessary to attain compliance.

(2) Alterations. Any sign which was erected before the adoption of this sign Article shall not be rebuilt or relocated without conforming to all of the requirements of this Article.

(3) Violations. All signs constructed or maintained in violation of any of the provisions of this Article are hereby declared public nuisances within the meaning of this Code of Ordinances. In addition to the penalty provisions for violation of this Chapter, the Village Board, or its designee, may bring an action to abate the nuisance in the manner set forth in the Wisconsin State Statutes.

#### **(I) Nonconforming Signs.**

(1) Signs Eligible for Characterization as Legal Nonconforming. Any sign located within the Village of West Salem limits of the date of adoption of this Chapter hereafter, which does not conform with the provisions of this Article is eligible for characterization as a legal nonconforming sign and is permitted, providing it meets the following requirements:

3.07(I)(1)(a)

(a) The sign was covered by a proper sign permit prior to the date of adoption of this sign ordinance.

(b) If no permit was required under the applicable law for the sign in question and the sign was, in all respects, in compliance with applicable law on the date of adoption of this sign ordinance.

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

(a) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this Article than it was before alteration;

(b) The sign is relocated.

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

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

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

(J) Variances or Exceptions. The Village Board, following a recommendation from the Village Planning Commission, may grant variances or exceptions to these sign regulations through Conditional Use Permits.

**(K) Awnings And Canopies.**

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

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

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

(c) Setback. No awning shall extend beyond a point four (4) feet into the right-of-way.

(d) Advertising. No advertising shall be placed on any awning, except that the name of the establishment within the building to which the awning is attached may be painted or otherwise permanently placed in a space not exceeding twelve (12) inches in height on the front and side edges.

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

(a) Support. The structural support of all canopies shall be designed by a licensed professional engineer and approved by the Building Inspector as in

3.07(K)(2)(a)

compliance with the Building Code of the Village of West Salem. All frames and supports shall be of metal and designed to withstand a wind pressure as provided in Section (I) of this Code. All canopies shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and the sidewalk or ground below.

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

(c) Setback. No awning shall extend beyond a point four (4') feet into the right-of-way.

(d) Advertising. No advertising shall be placed on any canopy, except that the name of the establishment may be painted or placed in a space not exceeding twenty (20") inches in average height on the front and side edges. Such name may be so painted or placed irrespective of any prohibition otherwise applicable hereunder, providing, however, that if such canopy shall contain more or other than the name of the establishment in letters more than twelve (12") inches on the front and side edges, it shall be considered as a sign and be subject to all the provisions hereof.

(e) Canopy Insurance Requirements. Every applicant for a canopy permit, which will overhang the public street or sidewalk shall, before the permit is granted, file with the Administrator a liability insurance policy with minimum limits of Three Hundred Thousand Dollars (\$300,000) for personal injury to any person and One Hundred Thousand Dollars (\$100,000.00) for property damage which shall indemnify and save harmless the Village from any and all damages, judgments, costs or expense which the said Village may incur or suffer by reason of the granting of said permit.

**(N) Violations Of Sign Code.**

(1) Any person, firm or corporation who begins, erects or completes the erection or construction of any sign controlled by this Article prior to the granting of a permit shall pay a penalty of four (4) times the amount of the permit otherwise required.

(2) If the Village Administrator or Building Inspector finds any sign regulated herein unsafe or insecure or is a menace to the public, it shall give written notice to the sign owner and to the property owner.

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

(4) Any person, firm or corporation who violates any provision of this Article shall be subject to the penalty as set forth in Appendix "A" Fee Schedule. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.

**3.08 Nonconforming Uses.**

(A) Existing Nonconforming Uses. The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Section may be continued although the use does not conform with the provisions of this Section however:

Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, or moved except when required to do so by law or order or so as to comply with the provisions of this Section.

(B) Substitution of use. The Board of Appeals, after investigation and public hearing, may authorize the change of a

nonconforming use to another of the same classification, provided that the Board shall find that the proposed change of use will be no more harmful to the character of the neighborhood than the existing nonconforming use.

(C) Abolishment or Replacement. If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Section. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity, to the extent of more than fifty (50%) percent of its current assessed value, it shall not be restored except so as to comply with the use provisions of this Section.

(D) Existing Nonconforming Structures. The lawful nonconforming structure existing at the time of the adoption or amendment of this Section may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Section; however, it shall not be extended, enlarged, reconstructed, or moved except when required to do so by law or order or so as to comply with the provisions of this Section.

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

(F) Substandard Lots. In any residential district, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record in the County Register of Deeds office before the effective date or amendment of this Section.

Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Section. If in separate ownership, all the district requirements shall be

complied with insofar as practical but shall not be less than the following:

Lot	Width	Minimum 30 feet
	Area	Minimum 4,000 square feet
Building	Area	Minimum 1,000 sq.ft.
	Height	Maximum 30 feet
Yards	Street	Minimum 25' the second street yard on corner lots shall not be less than 20'
	Rear	Minimum 25 feet
	Side	Minimum 16% of the frontage, but not less than 5'

(G) Nonconforming Signs. See Section 3.07(I) of this Section.

### **3.09 Performance Standards.**

(A) Compliance. This Section permits specific uses in specific districts, and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or districts. No use shall be allowed which violates any state or federal pollution control law or regulation. No structure, land, or water shall hereafter be used except in compliance with district regulations and with the following performance standards.

(B) Sound. The volume of sound inherently and recurrently generated shall be controlled so as not to become a nuisance to adjacent uses. Sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this Section.

(C) Vibration. An operation which creates vibrations that can be measured without instruments, e.g., heavy drop forges, heavy hydraulic surges, shall be set back in the B and I Zones (except open storage) at least 500 feet from all lot lines except where a lot line abuts an I Zone in which case no setback is required.

(D) Odor. No activity shall emit any odorous matter of such nature and quantity as to produce a public nuisance or hazard beyond lot lines.

(E) Toxic or Noxious Matter. No discharge beyond lot lines of any toxic or noxious matter is such quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property of business shall be permitted.

(F) Glare and Heat. No direct or infrared glare from an I Zone shall be detectable at any R Zone boundary.

No direct or reflected heat from an I Zone shall be detectable at any R Zone or B Zone boundaries.

### **3.10 Board of Zoning Appeals.**

(A) Establishment. There is hereby established a Board of Appeals for the Village of West Salem for the purpose of hearing appeals and applications, and granting variances and exceptions to the provisions of this Zoning Ordinance in harmony with its purpose and intent.

(B) Membership. The Board of Appeals shall consist of 5 members appointed by the Village President and confirmed by the Village Board. Terms shall be for staggered 3-year periods, with no more than two terms expiring during the same year.

(1) Chairperson shall be designated by the Village President.

(2) Two (2) alternate members shall be appointed by the President for staggered terms of three (3) years and shall act only when a regular member is absent or refuses to vote because of interest. The President shall annually designate one (1) alternate as the first alternate and the other as the second alternate.

3.10(B)(3)

(3) A secretary may be employed by the Board of Appeals.

(4) Building Inspector shall attend all meetings for the purpose of providing technical assistance when requested by the Board.

(5) Official oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.

(6) Removal. The members shall serve without compensation and shall be removable for cause upon written charges and after public hearing. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

(C) Organization.

(1) The Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Section.

(2) Meetings shall be held at the call of the chairperson and at such other times as the Board may determine and shall be open to the public.

(3) The chairperson may administer oaths and compel the attendance of witnesses.

(4) Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Board and shall be a public record.

(5) If a quorum is present, the concurring vote of three (3) members of the board shall be necessary to correct an error, grant a variance, make an interpretation, and permit a utility temporary, unclassified, or substituted use.

3.10(D)

(D) Powers. The Board of Appeals shall have the following powers:

(1) Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Building Inspector.

(2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Section shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted.

(3) Interpretations. To interpret the zoning regulations and district boundaries so as to carry out the intent and purpose of the plan as shown on the accompanying District Map after the Village Planning Commission has made a review and recommendation.

(4) Substitutions. To permit substitutions of nonconforming uses. See Section 3.08(A).

(5) Unclassified Uses. To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Village Planning Commission has made a review and recommendation. Except as specifically provided, no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such districts.

In passing upon appeals covering unclassified uses, the Board may establish adequate safeguards and conditions in harmony with the terms of this Section, particularly as they apply to structures of a height and bulk greater than the normal standards of the district in which the proposed use may be located.

(6) District Boundaries. Grant a permit for the extension of a district boundary for a distance of not more

than 25 feet where the boundary of a district divides a lot in a single ownership at the time of the adoption of this Section.

(7) Public Utility. Permit the erection and use of a building or premises in any location, subject to appropriate conditions and safeguards, and in harmony with the general purposes of this Section, for such public utility purposes which are reasonably necessary for public convenience and welfare.

(8) Temporary Uses. To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses and Village Planning Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Board of Appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this Section shall be required.

(9) Permits. In exercising the above mentioned powers, the Board may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issuance of a permit and to that end shall have all the powers of the Building Inspector. A denial of a land use permit shall be given in writing, including the reasons therefor.

(10) Assistance. The Board may request assistance from other Village officers, departments, commissions, and boards, and it shall be the duty of such other departments to render such assistance as may be reasonably required.

(E) Appeals and Permit Applications. Appeals from the decision of the Building Inspector may be made by any person aggrieved or by any officer, department, board, or bureau of the Village. Such appeals shall be filed with the Village Administrator within a reasonable time after the date of written notice of the decision or order of the Building Inspector. An appeal from the decision of the Building Inspector shall be accompanied by a fee as set forth in Appendix "A" Fee Schedule.

The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

Permit applications shall be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Village Clerk.

(F) Hearings. The Board of Appeals shall fix a reasonable time and place for the hearing, give public notice thereof, and shall give due notice to the parties in interest, the Building Inspector, and the Village Planning Commission. At the hearing the appellant or applicant may appear in person, by agent, or attorney.

(G) Findings. No variance to the provisions of this Section shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

(1) Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances of conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

3.10(G)(2)

(2) Preservation of Property Rights. That such variances is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

(3) Absence of Detriment. That the variances will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Section or the public interest.

(H) Decision. The Board of Appeals shall decide all appeals and applications within a reasonable time after the final hearing

and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector, and Village Planning Commission. Conditions may be placed upon any land use permit ordered or authorized by this Board. Variances, substitutions or use permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.

(I) Review by Court of Record. Any person aggrieved by any decision of the Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Appeals.

### **3.11 Changes and Amendments.**

(A) Authority. Whenever the public necessity, convenience, general welfare or good zoning practice require, the Village Board may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this Section or amendments thereto. Such change of amendment shall be subject to the review and recommendation of the Village Planning Commission.

(B) Initiation. A change or amendment may be initiated by the Village Board, Village Planning Commission, or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.

(C) Petitions. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Administrator, legally described the premises to be re-zoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

(1) Plot plan drawn to a scale of 1-inch equals 300 feet showing the area proposed to be re-zoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within Two Hundred (200') feet of the area proposed to be re-zoned.

3.11(C)(2)

(2) Owners' names and addresses of all properties lying within Two Hundred (200') feet of the area proposed to be rezoned.

(3) Additional information required by the Village Planning Commission, or Village Board.

(4) The Village Administrator shall submit the petition to the Village Planning Commission at its next regular meeting.

