



**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN**

**ORDINANCE NO. 19-001**

**AN ORDINANCE TO AMEND VARIOUS PROVISIONS WITHIN CHAPTER 94 (ZONING ORDINANCE) TO ADDRESS RECENT CHANGES IN STATE LAW, RESPOND TO VILLAGE LAND DEVELOPMENT REVIEW SERVICES AUDIT, AND MAKE OTHER MISCELLANEOUS ZONING ORDINANCE CHANGES**

WHEREAS, the Village of Weston is authorized to prepare, amend and adopt a zoning ordinance under Wis. Stats. §§ 62.23 and 61.35; and

WHEREAS, the Village adopted a new Chapter 94 in March 2015, to serve as the Village's zoning ordinance and the Village's extraterritorial zoning ordinance for the portions of the Town of Weston defined as the extraterritorial zoning area; and

WHEREAS, the Village has identified the need for amendments to its zoning ordinance to address the several issues listed in the title to this ordinance; and

WHEREAS, the Village established an ad hoc Zoning Steering Committee, which developed, reviewed, and advised on the amendments to the zoning ordinance contained herein; and

WHEREAS, the Joint Village and Town of Weston Extraterritorial Zoning Committee and Village Plan Commission have held a joint public hearing on this ordinance, on January 14, 2019, in compliance with Wis. Stat. § 62.23; and

WHEREAS, following such hearing, the Village Plan Commission has recommended enactment of the zoning ordinance amendments contained herein for applicability within the Village limits; and

WHEREAS, following such hearing, the Joint Town and Village Extraterritorial Zoning Committee has recommended enactment of the same zoning ordinance amendments for applicability within the extraterritorial zoning area; and

WHEREAS, following such hearing the Village Board considered public comments and the recommendations of said Commission and Committee; and

WHEREAS, the Village Board finds the proposed amendments contained herein are reasonable, consistent with the Village Comprehensive Plan, and in the public interest.

NOW, THEREFORE, the Village Board of Weston, Marathon County, Wisconsin, does ordain as follows:

**SECTION 1:** Figure 3.04 Allowable Uses in Rural, Open Space, and Residential Zoning Districts is hereby amended to provide as follows:

**Figure 3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts**

P = Permitted Use		C = Conditional Use				T = Temporary Use				
<u>P/C = Use allowance varies-see Sec. 94.4.-0#</u>			<u>Empty Cell = Prohibited Use</u>							
Land Use Category		Zoning District (see key at end of figure)								
(#)	Land Use Type	FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
<b>Residential Land Uses</b> (see Section 94.4.02 for descriptions and standards for each land use)										
(1)	Single-Family Detached Residence	C	P	P		P	P	P	P	P
(2)	Two-Family Residence							P	P	
(3)	Multi-Family Residence (3-8 units <del>building</del> )							C	P	
(3)	Multi-Family Residence (9- <del>32+</del> units <del>building</del> )								<del>CP</del>	
(3)	Multi-Family Residence ( <del>33+</del> units)								<u>P</u>	
( <del>3</del> )(4)	Manufactured Home Community									P
(4)(5)	Mixed Use Dwelling Unit								C	
<b>Agricultural Land Uses</b> (see Section 94.4.03 for descriptions and standards for each land use)										
(1)	Agricultural Use	P	P	P/C	C					
(2)	Agricultural-Related Use	P	C	C						
(3)	Community Garden	P	P	P	P	P	P	P	P	P
(4)	On-site Agricultural Retail	P	P	C						
<b>Institutional and Recreational Land Uses</b> (see Section 94.4.04 for descriptions/standards for each use)										
(1)	Passive Outdoor Public Recreation	C	P	P	P	P	P	P	P	P
(2)	Active Outdoor Public Recreation	C	C	C	P	C	C	C	C	C
(3)	Indoor Institutional—General		C	C	P	C	C	C	P	
(4)	Indoor Institutional—Intensive				C				C	
(5)	Outdoor Institutional	C	C	C	C	C	C	C	C	
(6)	Public Service or Utility	C	P	P	P	P	P	P	P	P
(7)	Institutional Residential					C	C	C	C	
(8)	Community Living Arrangement (1-8 residents)		P	P		P	P	P	P	
(9)	Community Living Arrangement (9-15 residents)		C	C		C	C	P	P	
(10)	Community Living Arrangement (16+ residents)							C	P	

P = Permitted Use		C = Conditional Use				T = Temporary Use				
P/C = Use allowance varies-see Sec. 94.4.-0#			Empty Cell = Prohibited Use							
Land Use Category		Zoning District (see key at end of figure)								
(#)	Land Use Type	FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
<b>Commercial Land Uses</b> (see Section 94.4.05 for descriptions and standards for each land use)										
(1)	Office									
(2)	Personal or Professional Service								C	
(3)	Artisan Studio								C	
(4)	Group Day Care Center					C	C	C	C	
(5)	Indoor Sales or Service									
(6)	Outdoor Display									
(7)	Indoor Repair and Maintenance									
(8)	Outdoor and Vehicle Repair and Maintenance									
(9)	Drive-In or Drive-Through Sales or Service									
(10)	Indoor Commercial Entertainment									
(11)	Outdoor Commercial Entertainment		C							
(12)	Commercial Animal Establishment	C	C	C						
(13)	Bed and Breakfast	C	C	C		C	C	C	PC	
(14)	Boarding House		C						C	
(15)	Campground		C		P					
(16)	Commercial Indoor Lodging									
(17)	Tourist Rooming House		C	C				C	C	
(18)	Adult Entertainment or Adult-Oriented Establishment									
(19)	Large Retail and Commercial Service Development									
(20)	Micro-beverage Production Facility									
<b>Storage or Disposal Land Uses</b> (see Section 94.4.06 for descriptions and standards for each land use)										
(1)	Indoor Storage or Wholesaling									
(2)	Outdoor Storage or Wholesaling									
(3)	Personal Storage Facility								C	C
(4)	Junkyard or Salvage Yard		C							
(5)	Solid Waste Disposal, Composting, and/or Recycling Facility		C							
(6)	Auction Yard									