(D) Hearings. A hearing shall be held on the proposed amendments or change by the Village Planning Commission and a committee of three (3) members of the Village Board appointed by the Village President. Any person, agent or attorney interested in the change or amendment may be given an opportunity to speak at this hearing.

(1) Time. The hearing shall be held within seventy (70) days of the meeting at which the petition was first presented to the Village Planning Commission by the Village Administrator unless an extension of time is agreed upon by both the petitioner and the Village Planning Commission.

(2) Mailing of Notices. At least ten (10) days prior written notice of any such hearings shall be given to the clerk of any municipality whose boundaries are within One Thousand (1,000') feet of the land to be affected by the proposed change. Written notice of the hearing shall also be sent by regular mail to the owners of land included in such proposed amendment, to owners of land immediately adjacent extending Two Hundred (200') feet therefrom, and to owners of the land directly opposite thereto extending Two Hundred (200') feet therefrom, excluding all public right-of-way.

(3) Publication of Notice. Publication of Class 2 notice, under Chapter 985, Wisconsin Statutes, shall be made notifying the public of the proposed changes and hearings thereon.

(E) Recommendation by the Village Planning Commission. Within a reasonable times after the hearing aforesaid, the Village Planning Commission shall recommend to the Village Board that the petition be granted as requested, modified, or denies. All recommendations to the Village Board shall be in writing and may include the recommendation that the petitioner be required to furnish a cash or surety bond to insure completion of conditions placed on the use of the property.

(F) Protest. In the event of a protest against such district change or amendment, duly signed and acknowledged by the owners of twenty (20%) per cent or more either of the areas of the land included in such proposed change, or by the opposite extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of 3/4ths of the members of the Village Board. A protest may be filed any time after the first publication of the notice of hearing, but may be filed no later than the time the Village Board first considers the Village Planning Commission's recommendation. All protests shall be filed with the Village Administrator.

(G) Village Board. The Village Board of Trustees may from time to time on its own motion or on petition after first submitting the proposal to the Village Planning Commission, amend, supplement or change the district boundaries or the regulations herein or subsequently established upon giving at least thirty (30)-days notice, by publication in the official paper at least three (3) times in such thirty (30) days, of the proposed amendment, supplement or change and of hearing thereon and opportunity to any person interested to be heard.

(H) Fees. All zoning amendment petitions shall be accompanied by a filing fee as set forth in Appendix "A" Fee Schedule. All petitions for any change to the Village boundaries shall be accompanied by a filing fee equal to the cost of any legal, administrative, or fiscal work, which may be undertaken by the Village.

(I) Review, Inspection and Recommendation. All zoning petitions are subject to review, inspection, and written

recommendation by the Village Attorney and Village Engineer as the Village Planning Commission and Village Board deem necessary to assure compliance with Village Ordinances. During the review process the Planning Commission or Village Board shall require the applicant to post collected funds with the Village to cover the costs incurred by the Village with regard to engineering and legal fees and Village actual costs. Once the Village Planning Commission and Village Board have acted on (whether granting or denying) said petition, the Village Administrator shall prepare a statement addressed to said petitioner detailing all Village Attorney and Village Engineer charges for services and any and all actual costs to the Village for such review, inspection, and recommendation. The applicant shall be liable for the same by the act of applying and shall be so notified in the application.  
(3.11(I) Created 5/7/2013)

**3.12 Definitions.** For the purposes of this Section, the following definitions shall be used. Any words not herein defined shall be construed as defined in the State and Village building codes or in Chapter 13 of this Code of Ordinances.

(A) Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

(B) Alley. Any dedicated public right-of-way which affords only secondary vehicular access to abutting property, and not intended for general traffic circulation.

(C) Automobile Wrecking Yard. Any premises on which more than one automotive vehicle not in running or operating condition is stored in the open.

(D) Basement. A story partly or wholly underground.

(E) Boarding House. A building other than a hotel or restaurant where meals, and/or lodging are furnished for compensation for persons not members of the resident family.

(F) Building. Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals

or property. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building, except for side yard requirements where manifestly inappropriate.

(G) Building, Height of. The vertical distance from the average curb level in front of the lot or the finished grade at the front building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

(H) Building Main. A building in which is conducted the principal use of the lot on which it is situated.

(H-2) Central Business District. Commencing at the corner of Garland and Leonard Streets; thence West to the northwest corner of Lot 2 of Block 11 of Leonard's Addition; thence south along the west line of said lot to the east-west alley in said Block 11; thence west along said alley to the northwest corner of Lot 11 in said Block 11 and the intersection with the north-south alley in said Block 11; thence south along said alley to Franklin Street; thence west on Franklin Street to Youlon Street; thence south on Youlon Street to the southwest corner of Lot 24 in Block 21 of Leonard's Addition; thence east along the south line of said lot to the north-south alley in said Block 21; thence south on said alley to the east-west alley in said Block 21; thence east on said east-west alley in Block 21 and 20 of Leonard's Addition to the north-south alley in said Block 20; thence east along said north lot line to Mill Street; thence north on Mill Street to the northeast corner of Lot 4 in Block 15 of Leonard's Addition; thence west along said north lot line to the north-south alley in said Block 15; thence North on said alley to Franklin Street; thence West on Franklin Street to Leonard Street; thence North on Leonard Street to Garland Street.

(H-3) Central Industrial District. Commencing at the intersection of Oak and Jefferson Streets; thence east on Jefferson Street to a point thereon where the eastern line of Out lot 74 extended south would intersect Jefferson Street; thence north along said intersecting line to the northeast corner of Out lot 74; thence west along the north line of Out lot 74 and the north

line of Lots 11 and 12 of Block 19 of Leonard's Addition to Mill Street; thence North on Mill Street to the northeast corner of Lot 6 of Block 20 of Leonard Addition; thence west along said north line to the north-south alley in said Block 20; thence south along said alley to the east-west alley in said Block 20; thence west on said alley to Leonard Street and continuing west on the east-west alley in Block 21 and 22 of Leonard's Addition to the northwest corner of Out Lot 1 in said Block 22; thence south to the southern right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad (now Soo Line); thence west along said right-of-way line to Oak Street; thence South on Oak Street to Jefferson Street. Also included are Lot 18 of Block 21 of Leonard's Addition and Out lot 8, excluding street right-of-way, of Plat of Out lots.

(I) Conditional Use. Uses of a special nature as to make impractical their predetermination as a principal use in a district.

(J) District. A portion of the incorporated area of the Village within which certain regulations and requirements or various combinations thereof apply under the provisions of this Chapter.

(K) Dwelling, Multiple Family. A building or portions thereof designed for occupancy by more than two families living independently of each other.

(L) Dwelling, One Family. A detached building designed for or occupied exclusively by one family.

(M) Dwelling, Two Family. A detached or semi-detached building designed for and occupied by two families independent of each other, such as a duplex.

(N) Essential Services. Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police

call boxes, traffic signals, pumps lift stations, and hydrants, but not including buildings.

(O) Exception. The use of property, including the use and location of buildings, the size of lots and the dimensions of yards, otherwise not allowable under the terms of this Section, for which a special permit may be issued under the conditions specified in this Section.

(P) Family. One or more persons living together in one dwelling unit as a single housekeeping entity; provided that a family may consist of not more than 6 such persons when not related by blood or marriage.

(Q) Fireproof Construction. Such construction that complies with subsection 7.05 of this Code of Ordinances (Optional-Wisconsin Administrative Code Chapter ILHR 75.02 Construction and materials which together are fire resistive, i.e., have the property to withstand fire or give protection from it, characterized by the ability to confine a fire or to continue to perform a given structural function or both).

(R) Floor Area. The area within the exterior walls lines of a building, provided that the floor area of a dwelling shall not include space not usable for living quarters, such as attics, basements or utility rooms, garages, breeze ways, unenclosed porches, or terraces.

(S) Frontage. All the property abutting on one side of a street between two intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

(T) Flood plain. Land adjacent to a body of water which has been or may be covered by flood water during the regional flood. The Flood plain includes the flood way and Flood fringe areas.

(U) Flood fringe. That portion of the Flood plain outside of the flood way, which is covered by water during the regional flood. The "Flood fringe" generally indicates standing water rather than flowing water.

3.12(V)

(V) Flood way. The channel of a river or a stream, and those portions of the Flood plain adjoining the channel required to carry the regional flood discharge.

(W) Home Occupation. A use conducted entirely within an enclosed dwelling or accessory structure, which is clearly incidental and secondary to residential occupancy and does not change the character thereof. Any of the following which is visible from off the lot on which located is specifically excluded: the storage and display of merchandise not produced by such home occupation, or any activity involving any building alterations, window display, construction features, equipment, machinery or outdoor storage.

(X) Junk Yard. Any premises on which there is kept, stored, bought or sold articles commonly known as junk including scrap metal, paper, rags, glass, scrap lumber or other scrap materials stored or customarily stored for salvage or sale, unless such articles are completely enclosed in a building.

(Y) Lodge. A place where members of a local chapter of an association (i.e. American Legion, Moose Lodge, Elks Lodge, etc.) hold their meetings.

(Z) Lot. The contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or structure.

(AA) Nonconforming Structure. A structure or portion thereof, lawfully existing at the time of the passage of this Section or amendments thereto which does not conform to the provisions of this Chapter relative to height, area or yards for the district in which it is located.

(BB) Parking Lot. A building or premises off the public street containing one or more parking stalls, open to the public

free or for a fee, and providing access from a public street or alley to each parking stall within such parking lot.

(CC) Parking Stall. An unobstructed piece of ground or floor space sufficient for the temporary storage of one automobile. Each such parking stall shall be not less than 9 feet wide and not less than 160 square feet.

(DD) Professional Office. The office of a doctor, practitioner, dentist, veterinarian, chiropractor, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession.

(EE) Setback. The distance required to meet the front, side or rear yard open space provisions of this Chapter.

(FF) Story. That portion of a building included between the surface of a floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. A story thus defined shall not be counted as a story when more than 50% by cubic content is below the grade of the adjoining ground.

(GG) Story, Half. An uppermost story lying under a sloping roof the usable floor area of which at a height of 4 feet above the floor does not exceed 2/3rds of the floor area in the story directly below, and the height above at least 200 square feet of floor space is (7'6") seven feet six inches.

(HH) Street. A public thoroughfare which affords the principal means of vehicular access to abutting property.

(II) Street Line. A dividing line between a lot, tract or parcel of land and a contiguous street.

(JJ) Street, Side. A street bounding the longer side of a corner lot.

(KK) Structural Alternations. Any change in the supporting members of a building or any change in the roof structure or in the exterior walls.

3.12(LL)

(LL) Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

(MM) Trailer. A portable vehicle designed and used for temporary sleeping purposes while its occupants are camping.

(NN) Trailer Camp. A tract or parcel of land on which accommodations are provided for two or more automobile trailers.

(OO) Use. The purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

(PP) Variance. A modification of the literal provisions of this Chapter granted when its strict enforcement would cause undue hardship or practical difficulty owing to circumstances unique to the individual property to which the variance is granted.

(QQ) Visions Clearance. A space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points located on each street line at specified distances from the corner.

(RR) Yard. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

(SS) Yard, Front. A yard extending the full width of a lot between the nearest wall of the main building and the front lot line or the right-of-way line of a proposed street on the official map, whichever requires the greater front yard depth, excluding only such projections as are permitted hereinafter.

(TT) Yard, Rear. A yard extending the full width of the lot between the rear lot line and nearest wall of the main building, excluding only such projections as are permitted hereinafter. In the case of irregular or triangular lots, where none of the lines bounding the rear of the lot are parallel or approximately parallel to the front lot line, the rear lot line for the purposes of this

Section shall be a line fifteen (15') feet long, wholly within the lot, parallel to the front lot line or the main chord thereof, and at the maximum distance from the front lot line.

(UU) Yard, Side. A yard extending from the front yard to the rear yard, between the side lot line and the nearest wall of the main building, excluding only such projections as are permitted hereinafter.

**3.13 Satellite, Radio and Television Antennas.**

(A) Purpose and Scope.

(1) The purpose of this Section is to provide the minimum regulation, provisions and requirements of the Village of West Salem to insure proper aesthetics, public safety and general welfare by regulating and controlling the quality of construction, installation, maintenance and location of all satellite and radio and television antennas.

(2) This Section shall be binding alike upon every owner of a building, every lessee, and every person in charge or responsible for or who causes the construction, relocation or alteration of said type antennas.

(B) Definitions.

(1) Satellite antenna is an apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit. Satellite antenna are typically directional (panel) or parabolic (disc) in shape.

(2) Usable satellite signal is a satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to the picture quality of a signal received from local commercial television stations by way of a television antenna which conforms with the zoning ordinance and all other applicable ordinances of the Village of West Salem.

(3) Conventional radio and television antenna is any antenna, other than a satellite television antenna, that is located outside of a principal or accessory building. Conventional radio and television antenna are omnidirectional (rod) in shape and are more than thirty (30) feet from the ground or base to the highest point of the antenna.

(C) Conventional Radio Television Antennas.

(1) No conventional radio or television antennas shall be erected or constructed in the Village of West Salem without the approval of the Village Board after review and recommendation of the Village Planning Commission pursuant to the West Salem Zoning Code. The owner or occupant of the lot must procure a building permit from the West Salem Building Inspector for such antenna after approval has been granted from the Board of Appeals.

(2) No conventional radio or television antennas may be placed in the front yard of any lot in the Village of West Salem, and for corner lots such antennas may not be placed in either of the yards that face a street.

(D) Permit for Construction of Satellite Antennas.

(1) All satellite antennas shall be considered structures and be subject to the provisions below and to the approval of the Village Board after review and recommendation of the Village Planning Commission pursuant to the West Salem Zoning Code. The owner or occupant of the lot must procure a building permit from the West Salem Building Inspector for such antenna after approval has been granted from the Village Board.

(2) This Section shall govern the erection or construction of all satellite antennas, the erection or construction of which has not been substantially commenced prior to the enactment of the ordinance creating this Section.

(E) Satellite Antenna Location.

(1) Satellite antennas may be placed on a lot in the Village of West Salem only in the following manner:

(a) If a usable satellite signal can be received with the antenna located in the rear yard, the antenna may be located only in the rear yard.

(b) If the antenna cannot receive a usable satellite signal in the rear yard but can receive such a signal while located in a side yard, the antenna may be located only in a side yard. For corner lots, a side yard is only a yard that does not face a street.

3.13(E)(1)(c)

(c) If the antenna cannot receive a usable satellite signal from the rear or side yards, the antenna may be located only on the roof of any main or accessory building on the lot. Attachments to the roof shall be subject to engineering calculations being prepared by a registered professional engineer certifying that the proposed satellite television antenna installation is structurally sound.

(d) In no event may the antenna be placed in the front yard of the lot.

(e) The Village Board after review and recommendation of the Village Planning Commission shall determine whether a signal constitutes a usable satellite signal based on evidence provided to the Village by the person seeking a permit to erect or construct the antenna.

(2) No satellite antenna may be erected over a sewer pipe or other underground conduit, wire or apparatus.

(F) Size and Number of Satellite Antennas.

(1) No ground-mounted satellite antenna may exceed ten (10) feet in height, as measured from the ground to the highest point of the antenna.

(2) No roof-mounted satellite antenna may exceed two (2) feet in height above the surrounding roof line.

(3) The diameter of the satellite antenna shall not exceed eight (8) feet for the ground-mounted antenna and two (2) feet for the roof-mounted antenna.

(4) At any one time, no lot may have existing or erected more than one satellite antenna.

(G) Miscellaneous, Satellite Antenna.

(1) The color of any satellite antenna shall be such that it blends into its surroundings and painting thereof may be required by the Village Board after review and recommendation of the Village Planning Commission.

3.13(G)(2)

(2) All ground-mounted satellite antennas shall be landscaped so as to screen them from the view of people on streets and surrounding lots. Said screening is not required to be so complete that it interferes with the reception of the antenna.

(3) Satellite antennas shall be filtered and/or shielded so as to prevent the emission or reflection of any electromagnetic radiation that would cause any harmful interference with the radio/television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the satellite antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(4) All satellite antennas shall be grounded against direct lightning strikes.

(5) All satellite antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installation shall meet a minimum wind load design velocity of 80 m.p.h.

(6) All wiring necessary for the use of the antenna between any ground-mounted antenna and a building or between the building on which the antenna is located and any other building on the lot shall be buried underground.

(7) The installation and use of every satellite antenna shall be in conformity with the Cable Communications Policy Act of 1984 and regulations adopted thereunder.

(H) Applications for Permits. Applications for permits for compliance with 3.13 shall be made to the Village Administrator in such form as the Administrator shall prescribe.

### **3.14 Wireless Communication Towers.**

(A) Purpose. In order to accommodate the communication needs of the Village of West Salem while protecting the public health, safety, and general welfare of the community, the Village of West Salem finds that these regulations are necessary in order to:

(1) Facilitate the provision of wireless communication facilities and services to the residents and businesses of the Village;

(2) Minimize the adverse visual effects of wireless communication facilities through siting and design standards;

(3) Avoid potential damage to adjacent properties from the construction and operation of wireless communication facilities through structural standards and setback requirements;

(4) Maximize the use of existing and approved towers, buildings or structures to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community; and

(5) This Section is not intended to have the effect of prohibiting wireless communication services to or within the Village, but rather its intent is to ensure that a non-discriminatory, competitive, and broad range of wireless communication services and high quality wireless communication facilities are provided to serve the community.

(B) Definitions. As used in this Section, the following terms shall have the meanings indicated.

(1) Amateur radio means wireless communication technology used by private, nonprofit entities for noncommercial usage.

(2) Antenna shall mean any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna (rod), directional antenna (panel) or parabolic antenna (disc).

(3) Applicant. Any person, carrier/provider, firm, partnership or company who files an application for any permit required by this Section for the construction, replacement, or alteration of the wireless communication facility or any component thereof.

(4) Carrier shall mean companies licensed by the FCC to build personal wireless communication facilities and operate personal wireless communication services. Also called "Provider".

(5) Collocation means the location of more than one (1) antenna or set of antenna of more than one (1) government or commercial wireless communication service provider on the same tower structure.

(6) Wireless communication shall mean any personal wireless services as defined in the Telecommunications Act of 1996, including FCC licensed commercial wireless communication services such as cellular, personal communication services (PCA), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or may be developed.

(7) FAA. Federal Aviation Administration.

(8) FCC. Federal Communications Commission.

(9) Tower means any ground- or roof-mounted pole, spire, structure, or combination thereof, taller than fifteen (15') feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

(10) Tower, Accessory Structure shall mean any structure located at the base of the tower for housing base receiving transmitting equipment.

(11) Tower, Multi-user shall mean a tower to which is attached the antennas of more than one (1) wireless communication service provider or governmental entity.

(12) Tower, Single-user shall mean a tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this Section.

(C) Permit Required. All wireless communication services and facilities, except amateur radio operators licensed by the FCC, require a Conditional Use Permit pursuant to the Village of West Salem Zoning Code.

(D) Additional Submittal Requirements. In addition to the information required elsewhere in this Section, Conditional Use Applications for towers shall include the following supplemental information:

(1) A report from a qualified and licensed professional engineer which:

(a) describes the tower height and design, including a cross section and elevation;

(b) documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;

(c) describes the tower's capacity, including the number and type of antennas that it can accommodate;

(d) documents what steps the applicant will take to avoid interference with established public safety telecommunications;

(e) includes an engineer's stamp and registration number; and

(f) includes other information necessary to evaluate the request.

(2) For all wireless communications service towers, a letter of intent committing the tower owners and his or her successors to allow the shared use of the tower if an

additional user agrees in writing to meet reasonable terms and conditions for shared use.

(3) Written acknowledgement by the landowner of a leased site that he/she will abide by all applicable terms and conditions of the permit, including the restoration and reclamation requirements of this Section. Such acknowledgement shall be made applicable to all successors, heirs, and assignees.

(4) Before the issuance of a permit granted pursuant to this Section, the following supplemental information shall be submitted:

(a) Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration; and

(b) A report from a qualified and licensed professional engineer, which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

(5) A visual analysis, photo simulation, or graphic illustration showing what the tower will look like in its surroundings.

(6) A plat of survey showing the parcel boundaries, tower location, accessory structures, ancillary facilities location, access, landscaping, and fencing.

(E) Transferability. All permits issued under this Section shall be transferable, and all subsequent holders of such permits shall be subject to all applicable requirements of this Section and any permit conditions that may exist. Written notice shall be made to the Village Administrator within thirty (30) days of such transfer.

(F) Severability. If a court of competent jurisdiction adjudges any portion of this Section unconstitutional or invalid, the remainder of this Section shall not be affected.

(G) Fees.

(1) Each permit granted pursuant to this Section shall contain a condition, which requires the permittee to reimburse the Village for all direct and indirect expenses reasonably incurred in connection with the modification, amendment, or transfer of the permit.

(2) Each permittee shall be required to reimburse the Village for all direct and indirect expenses not otherwise covered by permit application fees reasonably incurred while reviewing, inspecting, and supervising the construction, installation, and/or maintenance of the wireless communication facility authorized by a permit granted pursuant to this Section.

(3) Costs incurred by the Village in response to any emergency at the facility shall be included within the reimbursable expenses set forth in this Section.

(4) Except as otherwise provided, each permittee shall pay to the Village, in consideration of the issuance of a Conditional Use Permit, the following:

(a) A Conditional Use Permit Application fee as set forth in Appendix "A" Fee Schedule.

(b) An Initial and Annual Report Fee as set forth in Appendix "A" Fee Schedule Section 3.14 (K)(2).

(H) Collocation Requirements. All towers erected, constructed, or located within the Village shall comply with the following requirements:

(1) A proposal for a new tower shall not be approved unless the Village Planning Commission and the Village Board finds that the services and facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one-mile radius of the proposed tower due to one or more of the following reasons:

(a) The planned services and facilities would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent services and facilities at a reasonable cost.

(b) The planned services and facilities would cause interference materially impacting the usability of other existing or planned services and facilities at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

(c) Existing or approved towers and buildings within the search radius cannot accommodate the planned services and facilities at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

(d) Other unforeseen reasons that make it infeasible to locate the planned services and facilities upon an existing or approved tower or building.

(2) It shall be the applicant's responsibility to provide adequate proof that no such opportunity for collocation is possible.

(3) Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over 100 feet in height or for at least one (1) additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(I) Tower, General Requirements. Towers shall conform to each of the following general requirements:

(1) Construction Requirements. All towers erected, constructed, or located within the Village, and all wiring therefore, shall comply with all manufacturers, local, state, and federal codes and regulations, including all FCC and FAA rules and regulations.