P = Permitted Use		C = Conditional Use				T = Temporary Use				
P/C = Use allowance varies-see Sec. 94.4.-0#			Empty Cell = Prohibited Use							
Land Use Category		Zoning District (see key at end of figure)								
(#)	Land Use Type	FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
<b>Transportation Land Uses</b> (see Section 94.4.07 for descriptions and standards for each land use)										
(1)	Off-Site Parking				C				C	C
(2)	Airport or Heliport		C							
(3)	Freight Terminal and Mass Transportation Depot									
(4)	Distribution Center									
(5)	Livestock or Farm Commodity Trucking	C	C							
<b>Industrial Land Uses</b> (see Section 94.4.08 for descriptions and standards for each land use)										
(1)	Light Industrial		C							
(2)	Heavy Industrial									
(3)	Communications Tower	C	P	C	C	C	C	C	C	C
(4)	Non-Metallic Mineral Extraction	C	C							
<b>Accessory and Miscellaneous Land Uses</b> (see Section 94.4.09 for descriptions/standards for each use)										
(1)	Detached Accessory Structure (For Non-Residential Use)	P	P	P	P	P	P	P	P	
(2)	Detached Accessory Structure (For Residential Use)	P	P	P		P	P	P	P	P
(3)	Family Day Care Home (4-8 children)	P	P	P		P	P	P	P	P
(4)	Intermediate Day Care Home (9-15 children)	C	C	C		C	C	C	C	C
(5)	Home Occupation	P	P	P		P	P	P	C	C
(6)	Residential Business	C	C	C		C	C	C		
(7)	In-Home Suite		P	P		C	C	P	P	
(8)	Accessory Dwelling Unit		C	C		C	C	C	C	
(9)	Animal Fancier	P	P	P		C	C			
(10)	Keeping of Farm Animals on Residential Lots and School Sites	P	P	P						
(11)	Company Cafeteria									
(12)	<del>Company Provided On-Site Amenities</del> <del>Company Provided On-site Recreation or Child Care</del>									
(13)	Indoor Sales Incidental to Storage or Light Industrial Land Use		C							
(14)	Light Industrial Activities Incidental to Indoor Sales or Services									

P = Permitted Use		C = Conditional Use			T = Temporary Use					
P/C = Use allowance varies-see Sec. 94.4.-0#			Empty Cell = Prohibited Use							
Land Use Category		Zoning District (see key at end of figure)								
(#)	Land Use Type	FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
(15)	Outdoor Display Incidental to Indoor Sales or Service									
(16)	Outdoor Alcohol Area		P/C							
(17)	Small Exterior Communication Device	P	P	P	P	P	P	P	P	P
(18)	Large Exterior Communication Device	C	C	C	C	C	C	C	C	C
(19)	Geothermal Energy System (GES)	P	P	P	P	P	P	P	P	P
(20)	Small Wind Energy System	P	P	P	P	P	P	P	P	P
(21)	Small Solar Energy System	P	P	P	P	P	P	P	P	P
(22)	Outdoor Solid Fuel Furnace	P	P	C						
(23)	Private Lake (Pond)	P	P	P	C	C	C	C	C	C
(24)	Vehicle Course or Track	P	P	C	C					
(25)	Donation Drop-Off Box or Vending Machine				P				C	C
<b>Temporary Land Uses</b> (see Section 94.4.10 for descriptions and standards for each land use)										
(1)	Temporary Outdoor Sales				T					
(2)	Garage, Yard, Estate, and In-Home Sales	T	T	T		T	T	T	T	T
(3)	Outdoor Assembly or Special Event	T	T	T	T	T	T	T	T	T
(4)	Contractor's Project Office	T	T	T	T	T	T	T	T	T
(5)	Contractor's On-Site Equipment Storage Facility	T	T	T	T	T	T	T	T	T
(6)	Relocatable Building	T	T	T	T	T	T	T	T	T
(7)	On-Site Real Estate Sales Office		T	T	T	T	T	T	T	T
(8)	Seasonal Outdoor Sales of Farm Products	T	T		T					
(9)	Temporary Portable Storage Container	T	T	T	T	T	T	T	T	T
(10)	Temporary Shelter	T	T	T	T	T	T	T	T	T
(11)	Temporary Agricultural Structure	T	T							
(12)	Temporary Unscreened Storage									
(13)	Temporary Sales by Mobile Food Vendors				T					
(14)	Temporary Asphalt, Batch or Concrete, Stone Crushing and/or Processing Operations	T/C	T/C	T/C	T/C	T/C	T/C	T/C	T/C	T/C

P = Permitted Use		C = Conditional Use				T = Temporary Use				
P/C = Use allowance varies-see Sec. 94.4.0#		Empty Cell = Prohibited Use								
Land Use Category		Zoning District (see key at end of figure)								
(#)	Land Use Type	FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
<b>Key to Zoning Districts:</b>										
FP = Farmland Preservation					SF-L = Single Family Residential-Large Lot					
AR = Agriculture and Residential					SF-S = Single Family Residential-Small Lot					
RR-2 = Rural Residential (2-acre minimum)					2F = Two Family Residential					
RR-5 = Rural Residential (5-acre minimum)					MF = Multiple Family Residential					
PR = Parks and Recreation					MH = Manufactured Home					

**SECTION 2:** Figure 3.05 Allowable Uses in Non-Residential and Mixed Use Zoning Districts is hereby amended to provide as follows:

**Figure 3.05: Allowable Uses in Non-Residential and Mixed Use Zoning Districts**

P = Permitted Use		C = Conditional Use				T = Temporary Use			
P/C = Use allowance varies-see Sec. 94.4.0#		Empty Cell = Prohibited Use							
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
<b>Residential Land Uses</b> (see Section 94.4.02 for descriptions and standards for each land use)									
(1)	Single-Family Detached Residence								P
(2)	Two-Family Residence		C						
(3)	Multi-Family Residence ( <del>3-8 unit building</del> )		C			C	€	€	
(4)	Manufactured Home Community								
(5)	Mixed Use Dwelling Unit		P	P	C				
<b>Agricultural Land Uses</b> (see Section 94.4.03 for descriptions and standards for each land use)									
(1)	Agricultural Use								P/C
(2)	Agricultural-Related Use			C	P	C	P	P	P/C
(3)	Community Garden	P	P	P	P	C	C	C	P
(4)	On-site Agricultural Retail								P
<b>Institutional and Recreational Land Uses</b> (see Section 94.4.04 for descriptions/standards for each use)									
(1)	Passive Outdoor Public Recreation	P	P	P	P	P	P	P	P
(2)	Active Outdoor Public Recreation	P	C	P	P	P	P	P	P
(3)	Indoor Institutional—General	P	P	P	P		C	C	C

P = Permitted Use		C = Conditional Use				T = Temporary Use			
<u>P/C = Use allowance varies-see Sec. 94.4.0#</u>		<u>Empty Cell = Prohibited Use</u>							
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
(4)	Indoor Institutional—Intensive	P	C	C	P				
(5)	Outdoor Institutional	P	C	C	C	C	C	C	C
(6)	Public Service or Utility	P	P	P	P	P	P	P	P
(7)	Institutional Residential	P	C	C	C	C	C	C	
(8)	Community Living Arrangement (1-8)		C						P
(9)	Community Living Arrangement (9-15)	C	C	C		C			C
(10)	Community Living Arrangement (16+)	P	C	C		C			
<b>Commercial Land Uses</b> (see Section 94.4.05 for descriptions and standards for each land use)									
(1)	Office	C	P	P	P	P	P	P	C
(2)	Personal or Professional Service		P	P	P	P	P	P	
(3)	Artisan Studio		P	P	P	C	C		C
(4)	Group Day Care Center	P	P	P	P	C	C		C
(5)	Indoor Sales or Service		P	P	P	C	C		
(6)	Outdoor Display		C	P	P		C	C	
(7)	Indoor Repair and Maintenance			P	P		P	P	C
(8)	Outdoor and Vehicle Repair and Maintenance			C	P		P	P	C
(9)	Drive-In or Drive-Through Sales or Service		C	P	P	C	C	C	
(10)	Indoor Commercial Entertainment		C	P	P	P	C	C	
(11)	Outdoor Commercial Entertainment		C	C	C				C
(12)	Commercial Animal Establishment		C	P	P		C		C
(13)	Bed and Breakfast		C	C					C
(14)	Boarding House			C					C
(15)	Campground	C							C
(16)	Commercial Indoor Lodging		C	P	P	P			
(17)	Tourist Rooming House		C						C

P = Permitted Use		C = Conditional Use				T = Temporary Use			
P/C = Use allowance varies-see Sec. 94.4.0#		Empty Cell = Prohibited Use							
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
(18)	Adult Entertainment or Adult-Oriented Establishment							C	
(19)	Large Retail and Commercial Service Development			C	C				
(20)	Micro-beverage Production Facility		C	P	P	C	P	P	C
<b>Storage or Disposal Land Uses</b> (see Section 94.4.06 for descriptions and standards for each land use)									
(1)	Indoor Storage or Wholesaling				P	C	P	P	C
(2)	Outdoor Storage or Wholesaling	C			C		P/C	P	C
(3)	Personal Storage Facility				C		C	C	
(4)	Junkyard or Salvage Yard							C	
(5)	Solid Waste Disposal, Composting, and/or Recycling Facility	C					C	C	
(6)	Auction Yard				C		C	C	C
<b>Transportation Land Uses</b> (see Section 94.4.07 for descriptions and standards for each land use)									
(1)	Off-Site Parking	C	C	C	C	C	C	C	C
(2)	Airport or Heliport	C					C	C	C
(3)	Freight Terminal and Mass Transportation Depot						C	P	
(4)	Distribution Center						P/C	P	
(5)	Livestock or Farm Commodity Trucking						C	P	C
<b>Industrial Land Uses</b> (see Section 94.4.08 for descriptions and standards for each land use)									
(1)	Light Industrial				C	C	P	P	C
(2)	Heavy Industrial						C	P	
(3)	Communications Tower	C	C	C	P	C	P	P	P
(4)	Non-Metallic Mineral Extraction							C	C

P = Permitted Use		C = Conditional Use				T = Temporary Use			
<u>P/C = Use allowance varies-see Sec. 94.4.0#</u>		<u>Empty Cell = Prohibited Use</u>							
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
<b>Accessory and Miscellaneous Land Uses</b> (see Section 94.4.09 for descriptions/standards for each use)									
(1)	Detached Accessory Structure (For Non-Residential Use)	P	P	P	P	P	P	P	P
(2)	Detached Accessory Structure (For Residential Use)		P						P
(3)	Family Day Care Home (4-8 children)		P	P					P
(4)	Intermediate Day Care Home (9-15 children)								C
(5)	Home Occupation		C						P
(6)	Residential Business		C						C
(7)	In-Home Suite								P
(8)	Accessory Dwelling Unit		C	C	C				C
(9)	Animal Fancier		C	C					P
(10)	Keeping of Farm Animals on Residential Lots and School Sites	C							P
(11)	Company Cafeteria	P	P	P	P	P	P	P	
(12)	Company Provided On-site <a href="#">Amenities Recreation or Child Care</a>	P	P	P	P	P	P	P	
(13)	Indoor Sales Incidental to Storage or Light Industrial Land Use				P	P	P	P	C
(14)	Light Industrial Activities Incidental to Indoor Sales or Services				P	C	C		
(15)	Outdoor Display Incidental to Indoor Sales or Services			P	P	C	C		
(16)	Outdoor Alcohol Area	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>			<u>P/C</u>
(17)	Small Exterior Communication Device	P	P	P	P	P	P	P	P
(18)	Large Exterior Communication Device	C	C	P	P	P	P	P	C
(19)	Geothermal Energy System (GES)	P	P	P	P	P	P	P	P