(2) Location.

(a) Towers shall only be permitted, by Conditional Use, in a B Business or I Industrial Zoned District.

(b) Towers must be a minimum of five (500) hundred feet from an R-1 Residential or R-2 Residential District. This requirement does not apply to building-mounted antennas.

(c) Only one (1) wireless communication tower is allowed on a parcel of land.

(3) Setback and Placement.

(a) Towers shall meet the setback requirements of a principal structure of the underlying zoning district and must meet the height restrictions as outlined in Section 3.14(I)(4).

(b) This setback may be reduced to one-half height of the tower if the applicant submits a report stamped by a qualified and licensed professional engineer registered in the State of Wisconsin that certifies that the tower is designed and engineered to collapse upon failure within the distance from the tower to the property line.

(c) All guy wire anchors shall be set back at least twenty-five (25) feet from all property lines; this does not include leased parcels with boundaries located within a larger property. Subsurface anchors or portions of anchors that are subsurface shall be located on the property in which the tower has been constructed.

(d) Towers shall not be located between a principal structure and a public street except on sites

adjacent to streets on all sides; towers may be placed within a side yard abutting a local street.

(e) No part of any wireless communication tower, including guy wires, shall extend across, over, or into any public right-of-way.

(4) Height.

(a) Towers. The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and tower must meet the height restrictions of that zoning district.

(b) Height limitations. In all zoning districts, the maximum height of any tower, including all antennas and other attachments, shall not exceed one foot for each one foot the tower is set back from the nearest property line up to a maximum height of 75 feet.

(5) Lighting. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower pending Village Planning Commission and Village Board approvals.

(H) Tower, Design Requirements. Proposed or modified towers shall meet the following design requirements:

(1) Color and Materials.

(a) Towers shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(b) Towers shall be of a monopole design unless the Village Planning Commission and Village Board determine that an alternative design would better blend into the surrounding environment.

(2) Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(3) Accessory Structures. All structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district.

(4) Screening and Landscaping. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible or replaced with vegetative screening meeting the intent of this Section. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping during the current growing season.

(5) Security Fencing, Lighting, and Signs.

(a) All towers shall be reasonably protected against unauthorized access. The bottom of the tower from ground level to twelve (12) feet above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of an eight (8) foot high chain link fence with a locked gate.

(b) Security lighting for on-ground facilities and equipment is permitted, as long as it is down shielded to keep light within the boundaries of the site.

(c) Signs shall be mounted on the fenced enclosure, on or adjacent to the gate, prohibiting entry

without authorization, warning of the danger from electrical equipment and/or unauthorized climbing of the tower, and identifying the owner of the tower and telephone number for contact in case of emergency.

(I) Antennas Mounted on Roofs, Walls, and Existing Towers.

The placement of wireless communication antennas on roofs, walls, and existing towers may be approved by the Village Planning Commission and Village Board, provided the antennas meet the requirements of this Section, after submittal of an application for a Conditional Use Permit and a report prepared by a qualified and licensed professional engineer indicating the existing structure's or tower's suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(J) Abandoned or Unused Towers or Portions of Towers.

Abandoned or unused towers or portions of towers shall be removed as follows:

(1) All abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless the Village Administrator approves a time extension. A copy of the relevant portions of a signed lease that requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within twelve (12) months of the cessation of operations at the site, the Village may remove the tower and associated facilities, and the costs of removal assessed against the property.

(2) After the facilities are removed, the site shall be restored to its original or an improved condition, and anchoring elements shall be removed to within five (5) feet of the ground. Removal of anchoring elements to a depth less than five (5) feet may be approved if the applicant can provide information that the reduced depth will not have an

adverse impact on use of the land after restoration. In the event the site is not restored to its original or an improved condition, the Village may restore the site, and the costs of restoration assessed against the property.

(3) Unused portions of towers above a manufactured connection shall be removed within six (6) months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new Conditional Use Permit.

(K) Interference with Public Safety Communications.

(1) No new or existing wireless communication service shall interfere with public safety communications. All applications for new service shall be accompanied by an intermodulation study, which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introductions of new service or change in existing service, wireless communication providers shall notify the Village at least ten (10) business days in advance of such changes and allow the Village to monitor interference levels during the testing process.

(2) Monitoring and Reporting. The applicant shall monitor the wireless communication facility to insure full compliance with Federal Communication Commission (FCC) regulations and this Code. The applicant shall be required to submit to the Village within one (1) month of activation of the facility and on an annual basis thereafter accurate copies of all pertinent licensing or certification documents from or required by federal or state licensing authorities, which are required for said applicant to operate said tower or facility, which shall include all monitoring reports required by the FCC. The Village may employ a radio frequency engineer, at the applicant's expense, to review the reports.

(L) Violations, Noncompliance/Revocation, and Penalties: It shall be unlawful to construct, use, build, or locate any wireless communication structure in violation of any provision of this Section.

(1) Any person, firm, or corporation who or which violates, disobeys, neglects, omits, or refuses to comply with or who or which resists the enforcement of any of the provisions of this Section shall, upon conviction, forfeit not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars for each offense, together with the costs of prosecution. Notwithstanding such forfeiture, failure to comply with the provisions of this Section will also be subject to revocation of the Conditional Use Permit issued. Each day the violation continues shall constitute a separate offense.

(2) Grounds for revocation of the Conditional Use Permit shall be limited to one of the following findings as determined by the Village Planning Commission and Village Board:

- (a) The owner of such site, service provider, and/or tower owner fails to comply with the requirements of this Section as it existed at the time of the issuance of the Conditional Use Permit;
- (b) The permitted has failed to comply with the conditions of approval imposed; or
- (c) The facility has not been properly maintained.

If one of these findings exists, the owner of the site, service provider, and/or tower shall be notified of the noncompliance and given an opportunity to present their position to the Village Planning Commission. If the Village Planning Commission determines that the facility is noncompliant, a corrective notice shall be given with a time period specified. If compliance is not obtained in the time identified, the Conditional Use Permit will automatically be rescinded.

### **3.15 Historic Preservation.**

(A) Applicability. Any property within the Village limits that is listed either on the national register of historic places in Wisconsin or the state register of historic places in Wisconsin shall be subject to this Section, and such properties shall be instituted with a historic zoning overlay district designation being a change in zoning and shall be included as such on the official land use/zoning map. The historic zoning shall be in addition to the existing underlying land use zoning.

#### **(B) Conformance with Regulations.**

(1) Every owner of a historic structure or historic site shall maintain the same or cause or permit it to be maintained in a condition consistent with the provisions of this Section. The Village Board delegates to the building inspector the power to enforce this Section. The duties of inspection shall include periodic inspection of designated historic structures and historic sites. These inspections may include physical entry upon the property and improvement, with permission of the owner, to insure that interior alterations or maintenance will not jeopardize the exterior appearance or structural stability of any contributing buildings. If an owner refuses permission for the enforcement officer to enter for purposes of inspection, the inspection officer may obtain a warrant of entry pursuant to s. 66.0119, Wis. Stats., and take any other reasonable measures to further enforcement of this Section.

(2) Every owner of a historic building or a historic site shall, if economically feasible, keep in good repair all of the exterior portions of such building and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such building to fall into a state of disrepair, including, but not limited to:

- (a) The deterioration of exterior walls or other vertical supports;
- (b) The deterioration of roofs or other horizontal members.

- (c) The deterioration of external chimneys;
- (d) The deterioration or crumbling of exterior plasters or mortar;
- (e) The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
- (f) The peeling of paint, rotting, holes, and other forms of decay;
- (g) The deterioration of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
- (h) The deterioration of any features so as to create or permit the creation of any hazardous or unsafe condition or conditions.

The purpose of this Section is to prevent the demolition of a building or structure by neglecting it. If any property owner claims it is not economically feasible to comply with the provisions of this Section, such property owner may appeal to the Village Board for relief.

(C) Emergency Conditions. In any case where the building inspector determines that there are emergency conditions dangerous to life, health or property affecting a historic structure, site or a contributing building, the building inspector may order the remedying of these conditions without the approval of the Village Board. The building inspector shall promptly notify the Village Board of the action being taken. When the emergency conditions do not require demolition, the building inspector shall make every effort to carry out the intent of this Section and to use any guidelines of the Village Board when remedying the emergency conditions.

(D) Regulations of Construction, Reconstruction or Alterations.

- (1) Any application for a permit from the Village Building Inspector involving the exterior of a designated

historic site or historic structure shall be filed with the Village Board.

(2) The applicant shall submit a detailed description of the proposed construction, reconstruction or alteration together with any architectural drawings, if those services have been utilized by the applicant, and a sufficient description of the construction or alteration and use to enable the Board to determine what the final appearance of the structure will be.

(3) No owner or person in charge of a historic site or historic structure shall construct or alter all or any part of the exterior of such property or construct any improvement upon such designated property or cause or permit any such work to be performed upon such property until a Certificate of Recommendation has been issued by the Board. Until such Certificate of Recommendation has been issued by the Board, the Village Building Inspector shall not issue a permit for any such work.

(4) Upon filing of any application with the Board, the Board shall within forty-five (45) days of receipt of the application consider and may give weight, in issuing its Certificate of Recommendation, to any or all of the following:

(a) Whether the property will be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;

(b) Whether the historic character of the property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(c) Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall be discouraged.

(d) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property should be preserved.

(e) Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture and other visual qualities and, where possible, materials.

(f) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials should not be used. The surface cleaning of historic structures shall be undertaken using the methods promulgated by Department of Industry, Labor and Human Relations pursuant to Section 101.1215, Wis. Stats.

(g) New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property. The new work should be differentiated from the old and should be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(h) New additions and adjacent or related new construction should be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(i) The "Secretary of the Interior's Standards for Rehabilitation" (36 CFR 67 and 68 as amended) are recommended.

(5) The Board shall issue the Certificate of Recommendation within forty-five (45) days of the filing of the application. During such period of review, the Board shall work with the applicant to preserve the historical attributes of any structure or building.

(6) The issuance of a Certificate of Recommendation shall not relieve the applicant from obtaining other permits and approvals required by applicable federal, state, or local code. Insofar as they are applicable to a historic site or historic structure designated under this Section, any provision of the plumbing code, electrical code, or building or housing code of the Village shall apply, unless waived by the appropriate state or Village officials.

(7) Ordinary maintenance and repairs may be undertaken without a Certificate of Recommendation provided that the work involves repairs to existing features of a historic structure or historic site or the replacement of elements of a structure with materials similar in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

(E) Regulation of Demolition.

(1) No permit to demolish all or part of the exterior of a historic structure, historic site, or structure or contributing building shall be granted to demolish such property without first receiving a Certificate of Appropriateness for Demolition from the Board.

(2) At the time as said person applies for a permit to demolish, the application shall be filed with the Board. The Board may decide to grant the Certificate of Appropriateness for Demolition or refuse to grant such Certificate. If the Board fails to act on the application for the Certificate of Appropriateness for Demolition within forty-five (45) days of the application date, it will be deemed an issuance of a Certificate of Appropriateness for Demolition. During such period, the applicant and the Commission shall cooperate in attempting to avoid demolition of the property.

(3) In determining whether to issue a Certificate of Appropriateness for Demolition, the Board shall consider and give weight to any or all of the following:

(a) Whether the building or structure is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the city and the state;

(b) Whether the building or structure, although not itself a designated historic structure, contributes to the distinctive architectural or historic character of the principal building as a whole and therefore, should be preserved for the benefit of the city and state;

(c) Whether the building or structure is of such old and unusual and uncommon design, texture and/or material that it could be reproduced or be reproduced only with great difficulty and/or expense;

(d) Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided, however, any hardship or difficulty claimed by the owner which is self-created or which is the result of inexcusable neglect to maintain the property in good repair shall not qualify as a basis for the issuance of a Certificate of Appropriateness;

(e) Whether the denial of the permit would result in the loss of all reasonable and beneficial use of or return from the property.

(f) Nothing contained in this Section shall prohibit the demolition of any historic structure, or any improvement on a historic site pursuant to order of any governmental agency or pursuant to any court judgment, for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In such cases, no approval from the Board shall be required.

(F) Penalties for Violations. Any person violating any provision of this Section shall be subject to a forfeiture of not less than Twenty (\$20.00) Dollars nor more than Five Hundred

(\$500.00) Dollars for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. In addition to other remedies, the proper authorities of the Village may institute appropriate action or proceedings to prevent a violation of this Section, including injunctive relief.

(G) Enforcement Remedies. In addition to the above penalty provisions, the Wisconsin statutory remedy of Section 62.23(8) shall be applicable.

(H) Interim Control. No building permit shall be issued by the building inspector for alteration, construction, demolition, or removal of any property or structure within a historic site until final disposition by the Village Board. In no event shall the delay be for more than One Hundred Twenty (120) days.

### **3.16 Conservation Design Subdivision**

(A) Intent: The intent of the Conservation Design Subdivision Overlay District is to preserve the rural landscape character, natural resource areas, farmland, and other large areas of open land, while permitting residential development at low, rural densities, in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:

(1) To maintain and protect the Village's rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive natural features such as woodlands, hedgerows, stream corridors, wetlands, floodplains, shorelands, prairies, ridge tops, steep slopes, critical species habitat, and natural areas by setting them aside from development.

(2) To preserve scenic views and to minimize views of new development from existing streets.

(3) To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard district regulations in order to minimize the disturbance of rural

landscape elements, scenic quality, and overall aesthetic value of the landscape.

(4) To increase flexibility and efficiency in the siting of services and infrastructure, by reducing street length, utility requirements, drainage requirements, and the amount of paving required for residential development, where possible.

(5) To create groups of dwellings with direct visual and physical access to common open space.

(6) To permit active and passive recreational use of common open space by residents of a cluster development or by the public.

(7) To reduce erosion and sedimentation by retaining existing vegetation and minimizing development on steep slopes.

(8) To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.

(9) To permit various means for owning common open space and for protecting it from development in perpetuity.

(10) To create an attitude of stewardship, or caring, for the land within common open space by requiring a land management, or stewardship, plan for the common open space.

(11) To implement the objectives of the adopted Village of West Salem Comprehensive Plan, or elements thereof.

(B) Applicability.

(1) A division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where:

(a) The act of division creates five (5) or more parcels or building sites 1-1/2 acres each or less in area; or

(b) Five or more parcels or building sites of 1-1/2 acres each or less in area are created by successive divisions within a period of 5 years.

(2) Any lands or waters within the corporate limits of the Village of West Salem and identified as Conservation Design Subdivision by the "Village of West Salem Comprehensive Plan Future Land Use Map" shall comply with the regulations of the Conservation Design Subdivision Overlay District.

(3) Any lands or waters within the corporate limits of the Village of West Salem and zoned Residential (R1 or R2) or Planned Unit Development (PUD) as identified by the "West Salem, Wisconsin Zoning District Map" may comply with the regulations of the Conservation Design Subdivision Overlay District.

(C) Principal Permitted Uses.

(1) Single-family residential uses as follows:

(a) Clustered single-family detached dwellings, with at least 40 percent of the gross development parcel in common open space.

(b) Single-family farmstead dwellings with or without associated agricultural structures such as barns, silos, storage sheds, and stables.

(2) Agricultural activities including:

(a) The cultivation, harvesting, and sale of crops and related products produced on the farm.

(b) The raising and sale of livestock or fowl, with associated pasture and barnyards.

(c) Orchards, nurseries, greenhouses, and related horticultural uses.

(3) Passive open space uses, including arboretums, nature centers, natural areas, wildlife areas, recreational trails, picnic areas and shelters, and similar uses.

(4) Active open space uses, including playcourts (i.e. tennis courts, basketball courts), playfields (i.e. baseball field, soccer field), playgrounds, golf courses, and similar uses.

(5) Stormwater management facilities for the proposed development, including detention and retention basins.

(6) Essential services.

(7) The following uses are permitted in common open space in conservation design development:

(a) Uses listed above in numbers 2, 3, 4, 5 and 6.

(b) Water supply and sewerage facilities for individual lots, groups of lots, or the entire development.

(c) Utility and street rights-of-way except that their land areas shall not count toward the 40 percent minimum open space requirement.

(d) Parking areas where necessary to serve passive and active recreation facilities.

(D) Accessory Uses and Detached Accessory Structures are permitted in the rear yard only, they shall not be closer than ten (10) feet to the principal structure; shall not exceed fifteen (15) feet in height; shall not occupy more than forty (40%) percent of the rear yard area, nor more than 1,000 square feet; and shall not be closer than three (3) feet to any lot line.

(E) Conditional Uses. The following conditional uses may be permitted by the Village Planning Commission, provided the

proposed use shall not adversely impact the rural character of the district and shall be consistent with the overall objectives of the district as listed in Subsection A.

(1) Two-family dwellings (i.e. duplex) or two-family row house units attached with zero lot lines.

(2) Household occupation and professional home office as defined in Section 3.12.

(3) Existing Agricultural uses requiring the installation of new buildings or other structures. The total building coverage of such new agricultural buildings or structures shall not exceed 10,000 square feet.

(4) Passive or active recreational uses requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new buildings or structures shall be determined by the Village Planning Commission based on the proposed use of the new building or structure.

(F) Prohibited Uses.

(1) All uses not identified as principal permitted uses, accessory uses and structures, or conditional uses.

(2) Cutting of healthy trees, re-grading, topsoil removal, altering, diverting, or modifying water courses or bodies, except in compliance with an approved land stewardship plan, as described in Subsection L.3.

(3) Intensive animal feed lot operations.

(4) All uses identified in a homeowner or condominium association restrictive covenant document associated with the subject development.

(G) Site Analysis: To aid the Village in determining whether the applicant has accomplished the intent and objectives as described in Subsection A and the design standards for cluster groups and common open space as described in Subsections I and J,

the initial application for any development shall include a site analysis of the lot, parcel or tract of land. The specific requirements for such site analysis are fully described in the Village's Land Division and Platting Ordinance, Section 4.21(B).

(H) Density and Dimensional Standards.

(1) The following density and dimensional standards shall apply to Conservation Design Subdivision Overlay District:

	Lots, Parcels or Tracts of Land Served by Sewer
Maximum Density <sup>1</sup>	1 dwelling unit per 1 gross land acre
Minimum Lot Area <sup>2</sup>	8,000 square feet
Maximum Lot Area	20,000 square feet
Minimum Lot Width: Building Setback Line Cul-de-Sac	60 feet 45 feet
Minimum Front Yard Setback	25 feet
Minimum Corner Yard Setback	20 feet
Minimum Rear Yard Setback	25 feet
Minimum Side Yard Setback Principal Building Accessory Building <sup>3</sup>	10 feet 3 feet on each side

Maximum Height	
Principal Structure	35 feet
Accessory Structure	15 feet
Agricultural Structure	60 feet
Minimum Common Open Space	40% of gross land acres

<sup>1</sup> Existing dwellings that will remain on the site shall be included in the calculation of maximum density.

<sup>2</sup> For an existing farmstead on a parcel used for cluster development, the minimum lot area shall be 5 acres or a lot large enough to accommodate all structures within a building envelope created by a 50 foot setback from all sides of the lot, whichever is larger. For farmsteads with livestock, the setback shall be increased to 100 feet.

<sup>3</sup> Accessory buildings shall not be permitted within the front or side yards.

(2) Separation distances for cluster groups.

(a) The outer boundaries of all cluster groups shall conform to the following separation distances:

(i) From existing or proposed arterial street rights-of-way as defined in the Village Comprehensive Plan or the Regional Transportation System Plan: 100 feet.

(ii) From existing scenic highways or rustic roads: 100 feet.

(iii) From cropland or pasture land: 100 feet.

(iv) From all perimeter subdivision boundaries: 100 feet.

(v) From buildings or barnyards housing livestock: 200 feet.

(vi) From other cluster groups: 100 feet.

(vii) From wetlands, floodplains, or water courses: 50 feet.

(b) All separation areas for cluster groups along existing streets shall be landscaped in accordance with Subsection L, in order to block views of new residential development, preserve scenic views, and protect rural landscape character.

(c) The dimensional standards specified in Subsection H.1 may be reduced under the following circumstances:

(i) The separation distances from existing arterial streets and the perimeter of the subdivision may be reduced to no less than 50 feet if the applicant can demonstrate that existing vegetation or topography or a combination of these form an effective visual screen.

(ii) All other separation distances may be reduced by 50 percent if the applicant can demonstrate to the satisfaction of the Village Planning Commission that such reduced setbacks improve the plan's compliance with the cluster group design standards in Section I, the intent of this Section, and the objectives of the Village of West Salem's Comprehensive Plan.

I. Design Standards for Cluster Groups: The following standards shall apply to all cluster groups:

(1) All dwelling units shall be grouped into cluster groups, each of which shall be surrounded by common open space.

(2) The maximum number of lots in a cluster group may be increased, and cluster groups may be assembled into larger groupings, with the approval of the Village Board after review and recommendation of the Village Planning Commission, and provided that the applicant can demonstrate that such an alternative plan is more appropriate for the development

parcel and will meet both the general intent and design standards of this Section.

(3) A plat may contain one or more cluster groups.

(4) Cluster groups shall be defined by the outer perimeter of contiguous plotted areas or abutting streets, and may contain lots, streets, and cluster group open space. When the development does not include individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is less than 100 feet from any unit.

(5) The outer boundaries of each cluster group shall meet the separation distance requirements specified in Subsection H.2.

(6) Cluster groups shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way is designed as a boulevard.

(7) No cluster group shall contain more than 10 dwelling units.

(8) All lots in a cluster group shall take access from interior streets.

(9) All lots in a cluster group shall abut common open space to the front or rear. Common open space across a street shall qualify for this requirement.

(10) In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 20 percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and private onsite waste treatment system.

(J) Design Standards for Common Open Space: On all parcels developed under the cluster development regulations, 40 percent of the gross land area shall be set aside as protected common open space. This open space shall meet the following standards:

(1) For the purposes of this Subsection, gross land area includes all lands within the parcel, lot or tract of land.

(2) Common open space shall comply with the following design standards:

(a) The location of common open space shall be consistent with the objectives of the Village of West Salem's Comprehensive Plan.

(b) All open space areas shall be part of a larger continuous and integrated open space system within the parcel being developed. At least 75 percent of the common open space areas shall be contiguous to another common open space area. For the purposes of this Subsection, areas shall be considered contiguous if they are within 100 feet of each other and there are no impediments to access between the areas.

(c) Common open space shall, to the greatest extent possible, protect site features identified in the site analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Section. Primary and secondary environmental corridors and isolated natural resource areas as identified by the Mississippi River Regional Village Planning Commission are of particular significance for protection.