P = Permitted Use				C = Conditional Use				T = Temporary Use	
<u>P/C = Use allowance varies-see Sec. 94.4.0#</u>				<u>Empty Cell = Prohibited Use</u>					
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
(20)	Small Wind Energy System	P	P	P	P	P	P	P	P
(21)	Small Solar Energy System	P	P	P	P	P	P	P	P
(22)	Outdoor Solid Fuel Furnace				C		P	P	P
(23)	Private Lake (Pond)	P	P	P	P	P	P	P	P
(24)	Vehicle Course or Track	C	C	C	C				P
(25)	Donation Drop-Off Box or Vending Machine	P	P	P	P	C	P	P	
<b>Temporary Land Uses</b> (see Section 94.4.10 for descriptions and standards for each land use)									
(1)	Temporary Outdoor Sales	T	T	T	T	T	T	T	T
(2)	Garage, Yard, Estate, and In-Home Sales								T
(3)	Outdoor Assembly or Special Event	T	T	T	T	T	T	T	T
(4)	Contractor's Project Office	T	T	T	T	T	T	T	T
(5)	Contractor's On-Site Equipment Storage Facility	T	T	T	T	T	T	T	T
(6)	Relocatable Building	T	T	T	T	T	T	T	T
(7)	On-Site Real Estate Sales Office		T	T	T	T	T	T	
(8)	Seasonal Outdoor Sales of Farm Products	T		T	T				T
(9)	Temporary Portable Storage Container	T	T	T	T	T	T	T	T
(10)	Temporary Shelter	T	T	T	T	T	T	T	T
(11)	Temporary Agricultural Structure								T
(12)	Temporary Unscreened Outdoor Storage Accessory to Industrial Use				T		T	T	
(13)	Temporary Sales by Mobile Food Vendors	T	T	T	T	T	T	T	T

P = Permitted Use		C = Conditional Use				T = Temporary Use			
<u>P/C = Use allowance varies-see Sec. 94.4.0#</u>		<u>Empty Cell = Prohibited Use</u>							
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
(14)	Temporary Asphalt, Batch or Concrete, Stone Crushing and/or Processing Operations	T/C	T/C	T/C	T/C	T/C	T/C	T/C	T/C
<b>Key to Zoning Districts:</b>					B-3 = General Business				
INT = Institutional					BP = Business Park				
B-1 = Neighborhood Business					LI = Limited Industrial				
B-2 = Highway Business					GI = General Industrial				
					<u>RM = Rural Mix</u>				

**SECTION 3:** Section 94.4.02(2) [Two-Family Residence], performance standard 10. is hereby amended to provide as follows:

10. Zero Lot Line Structures (see Figure 4.02(1)). For buildings containing two separate dwelling units constructed side-by-side, with each unit located on a separate lot, having a private individual exterior access, and no shared internal access within the building, the following additional standards shall apply:
  - a. The duplex shall meet the front, side, and rear setbacks required for the applicable zoning district, except that the shared wall shall have no minimum setback requirement.
  - b. The builder shall provide, with the zoning permit or building permit application, an agreement or covenant specifying maintenance standards for the common wall, maintenance and replacement standards for exterior surfaces of the building to maintain a neat and harmonious appearance over time, maintenance standards for any common sewer lateral and any other common features, and restrictions against construction of detached single family residences on any of the affected lots in the event either or all sides of the zero lot line construction dwelling are destroyed. Such agreement or covenant shall also provide that it may not be terminated, amended or otherwise altered without the approval of the Village Board. Such agreement shall be subject to Zoning Administrator approval, and then recorded by the builder against all affected properties prior to occupancy of the dwelling as a zero-lot line structure.

**SECTION 4:** Figure 4.02 is hereby amended to become Figure 4.02(1).

**SECTION 5:** Section 94.4.02(3) Multi-Family Residence is hereby amended to provide as follows:

**(3) Multi-Family Residence.**

A single structure with three or more individual attached dwelling units, including “rental apartments,” condominium buildings with 3+ units each, townhouses, and row houses. Each dwelling unit may take access from a shared entrance or hallway or from a private, individual exterior doorway. “Institutional Residential Uses,” as defined in this Chapter, are regulated separately.

**General Performance Standards:** The performance standards in Figure 4.02(2) apply to each new development containing a Multi-family Residence established after January 1, 2019 and to any

approved expansion or conversion to such a development after such date to the extent determined practical by the site plan approval authority. The site plan approval application shall, in addition to providing all materials required under Section 94.16.09(4), shall be accompanied by all materials necessary to assure compliance with the performance standards.

- ~~1. Shall meet the design standards for multi family residences established in Section 94.10.03.~~
- ~~2. The minimum gross floor area of each dwelling unit shall be 500 square feet per unit for studio and one bedroom dwelling units and 700 square feet per unit for two or more bedroom units, exclusive of attached garages, carports, and open decks/porches.~~
- ~~3. For Multi-Family Residences proposed to be built as or converted to zero-lot line structures, the applicable standards under the “Two-Family Residences” section apply.~~
- ~~4. Within the 2F zoning district, each Multi-Family Residence must be of a townhouse or row house design, meaning that each unit must have a private, individual exterior access; share at least one common wall with an adjacent dwelling unit; and may not be stacked on top of or share interior space with any other unit.~~
- ~~5. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided and continuously maintained along all property borders abutting single family residentially zoned property.~~
- ~~6. No building containing or serving a Multi-Family Residence shall provide shared laundry service.~~
- ~~7. No carport may be attached to a Multi-Family Residence after July 26, 2017.~~
- ~~8. Minimum Required Off-Street Parking: one space per efficiency or one bedroom dwelling unit; two spaces per two bedroom dwelling unit; and one space for each additional bedroom above two bedrooms, plus visitor parking at a rate of one space for every four dwelling units. At least one of the required parking spaces per dwelling unit shall be enclosed in a garage or under the building. Any detached garage shall require Plan Commission approval and meet the requirements of Section 94.4.09(2). All motor vehicles shall be parked on a hard surface, or on a graveled surface if such surface was permitted before January 1, 2014 and completed within one year of issuance.~~

**SECTION 6:** Figure 4.02(2) Performance Standards for Multi-Family Residences and Associated Developments is hereby created to provide as follows:

**Figure 4.02(2): Performance Standards for Multi-Family Residences and Associated Developments**

R = Required	Blank Cell = Allowed	NA = Not Allowed		
		Number of Dwelling Units in Development (regardless of number of units per building or number of buildings in development)		
Performance Standard (to right, R = Required)		3-8 units	9-32 units	33+ units
1.	Dwellings meet design standards for Multi-Family Residences in Section 94.10.03.	R	R	R
2.	Detached Accessory Structures meet standards in Section 94.4.09(2).	R	R	R
3.	Public sewer and water service.	R	R	R

R = Required	Blank Cell = Allowed	NA = Not Allowed		
		<b>Number of Dwelling Units in Development</b> (regardless of number of units per building or number of buildings in development)		
<b>Performance Standard (to right, R = Required)</b>		<b>3-8 units</b>	<b>9-32 units</b>	<b>33+ units</b>
4.	Zero-lot line structures meet applicable standards in Section 94.4.02(2).	R	R	R
5.	Minimum of 1 unit for every 33 units designed for handicapped accessibility.			R
6.	Minimum of 500 square feet of Gross Floor Area per efficiency and 1-bedroom unit and 700 square feet per 2+ bedroom unit, not including garages or open decks, porches, patios, etc.	R	R	R
7.	Within the 2F zoning district, each Multi-Family Residence of within a townhouse or row house building has an attached garage. (Townhouse/row house defined in Section 94.17.04.)	R	R	R
8.	Off-street motor vehicle parking: <ul style="list-style-type: none"> <li>• Minimum 1 parking space per efficiency/1-bedroom unit; 1 parking space per bedroom for each 2+ bedroom unit, and one visitor parking space for every 4 units.</li> <li>• On a hard surface as defined in Section 94.17.04.</li> <li>• No attached carport.</li> <li>• Minimum of 1 enclosed (e.g., underbuilding, garage) parking space per dwelling unit.</li> </ul>	R	R	R
9.	Safe and convenient pedestrian facilities, such as hard-surfaced walkways, linking residential building entrances with parking and recreational facilities and with existing and planned bike and pedestrian facilities along adjacent roadways and parcels.		R	R
10.	Designated off-street bicycle parking space in bike rack or similar, near building entrance.		R	R
11.	Serviced by manager with an office or residence <30 miles away.	R	R	R
12.	Manager or maintenance person residing on-site.			R
13.	Bufferyard per Section 94.11.02(3)(d) along all property lines abutting single family residentially zoned property.	R	R	R
14.	Storage and removal of waste and recyclable materials per Sections 66.112, 66.114, 66.115, and 94.12.06(2) as applicable.	R	R	R
15.	All building entrances secured, either by key or keyless entry provided to residents.	R	R	R
16.	Security cameras in parking lots (including underbuilding) and at common entryways.		R	R
17.	Secured indoor storage areas to at least 50% of dwelling units.		R	R

R = Required	Blank Cell = Allowed	NA = Not Allowed		
		<b>Number of Dwelling Units in Development (regardless of number of units per building or number of buildings in development)</b>		
<b>Performance Standard (to right, R = Required)</b>		<b>3-8 units</b>	<b>9-32 units</b>	<b>33+ units</b>
18. Clothes washing machines and dryers in at least 50% of dwelling units.			R	R
19. Heating and air conditioning within all units and indoor common areas, except for enclosed parking areas, allowing for occupant control and not allowing window units.		R	R	R
20. Sound mitigation in all shared walls and floors between separate units to reduce sound transmission between units, with a minimum standard Sound Transmission Class (STC) meeting the requirements of Section 1207 of the International Building Code.		R	R	R
21. Dedicated, on-site location for centralized mail delivery (e.g., cluster mailbox), coordinating type and location with Village and U.S. Postal Service.			R	R
22. Deliberately designed and improved common recreational facility for use of tenants and their guests only, such as a community room, exercise room, clubhouse, pool, playground, play courts, gazebo, fire pit, fenced pet exercise area, or common garden with water, shed, fencing, and equipment. Selected facility should be geared to the expected demographics and interests of tenants.				R
23. Usable outdoor open space in the quantity provided in Figure 4.02(3). Usable outdoor open space is common outdoor area available, designed, and sufficiently square or round for the intended outdoor recreational activities (including those in line 22) and located outside of the floodplain, wetlands, surface waters, stormwater basins and conveyance routes, slopes of 12% or greater, and other areas with severe limitations for recreational use in the determination of the site plan approval authority.		R	R	R

SECTION 7: Figure 4.02(3) is hereby created to provide as follows:

Figure 4.02(3): Usable Outdoor Open Space Worksheet for Developments Containing Multi-Family Dwellings

	A Directions	B # dwelling units		C Sq. ft./unit		D Total sq. ft.	
1	Calculate usable outdoor open space required <sup>1</sup>		x	300 required	=		
2	Calculate outdoor private open space provided for individual dwelling units, such as patios, porches, balcony, and decks, counting only those areas of 48 sq. ft. or greater not including steps		x		=		
3	Subtract Column D of Line 2 from Line 1	Remaining usable outdoor open space required					
4	Calculate square footage of deliberately designed and improved common recreational facilities for tenants and their guests, such as community room, exercise room, clubhouse, pool; playground, play courts, gazebo, fire pit; fenced pet exercise area; common garden with water, shed, fencing, and equipment.	<b>Amenity (list and describe)</b>		<b>Sq. ft.</b>			
5	Add square footages from Line 5, Column C	Total common recreational facility square footage provided					
6	Multiply Line 5, Column C by 2	Common recreational facility “bonus” counting towards requirement		x 2	=		
7	Subtract Line 6 from Line 3, Column D	Remaining usable outdoor open space required for development <sup>1</sup>				=	

Note: <sup>1</sup> See Figure 4.02(3), line 23, for definition of “usable outdoor open space”.