(d) Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes, as recommended by natural resource professionals and in compliance with an approved land stewardship plan, as described in Subsection L.3. Permitted modifications may include:

- (i) Woodland management.
- (ii) Reforestation.
- (iii) Meadow management.
- (iv) Wetlands management.
- (v) Streambank protection.
- (vi) Buffer area landscaping.

(e) All wetlands, floodplains, wildlife habitat areas, slopes over 12 percent, 100 percent of lowland environmental corridor, and a minimum of 80 percent of upland environmental corridors shall be contained in common open space.

(f) The common open space shall maximize common boundaries with existing or future open space on adjacent lands, including lands of an adjacent municipality.

(g) Scenic views, ridge tops and hilltops should be preserved and contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.

(h) A minimum of 80 percent of the area of existing woodlands shall be contained within common open space. Up to 20 percent of the area of existing woodlands may be located within lots or used for residential development. This limitation may be exceeded under the following conditions:

(i) The site is primarily wooded and development at the permitted density would not be possible without encroaching further into the woodlands.

(ii) Any encroachment on woodlands beyond 20 percent shall be the minimum needed to achieve the maximum permitted density, as determined by the Village Board.

(i) No area of common open space shall be less than 40 feet in its smallest dimension or less than 10,000 square feet in area, with the exception of landscape cul-de-sac islands. Open space not meeting this standard shall not be counted toward the total required 40 percent common open space.

(j) The boundaries of common open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features should be added to enable residents or the public, if applicable, to distinguish where common open space ends and private lot areas begin. Where structural demarcations, such as fences, are used, they shall be the minimum needed to accomplish this objective.

(k) Trails in common open space that are located within 50 feet of homes in cluster groups shall be identified by plantings, fences, or other landscape features.

(l) Common open space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets, and shall, in no case, contain less than the required buffer, setback area, or separation distance.

(3) Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas that are not used for agricultural purposes, in accordance with the following:

(a) At least one access point per cluster group shall be provided, having a minimum width of 40 feet.

(b) Access to common open space used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.

(4) The following areas shall not be included in the calculation of common open space areas:

- (a) Private lot areas.
- (b) Street and highway rights-of-way, public or private.
- (c) Railway and utility rights-of-way.
- (d) Parking areas.
- (e) Areas not meeting the requirements of Subsection J.2.i.

K. Landscaping.

(1) Preservation of Existing Natural Landscape.

(a) For the purpose of conserving the natural landscape and in recognition of the time value of existing vegetation, the preservation of existing vegetation shall always be preferred to the installation of new plant material.

(b) Existing woodlands and hedgerows shall be retained to the maximum extent possible. Where possible, existing woodlands and hedgerows shall be incorporated into the required separation areas between cluster groups and external streets and site boundaries.

(c) Suitable existing vegetation shall be credited toward the landscaping requirements of this Section, when, in the opinion of the Village Board, it would equal or exceed the visual impact of the new required plant material after two years of growth.

(2) Street Trees

(a) Street trees shall be planted along internal streets within cluster groups.

3.16(K)(2)(b)

(b) Street trees may be planted, but are not required, along internal streets passing through common open space.

(c) Street trees shall be located so as not to interfere with the installation and maintenance of utilities and paths, trails, or sidewalks that may parallel the street.

(d) The species of street trees shall comply with all applicable regulations as identified in Section 5.09.

(e) Street tree plantings shall comply with all applicable regulations as identified in Section 5.09.

(3) Buffers

(a) A planted buffer area at least 25 feet in width shall be established within all required separation areas between external streets and cluster groups.

(b) Planted buffers within separation areas between cluster groups are encouraged to enhance privacy and a rural appearance between lots.

(c) Buffers consisting of an informal arrangement of native plant species combined with infrequent mowing are strongly encouraged, to create a low-maintenance, natural landscape.

L. Ownership and Maintenance of Common Facilities and Open Space: To ensure adequate planning for ownership, operation, and maintenance of common open space, recreation facilities, storm water management facilities, common parking areas and driveways, public and private streets, and other common or community facilities (hereinafter referred to as common facilities), the following regulations shall apply:

3.16(L)(1)

(1) Ownership: The following methods may be used, either alone or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this Subsection, and then only when there is no change in the common facilities. Ownership methods shall conform to one or more of the following:

(a) Homeowners Association: Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein:

(i) The applicant shall provide to the Village a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities. Such documents shall be approved as to form by the Village Attorney.

(ii) The organization shall be established by the owner or applicant and shall be operating, with financial subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development.

(iii) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.

(iv) The organization shall be responsible for maintenance and insurance of common facilities.

(v) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.

(vi) The organization shall have or hire adequate staff to administer, maintain, and operate common facilities.

(vii) The applicant for any cluster subdivision or development proposed to contain common facilities shall arrange with the Village Assessor a method of assessment of the common facilities which will allocate to each tax parcel in the development a share of the total assessment for such common facilities.

(vii) Written notice of any proposed transfer of common facilities by the homeowners association or the assumption of maintenance of common facilities must be given to all members of the organization and to the Village at least 30 days prior to such event.

(b) Condominium Agreements: Common facilities shall be controlled through the use of condominium agreements. Such agreements shall be approved as to form by the Village Attorney and shall comply with the requirements of Chapter 703 of the Wisconsin Statutes. All common open space and other common facilities shall be held as "common elements" by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.

(c) Fee simple dedication to a public agency: The Village or other public agency acceptable to the Village may, but shall not be required to, accept any portion of the common facilities, provided that:

(i) There shall be no cost of acquisition, other than costs incidental to the transfer of ownership, such as title insurance.

(ii) Any facilities so dedicated shall be accessible to the residents of the Village, if the Village so chooses.

(iii) The Village or other public agency shall maintain such facilities.

(iv) The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.

(d) Dedication of conservation easements to a public agency: The Village or other public agency acceptable to the Village may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:

(i) There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.

(ii) A satisfactory maintenance agreement shall be reached between the owner and the Village.

(iii) Lands under a Village easement may or may not be accessible to residents of the Village.

(e) Fee simple dedication to a nonprofit conservation organization: With the approval of the Village Board, an owner may dedicate any portion of the common facilities to a nonprofit conservation organization, provided that:

(i) The organization is acceptable to the Village.

(ii) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.

(iii) A maintenance agreement acceptable to the Village is established between the owner and the organization, in accordance with Subsection L.2.

(f) Dedication of conservation easements to a nonprofit conservation organization: With the approval of the Village Board, an owner may dedicate conservation easements on any portion of the common facilities to a nonprofit conservation organization, provided that:

(i) The organization is acceptable to Village.

(ii) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.

(iii) A maintenance agreement acceptable to the Village is established between the owner and the organization, in accordance with Subsection L.2.

(g) Ownership retained by the original landowner: Ownership of common open space and facilities may be retained by the original landowner provided that:

(i) The Village and residents of the development shall hold conservation easements on the land protecting it from any further development.

(ii) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.

(h) Other methods acceptable to the Village Board upon recommendation by the Village Attorney.

(2) Maintenance and operation of common facilities.

(a) A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the Village Board prior to preliminary plat approval. Such plan shall:

(i) Define ownership.

(ii) Establish necessary regular and periodic operation and maintenance responsibilities.

(iii) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.

(iv) Include a Land Stewardship Plan specifically focusing on the long-term management of open space lands. A draft Land Stewardship Plan shall be submitted with a preliminary plat, and a final Plan shall be submitted with the final plat. The Land Stewardship Plan shall comply with the requirements of Subsection L.3.

(v) At the discretion of the Village Board, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year.

(b) In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the Village may serve written notice upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the association, or any successor organization, shall be considered in violation of this Section, in which case the Village shall have the right to enter the premises and take the needed

corrective actions. The costs of corrective actions by the Village shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

(3) The Land Stewardship Plan shall include a narrative, based on the site analysis required by Subsection G, describing:

(a) Existing conditions, including all natural, cultural, historic, and scenic elements in the landscape;

(b) Objectives for each common open space area, including:

(i) The proposed end state for the area and the measures proposed for achieving the end state.

(ii) Proposed restoration measures, including:

(a) Measures for correcting increasingly destructive conditions, such as erosion.

(b) Measures for restoring historic features.

(c) A maintenance and operations plan identifying activities needed to maintain the stability of the resources, including mowing schedules, weed control measures, planting schedules, and clearing and cleanup measures and schedules.

(4) Leasing of common open space lands: Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:

(a) The residents of the development shall at all times have access to such leased lands, except in the

case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.

(b) The common open space lands to be leased shall be maintained for the purposes set forth in this Section.

(c) The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.

(d) The lease, and any transfer or assignment thereof, shall be subject to the approval of the Village Board.

(e) Lease agreements shall be recorded in the office of the County Register of Deeds within 30 days of their execution, and a copy of the recorded lease shall be filed with the Village.

(5) Conservation: Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village Board upon recommendation of the Village Attorney and duly recorded in the office of the County Register of Deeds.

#### M. Sewerage and Water Supply Facilities.

##### (1) Sewerage Facilities.

(a) Sewerage facilities for cluster development may consist of any system meeting the requirements of LaCrosse County, the Village of West Salem, the Wisconsin Department of Commerce, and the Wisconsin Department of Natural Resources.

(b) If approved by the Village Board, sewerage facilities or portions thereof may be located within common open space areas.

(c) All sewerage facilities shall be consistent with the requirements of the Village's Sewer Use Ordinance/User Charge System.

(d) All public community sewerage facilities shall be owned, operated, and maintained by a general or special purpose unit of government.

2. Water Supply Facilities.

(a) Water supply facilities may consist of any system meeting the requirements of LaCrosse County, the Village of West Salem, the Wisconsin Department of Natural Resources, and Chapters NR 811 and 812 of the Wisconsin Administrative Code.

(b) All water supply facilities shall be consistent with the requirements of the Village's Water and Waterworks Ordinance.

(c) All public water supply facilities shall be owned, operated, and maintained by a general or special purpose unit of government.

N. Definitions: This list of definitions includes only those terms or phrases that are particular to cluster zoning ordinances and may not already be included in typical current local zoning ordinances. These terms or phrases should be added to any existing list of definitions contained in zoning ordinances to which these model cluster development provisions might be added. It should be noted that these definitions are particular to this model. If provisions of the ordinance are changed, some definitions will also need to be changed. For example, the maximum number of units in a "cluster group" may be reduced or increased; similarly, the amount of required open space may be reduced or increased.

Italicized words within definitions are further defined in this Section.

(1) Cluster Development. A form of residential development that concentrates buildings or lots on a part of the site to allow the remaining land to be used for common

open space, recreation, and preservation of environmentally sensitive features. The concentration of lots is facilitated by a reduction in lot size. A cluster development will consist of one or more cluster groups surrounded by common open space.

(2) Cluster Group. A group of single-family detached dwellings within a cluster development, surrounded by common open space that comprises at least 60 percent of the gross parcel area. The outer boundary of a cluster group shall be defined by the rear lot lines of the lots within the group.

(3) Common Element. The common facilities in a condominium.

(4) Common Facilities. All the real property and improvements set aside for the common use and enjoyment of the residents of a cluster development, including, but not limited to, buildings, open space, private streets, parking areas, walkways, recreation areas, drainage easements, and any utilities that service more than one unit, such as sewerage and water supply facilities.

(5) Common Open Space. Undeveloped land within a cluster development that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual residential lots, and shall be substantially free of structures, but may contain such recreational facilities for residents as are shown on the approved development plan.

(6) Community Association. A condominium or homeowners association.

(7) Condominium. A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with the requirement of the Chapter 703 of the Wisconsin Statutes. Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis.

A condominium is a legal form of ownership and not a specific building type or style.

(8) Condominium Association. An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.

(9) Conservation Easement. The grant of a property right or interest from the property owner to another person, agency, unit of government, or organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.

(10) Deed Restriction. A restriction on the use of a property set forth in the deed.

(11) Density Exchange Option. An optional transfer of density between parcels within the RC Rural Cluster District.

(12) Density Transfer. See Density Exchange Option.

(13) Development Rights. A broad range of less than fee-simple ownership interests. An owner may keep fee-simple rights to his land and sell the development rights to another. The owner retains the title, but agrees to keep the land natural and undeveloped, with the right to develop resting with the holder of the development rights. See Transfer of Development Rights.

(14) Farmstead. A group of existing buildings with accessory structures used for agricultural purposes, such as barns, silos, storage sheds, cribs, and coops, and which may or may not include a dwelling.

(15) Floodplains. Those lands, including the floodplain, flood fringe, floodway, and channel, subject to inundation by the 100-year recurrence interval flood or, where such data are not available, the maximum flood of record.

(16) Hedgerow. A row of shrubs or trees planted for enclosure or separation of fields.

(17) Height of Building. The vertical distance measured from the average elevation of the existing grade of the building to the highest point of a flat or multi-level roof or, for gable or hip roofs, to the mean height between the eaves and the ridge. Chimneys, spires, towers, mechanical penthouses, tanks, and similar projections not intended for human occupancy shall be excluded.

(18) Homeowners Association. An association combining individual home ownership with shared use, ownership, maintenance, and responsibility for common property or facilities, including private open space, within a land division or cluster development.

(19) Net Buildable Acreage or Net Buildable Area (NBA). A calculated area upon which the density for cluster development is computed. Net buildable acreage is the area of a site remaining after subtracting all or a percentage of the following areas from the site's gross area: existing street rights-of-way, floodplains, wetlands, woodlands, ponds and lakes, steep slopes, and utility and railway rights-of-way.

(20) Nonprofit Conservation Organization. A nonprofit corporation, charitable trust, or other nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code, which includes the "acquisition of property or rights in property for conservation purposes" as part of its mission, as reflected in the bylaws, charter, or incorporation papers of the organization.

(21) Restrictive Covenant. See Deed Restriction.

(22) Separation Distance. The required dimensional distance between the outer boundary of a cluster group and another specified feature of the development.

(23) Transfer of Development Rights. The conveyance by deed, easement, or other legal arrangement of the right to develop or build from one parcel to another, expressed in

number of dwelling units, where such transfer is permitted by the zoning ordinance.

### **3.17 Traditional Neighborhood Development**

(A) Intent: The intent of the Traditional Neighborhood Development Overlay District is to allow the optional development and redevelopment of a lot, parcel, or tract of land in the Village of West Salem consistent with the design standards of a traditional neighborhood development.

(B) Applicability: This Section establishes an alternative set of design standards for the development and redevelopment of any lands or waters within the corporate limits of the Village of West Salem and zoned Planned Unit Development (PUD) as identified by the "West Salem, Wisconsin Zoning District Map."

(C) Application Procedure and Approval Process.  
Prior to the issuance of any permits for development within a Traditional Neighborhood Development, the following steps shall be completed according to the procedures outlined in this Section:

(1) The applicant shall schedule an initial conference;

(2) A General Implementation Plan for the Traditional Neighborhood Development shall be submitted and reviewed by the Village Planning Commission with a recommendation and subsequent approval by the Village Board;

(3) A Specific Implementation Plan for the Traditional Neighborhood Development shall be submitted and reviewed by the Village Planning Commission with a recommendation and subsequent approval by the Village Board.

(D) Initial Conference: Before submitting an application for a Traditional Neighborhood Development project, the applicant shall schedule an appointment and meet with the Village municipal staff to discuss the procedure for approval of a Traditional Neighborhood Development project, including submittal requirements and design standards.

(E) General Implementation Plan.

(1) General Implementation Plan Process: Following the initial conference, the applicant shall submit a general implementation plan to the Village municipal staff with an application for a Traditional Neighborhood Development project.

(a) Within [20] days, the Village Planning Commission shall conduct a public hearing to consider a recommendation for approval or disapproval of a general implementation plan. At this public hearing, the Village Planning Commission shall receive a report from the Village municipal staff recommending approval, disapproval or approval with specified modifications. Within [20] days, the Village Planning Commission shall recommend to the Village Board either:

(i) Approve the General Implementation Plan,

(ii) Approve the General Implementation Plan with modifications, or

(iii) Deny the General Implementation Plan.

(b) The Village Board shall receive the recommendation from the Village Planning Commission and a report from the Village municipal staff. Upon due consideration, the Village Board shall either:

(i) Approve the General Implementation Plan,

(ii) Approve the General Implementation Plan with modifications, or

(iii) Deny the General Implementation Plan.

(2) General Implementation Plan Submittal Requirements. The purpose of the general implementation plan

is to establish the intent, density and intensity for a proposed development. The General Implementation Plan shall include the following:

- (a) A general location map of suitable scale, but no less than one inch = [100] feet, which shows the location of the property within the community and adjacent parcels including locations of any public streets, railroads, major streams or rivers and other major features within [1000] feet of the site.
- (b) A site analysis as described in the Village's Land Division and Platting Ordinance, Section 4.21(B).
- (c) A conceptual site plan, at a scale of no less than one inch = [100] feet, which indicates topography in [two] foot contours for sites with 15 feet or more of local relief, or one foot contours for local sites with less than 15 feet of local relief, consisting of a map with proposed features and existing site features and uses that will remain. These features should include building outlines, location of streets, transit stops, drives and parking areas, pedestrian and bicycle paths, service access areas for receiving material and trash removal, and other impervious surfaces. The location of proposed and existing to remain trees and shrubs should also be included, along with any other significant features.
- (d) A conceptual storm water management plan identifying the proposed patterns of major stormwater runoff, locations of stormwater infiltration areas, and other significant stormwater best management practices.
- (e) Identification of the architectural style(s) of the Traditional Neighborhood Development and the accompanying site design style(s). The design style of the Traditional Neighborhood Development shall be conveyed with drawings or computer simulations of typical proposed building elevations (including dimensions of building height and width, and facade treatment).

(f) A written report that provides general information about the covenants, conservation easements, or agreements which will influence the use and maintenance of the proposed development. The report shall also describe the site conditions and the development objectives.

(g) Any other information deemed necessary by the Village in order to evaluate plans (i.e. economic, fiscal, environmental, social, and/or traffic impact analyses).

(h) Copies of the above information shall be determined by, and submitted to, the Village Administrator.

(F) Specific Implementation Plan: The purpose of the Specific Implementation Plan is to establish a detailed development proposal. The Specific Implementation Plan can be proposed, reviewed, and acted upon as whole or in part or phases.

(1) Specific Implementation Plan Process. Following approval of the General Implementation Plan, the applicant shall submit a Specific Implementation Plan to the Village municipal staff.

(a) Within thirty (30) days following receipt of the Specific Implementation Plan, the Village Planning Commission shall receive a report from the Village municipal staff recommending approval, disapproval or approval with specified modifications. The Village Planning Commission shall determine that the proposed Specific Implementation Plan is in substantial conformance with the approved General Implementation Plan. Upon due consideration, the Village Planning Commission shall recommend to the Village Board to either:

(i) Approve the Specific Implementation Plan as being in substantial conformance with the General Implementation Plan;

(ii) Approve the Specific Implementation Plan as being in substantial conformance with the General Implementation Plan with specified modifications; or

(iii) Deny the Specific Implementation Plan.

(b) Following Village Planning Commission recommendation, the Village Board shall receive the recommendation from the Village Planning Commission and the report from the Village municipal staff. Upon due consideration, the Village Board shall either:

(i) Approve the Specific Implementation Plan as being in substantial conformance with the General Implementation Plan;

(ii) Approve the Specific Implementation Plan as being in substantial conformance with the General Implementation Plan with specified modifications; or

(iii) Deny the Specific Implementation Plan.

(2) Specific Implementation Plan Submittal Requirements. The applicant shall submit a series of plans, maps, and written materials which include the following information.

(a) A general location map of suitable scale which shows the boundaries and dimensions of the property within the context of the Village and adjacent parcels, including locations of any public streets, railroads, major streams or rivers and other major features within 1000 feet of the site, along with a legal description of the property.

(b) A site analysis as described in the Village's Land Division and Platting Ordinance, Section 4.21(B).

(c) A site plan, including proposed topographic contours at two foot intervals, with the following information:

(i) The location of proposed structures and existing structures that will remain, with height and gross floor area noted;

(ii) The location of street and pedestrian lighting, including lamp intensity and height;

(iii) The location of proposed open space;

(iv) The circulation system indicating pedestrian, bicycle, and motor vehicle movement systems, including existing and proposed public streets or right-of-ways; transit stops; easements or other reservations of land on the site; the location and dimensions of existing and proposed curb cuts, off-street parking and loading spaces, include service access for receiving and trash removal; sidewalks and other walkways;

(v) Location of all trees, shrubs, and ground cover (proposed or existing) to remain on the site.

(d) A stormwater management plan for the site. The grading plan shall show existing and proposed ground elevations with contours (two-foot contour interval) and spot elevations at significant high points, low points, and transition points. The grading plan shall also note the finished ground floor elevations of all buildings. The plan shall also show the locations of all storm drainage sewers and structures, and infiltration or detention/retention structures; and all wetlands on the site, and copies of documents completed in making the wetlands identification.

(e) Detailed elevations of all proposed business buildings and typical elevations of residential buildings. Scaled elevations should identify all signs, building materials and percentage of ground floor

business facade in windows; the location, height and material for screening walls and fences, including outdoor trash storage areas, electrical, mechanical and gas metering equipment, storage areas for trash and recyclable materials, and rooftop equipment.

(f) A utilities plan showing underground and above ground lines and structures for sanitary sewers, electricity, gas, telecommunications, etc.

(g) A written report which completely describes the proposal and indicates covenants or agreements that will influence the use and maintenance of the proposed development. The report also shall describe the analysis of site conditions and the development objectives.

(h) Phasing plans, where applicable.

(i) Any other information deemed necessary by the Village Board in order to evaluate plans (i.e. economic, fiscal, environmental, social, and/or traffic impact analyses).

(j) Copies of the above information shall be determined by, and submitted to, the Village Administrator.

(G) Amendments to Specific Implementation Plan.

(1) Minor changes to the Specific Implementation Plan adopted by the Village Board may be approved by the Village municipal staff, provided that changes do not involve:

(a) Increases or decreases of less than [10%] in floor area of structures or number of dwelling units.

(b) Change in exterior building material.

(c) Alteration of any conditions attached or modification to the Specific Implementation Plan made by the Village Board.

(2) A major change to a Specific Implementation Plan which is less restrictive than any conditions of approval for the initial Specific Implementation Plan, shall require approval by a majority vote of all members of the Village Board.