**SECTION 8:** Section 94.4.02(5) Mixed Use Dwelling Unit is hereby amended to provide as follows:

**(5) Mixed Use Dwelling Unit.**

A Mixed-Use Dwelling Unit is a residential dwelling unit located within the same building as another land use type, generally above the ground floor of a building used for an office, business, or institutional land use, except where otherwise allowed per the following performance standards.

**Performance Standards:**

1. With each building permit application, the applicant must provide evidence of covenants specifying the obligations for each dwelling unit with respect to any common structures, such as the shared wall, roof, and other inseparable improvements.
2. A Mixed-Use Dwelling Unit located on the ground floor of a building used for an office, business, or institutional land use may not be located within the first 24 feet of the ground floor as measured from the front of the building.
3. Additional entrances shall not be added to the front elevation of an existing building, but may be added to interior side, rear, or street side elevations.
4. Mixed Use Dwelling Unit entryways located off of a rear or interior side yard shall be connected to a street frontage by a hard-surfaced walkway or driveway.
5. Such uses shall, to the extent determined practical by the Village approval authority, meet the design performance standards for “Multi-Family Residences” established in ~~Section 94.10.03~~ Figure 4.02(2).
6. Minimum Required Parking: Per Figure 4.02(2). Each non-residential use in the same building as a Mixed Use Dwelling Unit shall meet associated parking requirements in Section 94.4.05.1 space per efficiency or one bedroom dwelling unit; 2 spaces per two bedroom dwelling unit; and 2.5 spaces per three or more bedroom dwelling unit. Minimum parking standards may be reduced if residential uses are institutional in nature. All motor vehicles shall be parked on a hard surface, or on a graveled surface if such surface was permitted before January 1, 2014 and completed within one year of issuance.

**SECTION 9:** Section 94.4.05(4) Group Day Care Center is hereby amended to provide as follows:

**(4) Group Day Care Center.**

A land use in which licensed persons and facilities provide child care services for nine or more children, such as day care centers, pre-schools, and nursery schools. Such land uses may be operated as a stand-alone use, or in conjunction with another principal land use on the same site such as a church, primary school, business, or civic organization. Any child care facility located on the same site as a principal land use, and that is reserved solely for the use of company employees and their guests on the same site, are instead regulated as a “Company Provided On-Site ~~Recreation or Child Care Amenities~~” accessory use.

**SECTION 10:** Section 94.4.05(14) Boarding House is hereby amended to provide as follows:

**(14) Boarding House.**

Includes any residential use renting rooms, or providing rooms as part of an employment package on a farm, where each room does ~~that do~~ not contain a private bathroom facility or full kitchenies. Also commonly referred to as a “rooming house.” Does not include with the exception of an

~~approved any~~ “Multi-Family Residence”, “Community Living Arrangement,” “Institutional Residential,” “Bed and Breakfast” ~~establishment uses~~, which ~~are is~~ separately classified and regulated.

**Performance Standards:**

1. Uses that meet the definition of a ~~B~~boarding ~~H~~ouse above, and the performance standards below, shall only be allowed where listed in Figures 3.04 and 3.05.
2. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property and public rights-of-way.
3. Each ~~boarding~~ Boarding house ~~House~~ may have no more than eight boarders and bedrooms for boarders.
4. The Boarding House must meet all design standards applicable to Multi-Family Residences in Section 94.10.03.
- 4.5. ~~Except within the AR district,~~ The operator of the ~~boarding~~ Boarding house House must live within the same building as the boarders.
6. If within the AR district:
  - a. All boarders must be workers on the farm where the Boarding House is located.
  - b. There may not be more than one boarder per every 20 acres on the farm.
  - c. Wis. Stat. §103.92, regarding migrant labor camps, may also apply.
- 5.7. Minimum Required Off-Street Parking: one space per room for rent, plus one space per each employee on the largest work shift.

**SECTION 11:** Section 94.4.05(17) Tourist Rooming House is hereby amended to provide as follows:

**(17) Tourist Rooming House.**

A permanent, ~~detached single family structure dwelling unit~~ where sleeping accommodations are offered for pay to tourists or transients for periods of time of ~~730~~ days or ~~less fewer~~. Commercial lodgings consisting of structures with ~~more than one dwelling unit or~~ rentable rooms or suites shall instead be regulated as a “Commercial Indoor Lodging” use (or if a room in a residence operated by the primary resident, a “Bed and Breakfast”). Also, does not include any “Boarding House,” which is described and regulated separately. Any rRestaurants, arcades, fitness centers, and other on-site facilities ies available to non-lodgers ~~are is~~ not considered an accessory uses and therefore requires review as a separate principal land use.

**Performance Standards:**

1. The use must meet all performance standards associated with a “Single-Family Detached Residence” ~~the type of dwelling in which it is located~~.
2. Occupancy shall be limited to two persons per bedroom, plus an additional two persons. At no time may the number of guests exceed eight regardless of the number of bedrooms in the unit. Two exits are required for each bedroom.
3. The appearance of use of the Tourist Rooming House shall not be altered in a manner that would cause the premises to differ from ~~its residential character~~ a typical dwelling unit either by the use of colors, materials, construction, lighting, signs, or noise exceeding Section 94.12.13.
4. No recreational vehicle may be used for living or sleeping purposes as part of a Tourist Rooming House.
5. ~~The availability of the Tourist Rooming House to the public shall not be advertised on site.~~

~~6.5.~~ The use must be licensed by the State of Wisconsin.

~~7.6.~~ Required Off-Street Parking: A minimum/maximum of one space per bedroom.

**SECTION 12:** Section 94.4.06(2) Outdoor Storage or Wholesaling is hereby amended to provide as follows:

(2) **Outdoor Storage or Wholesaling.**

Uses primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses, and where any activity beyond loading and parking is located outdoors. Examples of include contractors' outdoor storage yards, equipment yards, lumber yards, coal yards, landscaping materials yards, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a "Junkyard or Salvage Yard" use, which is separately listed and regulated.

**Performance Standards:**

1. Within the LI Light Industrial zoning district, outdoor storage yards be located or expanded within 300 feet of residentially zoned property shall first require a conditional use permit, and all other outdoor storage yards in the LI district shall be a permitted use. In either case, all of the following standards shall be met.