(H) Subdivision of Land: If the Traditional Neighborhood Development involves the subdivision of land as defined in the Village's Land Division and Platting Ordinance, the applicant shall submit all required land division documents in accordance with the requirements of the Village's Land Division and Platting Ordinance. If there is a conflict between the general requirements and design standards of the Land Division and Platting Ordinance and the design standards of this Section, the stricter of the two provisions shall apply.

(I) Ownership and Maintenance of Common Facilities and Open Space: To ensure adequate planning for ownership, operation, and maintenance of common open space, recreation facilities, common parking areas and driveways, public and private streets, and other common facilities in a Traditional Neighborhood Development , the provisions of Section 3.16(L) shall apply.

(J) Recording of Documents: The following documents need to be filed by the applicant in the County Register of Deeds Office within [10 days] after approval of the document by the Village Board.

(K) Design Standards for Traditional Neighborhood Development.

(1) Neighborhood Uses. In order to achieve the proximity necessary to make neighborhoods walkable, it is important to mix land uses. A traditional neighborhood development should consist of a mix of residential uses, a mixed use area, and open space uses. The following design standards shall be used by the Village municipal staff, Village Planning Commission, and Village Board when reviewing and approving or denying proposed Traditional Neighborhood Developments.

(a) A mix of residential uses of the following types can occur anywhere in the traditional neighborhood development. For infill development, the mix of residential uses may be satisfied by existing residential uses adjacent to the Traditional Neighborhood Development.

- (i) Single-family detached dwellings, including manufactured homes;
- (ii) Single-family attached dwellings, including duplexes, townhouses, rowhouses;
- (iii) Multifamily dwellings, including senior housing;
- (iv) Secondary dwelling units, such as granny flats;
- (v) Special needs housing, such as community living arrangements and assisted living facilities.

(b) Mixed use area of business, residential, civic or institutional, and open space uses as identified below. All residents should be within approximately  $\frac{1}{4}$  mile or a 5 minute walk from existing or proposed business, civic or institutional, and open space areas. Individual business should not exceed 6,000 square feet in size.

(i) Business uses.

(1) Food services (neighborhood grocery stores; butcher shops; bakeries; restaurants, not including drive-thrus; cafes; coffee shops; neighborhood bars or pubs);

(2) Retail uses (florists or nurseries; hardware stores; stationery stores; book stores; studios and shops of artists and artisans);

(3) Services (day care centers; music, dance or exercise studios; offices, including professional and medical offices; barber; hair salon; dry cleaning);

(4) Accommodations (bed and breakfast establishments, small hotels or inns).

(ii) Residential uses.

(1) Single-family attached dwellings, including duplexes, townhouses, row-houses;

(2) Multifamily dwellings, including senior housing;

(3) Residential units located on upper floors above business uses or to the rear of storefronts;

(4) "Live/work" units that combine a residence and the resident's workplace;

(5) "Special needs" housing, such as community living arrangements and assisted living facilities.

(iii) Civic or institutional uses.

(1) Municipal offices, fire stations, libraries, museums, community meeting facilities, and post offices;

(2) Transit shelters;

(3) Places of worship;

(4) Educational facilities.

(iv) Open space uses.

(1) Central square;

(2) Neighborhood park;

(3) Playground.

(c) Open space uses identified below should be incorporated in the Traditional Neighborhood Development as appropriate. Large outdoor recreation areas should be located at the periphery of neighborhoods rather than central locations.

(i) Environmental corridors;

(ii) Protected natural areas;

(iii) Community parks;

(iv) Streams, ponds, and other water bodies;

(v) Stormwater detention/retention facilities.

(2) Development Units. The number of residential dwelling units and the amount of nonresidential development (excluding open spaces) shall be determined as follows:

(a) In areas devoted to mixed residential uses:

(i) The number of single-family attached and detached units permitted shall be [5-8] dwelling units per net acre;

(ii) The number of multi-family units shall be [10-15] dwelling units per net acre.

(iii) Secondary dwelling units shall be permissible in addition to the number of dwelling units authorized under this Section. However, the total number of secondary dwelling units shall not be more than [10 percent] of the total number of single-family attached and detached units.

(b) In mixed use areas:

(i) The number of single-family and multi-family dwelling units permitted shall be calculated the same as above plus an additional number of units not to exceed [10 percent] of the amount permitted above.

(ii) All dwelling units constructed above business uses shall be permissible in addition to the number of dwelling units authorized under this Section. However, the total number of dwelling units shall not be increased by more than [10 dwelling units or 10 percent], whichever is greater.

(iii) The total ground floor area of nonresidential development uses, including off-street parking areas, shall not exceed [25] percent of the traditional neighborhood development.

(3) Open Space. At least [10-20] percent of the gross acreage of the Traditional Neighborhood Development must be open space. Open space may include undevelopable areas such as steep slopes and wetlands, and stormwater detention and retention basins. At least [25] percent of the open space must be common open space dedicated to the public for parkland. [90] percent of the lots within the areas devoted to mixed residential uses shall be within a  $\frac{1}{4}$  mile or a 5 minute walk from common open space. The open space shall also be consistent with the Village's future park and open space planning.

(4) Stormwater Management. The design and development of the traditional neighborhood development should minimize off-site stormwater runoff, promote on-site filtration, and minimize the discharge of pollutants to ground and surface water. Natural topography and existing land cover should be maintained/protected to the maximum extent practicable. New development and redevelopment shall meet the following requirements:

(a) Untreated, direct stormwater discharges to wetlands or surface waters are not allowed.

(b) Post development peak discharge rates should not exceed pre-development peak rates.

(c) Erosion and sediment controls must be implemented to remove 80% of the average annual load of total suspended solids.

(d) Areas for snow storage should be provided unless the applicant provides an acceptable snow removal plan.

(e) Redevelopment stormwater management systems should improve existing conditions and meet standards to the extent practicable.

(f) All treatment systems or BMPs must have operation and maintenance plans to ensure that systems function as designed.

(5) Lot and Block Standards.

(a) Block and Lot Size Diversity. Street layouts should provide for perimeter blocks that are generally in the range of 200-400 feet deep by 400-800 feet long. A variety of lot sizes should be provided to facilitate housing diversity and choice and meet the projected requirements of people with different housing needs.

(b) Lot Widths. Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.

(c) Building Setbacks. Setbacks should allow building locations that strengthen the definition of street edges and public areas. Building setbacks should also be consistent with those of buildings located on adjacent properties. Provisions for zero lot line two family row houses and business uses should be made.

(6) Circulation Standards. The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and open space of the traditional neighborhood development and shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off street bicycle or multi-use paths or bicycle lanes on the streets), control through traffic, limit lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the traditional neighborhood development.

(7) Parking Standards. Parking areas for shared or community use should be encouraged. In addition:

- (a) In the mixed use area, any parking lot shall be located at the rear or side of a building.
- (b) A parking lot or garage may not be adjacent to or opposite a street intersection.
- (c) In the mixed use area, a business use must provide one parking stall for every [500] square feet of gross building area.
- (d) Parking lots or garages must provide not less than one bicycle parking stall for every [10] motor vehicle parking stalls.
- (e) Adjacent on-street parking may apply toward the minimum parking requirements.
- (f) In the mixed residential areas, parking may be provided on-site. [One] off-street parking stall with unrestricted ingress and egress shall be provided for each secondary dwelling unit.

(g) Multi-family uses must provide one parking stall for every dwelling unit and [0.5] parking stall for each additional bedroom.

(8) Street Standards.

(a) The traditional neighborhood development should maintain the existing street grid, where present, and restore any disrupted street grid where feasible.

(b) The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.

(c) Traffic calming features such as "queuing streets," curb extensions, traffic circles, and medians may be used to encourage slow traffic speeds.

(d) Street lighting shall be provided along all streets. Generally more, smaller lights, as opposed to fewer, high-intensity lights, should be used. Street lights shall be installed on both sides of the street at intervals of no greater than [75] feet.

(9) Service Access. Access for service vehicles should provide a direct route to service and loading dock areas, while avoiding movement through parking areas.

(10) Paving. Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas such as remote parking lots and parking areas for periodic uses.

(11) Architectural Standards. A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character.

(a) Building Composition.

(i) Building elevations should be organized to define base, middle and top elements. The base of the building anchors it to the ground and is the interface between the building and people.

(ii) Depending on the height of the building, the base may range in height from one half to one or more stories. The base should be highly articulated.

(iii) The transition between the base and top of the building - the middle, should be emphasized through use of contrasting materials, protrusions and recesses, window openings, and other elements.

(iv) The top of the building should provide a termination and is an opportunity for an interesting silhouette.

(b) Building Rhythm.

(i) Building facades should be articulated to establish a rhythm. In architectural terms, rhythm refers to the regular and harmonious repetition of vertical building elements. These patterns often reflect the building's structural bays and also provide scale by breaking the façade into smaller identifiable components.

(ii) Rhythm should be established through changes in plane (to avoid long flat façades), but can also be expressed through the use of windows, roof line changes, material changes and ornamentation.

(c) Building Scale. Building scale should be consistent with that of neighboring buildings. This does not require that entire buildings need to be the same height or width, but that the components of adjacent buildings relate to one another in terms of scale. As examples, a long building next to a relatively narrow building could be properly scaled through the use of smaller building components. Also, a tall building next to a shorter building could be properly scaled through use of elements that create smaller components and roof lines that relate to the shorter building.

(d) Building Proportion.

(i) Building massing and components should demonstrate consistent proportional harmonies. Proportion refers to the relationship of the width to the height of building components and the building as a whole.

(ii) A well-proportioned building has component parts that have the same proportion as other parts. For instance, the windows may have the same proportion as the protruding entrance bay or other building element.

(iii) In general, shorter buildings should emphasize elements with a vertical proportion (greater height than width) to avoid a squat appearance.

(e) Building Entrances. Building entrances should be given prominence and clearly defined through use of distinctive features such as recesses or protrusions, roof elements, awnings, columns, ornamentation, landscaping, lighting, etc.

(f) Building Materials. The use of materials such as brick, stone, decorative block, sealed wood, exterior insulation and finish systems (EIFS), and glass are encouraged. Extensive use of metal or exposed non-decorative concrete building finishes is discouraged on

building elevations visible from streets and publicly accessible areas, and residential neighborhoods.

(12) Signage. A comprehensive sign program is required for the entire Traditional Neighborhood Development which establishes a uniform sign theme. Signs shall share a common style (e.g. size, shape, material). In the mixed use area, all signs shall be wall signs or cantilever signs. Cantilever signs shall be mounted perpendicular to the building face and shall not exceed [8] square feet.

(13) Landscaping and Screening Standards. Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas. Where screening is required by this Section, it shall be at least 6 feet in height, unless otherwise specified. Required screening shall be at least 50 percent opaque throughout the year.

(a) Street trees. Reference Section 5.09.

(b) Parking area landscaping and screening. All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:

(i) A landscaped area at least [5] feet wide along the public street or sidewalk.

(ii) Screening at least [3] feet in height and not less than [50] percent opaque.

(iii) One tree for each [25] linear feet of parking lot frontage.

(c) Parking area interior landscaping. The corners of parking lots, "islands," and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants, vines,

shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.

(d) Installation and Maintenance of Landscaping Materials.

(i) All landscape materials shall be installed to current industry standards.

(ii) Maintenance and replacement of landscape materials shall be the responsibility of the property owner. Landscape maintenance should incorporate environmentally sound management practices, including the use of water- and energy-efficient irrigation systems such as drip irrigation, and pruning primarily for plant health and public safety, replacing dead materials annually.