~~4.2.~~ All outdoor storage areas shall be located no closer to a residentially zoned property than the required minimum setback for buildings on the subject property.

~~2.3.~~ A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property.

~~3.4.~~ All outdoor storage areas shall be completely enclosed by any permitted combination of buildings, structures, walls, and/or fencing. Such walls or fencing shall be designed to completely screen all stored materials from view from non-industrially zoned areas and public rights-of-way, up to the maximum fence heights allowed under Section 94.9.03.

~~4.5.~~ The storage of items shall not be permitted in the minimum required front yard.

~~5.6.~~ Minimum Required Off-Street Parking: one space for every 10,000 square feet of Gross Storage Area, plus one space per each employee on the largest work shift.

**SECTION 13:** Section 94.4.06(3) Personal Storage Facility is hereby amended to provide as follows:

(3) **Personal Storage Facility.**

Includes indoor storage of items entirely within partitioned buildings with individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Also known as mini-warehouses.

**Performance Standards:**

1. In addition to the building design standards in Section 94.10.03, buildings and facility shall be designed to minimize adverse visual impacts on nearby developments. The color, exterior materials, and orientation of proposed buildings and other structures shall complement surrounding development and be consistent with any building design standards within the Comprehensive Plan.

2. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property and public rights-of-way.
3. The Plan Commission or Extraterritorial Zoning Committee may restrict or limit unit doors facing a public street right-of-way or property not in an industrial zoning district, or may otherwise require that any such doors be screened from view with berms, landscaping, and/or opaque fencing.
4. Facility shall be limited to indoor storage of household items and similar durable goods. No live animals, perishable items, odor producing materials (see Section 94.12.15), flammable or explosive materials (see Section 94.12.17), toxic or noxious materials (see Section 94.12.18), or hazardous materials (see Section 94.12.20) shall be stored on site.
5. No storage unit may have any other function aside from storage, including but not limited to any retail, wholesale, workshop, hobby shop, manufacturing, residential, lodging, or service use.
6. No outdoor storage of materials shall be permitted on site, with the exception of an outdoor trash or recycling receptacle, if proposed and approved as part of the site plan and screened in accordance with Section 94.12.06.
7. To prevent unauthorized access, each storage unit shall be outfitted with quality commercial locks and the Plan Commission or Extraterritorial Zoning Committee may require gated access to the facility and/or security fencing.
8. The Plan Commission or Extraterritorial Zoning Committee may require that the project be equipped with a digital security camera(s) that records site activity, with footage made available to the Everest Metro Police Department upon suspicion of criminal activity.
9. All storage units shall gain access from the interior of the building or site, as opposed to direct access from units to public streets.
- ~~4-10.~~ The Plan Commission or Extraterritorial Zoning Committee may deny or limit a conditional use permit, where required, if it determines that the location, size, quantity, job or tax base creation, or other applicable characteristics of the proposed facility are incompatible with the economic development goals and objectives of the Village, including those within the Comprehensive Plan and any approved tax incremental district project plan.
- ~~2-11.~~ Minimum Required Off-Street Parking: one space for each employee on the largest work shift.

**SECTION 14:** Section 94.4.06(5) Solid Waste Disposal, Composting, and/or Recycling Facility is hereby amended to provide as follows:

**(5) Solid Waste Disposal, Composting, and/or Recycling Facility.**

Any use dedicated to the collection, storage, processing, and/or disposal of solid wastes as defined by Wis. Stat. § 289.01(33), organic materials for composting or for off-site energy production, and/or materials for recycling.

**Performance Standards:**

1. In addition to the information normally required for conditional use permit applications, the application shall include the following information:
  - a. A written description of the proposed operation, including the types and quantities of the materials that would be kept, stored, or processed; the proposed date to begin operations; existing natural features on and adjacent to the site; where materials would be hauled from and to and over what roads; types, quantities, and frequency of use of equipment to move,

process, and haul materials within and to and from the site; whether, which, and how frequently ~~crushing, screening, washing, refueling, fuel storage, asphalt batching, or concrete mixing, sorting, burning, processing, and other activities~~ would be performed on site; description and elevations of all temporary and permanent structures; proposed hours and days of operation; any special measures that will be used for spill prevention and control, dust control, and environmental protection; methods to keep all public roads free of all mud, debris, and dust; assurances that the site will be developed and operated in accordance with all approved plans and all village, county, state, and federal regulations; and a listing of all applicable regulations, licenses, and permits required.

- b. A site or operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing contour lines; existing roads, driveways, entrances, and utilities; existing natural features including lakes, streams, floodplains, wetlands, and shoreland areas; all dwellings and private and municipal wells within 1,000 feet; location of the proposed staging areas, fueling, fuel storage, and material and equipment storage areas; proposed location and surfacing of roads, driveways, and site access points; proposed phasing plan, if any; proposed and fencing of property and gating of access points; proposed locations of stockpiles; proposed location and types of bufferyards, screening berms, and landscaping; and proposed temporary and permanent structures, including scales and offices.
  - c. An erosion control plan, drawn to scale by a professional engineer, meeting all applicable Village, state, and county requirements.
  - d. A reclamation plan clearly depicting proposed stages of restoration, proposed contours following restoration, and proposed land use.
2. The applicant shall obtain all required Federal, State, County permits and licenses, as well as any other Village permits and/or licenses, necessary to operate the facility. The applicant shall maintain requirements set forth by these permits and licenses, and abide any standards set therein, as well as any other ordinances and statutes applicable to the operation. The applicant shall provide copies of all required permits and licenses, and inspections and reports thereunder, to the Village Zoning Administrator immediately upon applicant receipt or in another timeframe specified by the conditional use permit.
  3. All buildings, structures, storage, and activity areas shall be located a minimum of 50 feet from all lot lines.
  4. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders.
  5. Operations shall not involve the on-site holding, storage, processing or disposal of hazardous materials, food scraps, or other vermin-attracting materials.
  6. Outdoor material stockpiles shall be limited to no more than 30 feet in height, except as may be specifically prescribed by the Plan Commission or Extraterritorial Zoning Committee by conditional use permit.
  7. All performance standards in Article 12 shall be met.
  8. The use shall be established and maintained so as to not create a fire hazard as determined by the Fire Inspector.
  9. Trucking activity shall be limited to a maximum number of trips per day as indicated in the Plan Commission/Extraterritorial Zoning Committee approved operational plan. A written request to exceed the maximum number of trips for a specific limited period of time not to exceed 30 days may be approved in advance by the Zoning Administrator, where he or she determines that exceptional circumstances are present. Exceptions exceeding 30 days must first be approved by the Plan Commission or Extraterritorial Zoning Committee.

10. To prevent tracking of mud onto public roads, access driveways for all new and expanded uses shall be hard surfaced within one 100 feet of public roads, unless the adjacent road is not hard surfaced.
11. All public roads to all such uses shall be kept free of all mud, debris, and dust by sweeping or other means.
12. Access to the site shall only be through points designated as entrances on the site or operations plan. Such access points shall be secured when the site is not in operation.
13. The conditional use permit may include limits on the amount of time the use shall remain in operation and/or hours and days of operation.
14. The conditional use permit may include provisions for the upgrade, repair, and maintenance of public roads serving the use, which shall depend on the intensity of the operation and the existing condition and capacity of such roads. A bond or other performance guarantee for such work may be required as part of the conditional use permit provided that a clear relationship is established between the operation and the need for road upgrades, repair, and maintenance.
15. If any public road is damaged or destroyed as a result of any such use, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operation.
16. For all such facilities, including facilities established prior to March 18, 2015, noise levels shall be kept at or below allowable limits under Section 94.12.13. The owner may be required to verify, through use of appropriate equipment and an analysis technique approved by the Zoning Administrator, that such limits are met. If the Zoning Administrator determines that noise requirements under Section 94.12.13 are not met, he or she may enforce such requirements per Section 94.16.19 and/or refer the matter to the Plan Commission or Extraterritorial Zoning Committee. The Commission or Committee may require additional conditions or mechanisms to control noise in a manner that meets ordinance requirements, or may enact proceedings under subsection 17 below.
- ~~16.17.~~ Approval shall be subject to amendment or revocation if non-compliance with approved plans, this subsection, or approval conditions is identified.
- ~~17.18.~~ Approval ~~operations~~ shall be subject to periodic review ~~of the operation~~ to ensure compliance with the conditional use permit, including but not limited to approved limitations over the portion of the lot or parcel where activities may occur.
19. Any conditional use permit issued for such use shall not be transferable to a new owner of the property, except via a new or amended conditional use permit. In other words, the conditional use permit shall not run with the land.
- ~~18.20.~~ Minimum Required Off-Street Parking: one space for each employee on the largest work shift, plus parking spaces for expected patrons of the facility as indicated in the approved conditional use permit.

**SECTION 15:** Section 94.4.08(4) Non-Metallic Mineral Extraction is hereby amended to provide as follows:

**(4) Non-Metallic Mineral Extraction.**

Any land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities. Wisconsin Statutes may limit Village regulation of non-metallic mineral extraction operations associated with projects completed by the Wisconsin Department of Transportation.

**Performance Standards:**

1. In addition to the information normally required for conditional use permit applications, each application for approval of a new or expanded Non-Metallic Mineral Extraction Operation shall include the following information:
  - a. A written description of the proposed operation, including the types and quantities of the materials that would be extracted; proposed dates to begin extraction, end extraction, and complete reclamation; geologic composition and depth and thickness of the mineral deposit; existing use of the land and proposed use after reclamation; existing natural and archaeological features on and adjacent to the site; where extracted materials would be hauled and over what roads; types, quantities, and frequency of use of equipment to extract, process, and haul; types of materials and equipment used or stored on site; whether and how frequently blasting, drilling, mining, crushing, screening, washing, refueling, fuel storage, asphalt batching, or concrete mixing would be performed on site; if washing is to be performed, estimated daily quantity of water required, its source and its disposition; whether excavation will occur below the water table and, if so, how ground water quality will be protected; description and elevations of all temporary or permanent structures; proposed hours and days of operation; any special measures that will be used for spill prevention and control, dust control, or environmental protection; if within the FP district, justification that the use meets all standards associated with such district; and assurances that the site will be developed, operated, and reclaimed in accordance with all approved plans and all county, state, and federal regulations, including a listing of all applicable regulations.
  - b. A site or operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing contour lines; existing roads, driveways, and utilities; existing natural features including lakes, streams, floodplains, wetlands, and shoreland areas; all dwellings and private and municipal wells within 1,000 feet; location of the proposed extraction, staging areas, fueling, fuel storage, and equipment storage areas; proposed location and surfacing of roads, driveways, and site access points; proposed phasing plan, if any; proposed fencing of property and gating of access points; proposed locations of stockpiles; proposed location and types of screening berms, fencing, and/or landscaping; and proposed temporary and permanent structures, including scales and offices.
  - c. An erosion control plan, drawn to scale by a professional engineer, meeting all applicable Village, state, and county requirements.
  - d. A reclamation plan prepared in accordance with the Wisconsin Administrative Code and the Marathon County non-metallic mining reclamation ordinance, and clearly depicting proposed stages of restoration, proposed contours following restoration, depth of topsoil and vegetative cover, and proposed land use.
2. Each Non-Metallic Mineral Extraction Operation, regardless of when established, shall have on file with the Zoning Administrator current operational, erosion control, and reclamation plans covering the subject matter in subsection 1. above, ~~in no case later than 180 days from March 18, 2015~~. Operations established before March 18, 2015 shall operate and restore the site in compliance with previously approved plans and conditions; with the provisions of this chapter; and to assure public safety, minimization of nuisances, and proper restoration of the site, provided that such requirements shall not be economically and technically unreasonable with respect to existing conditions.
- 2.3. The applicant shall obtain all required Federal, State, County permits and licenses, as well as any other Village permits and/or licenses, necessary to operate the Non-Metallic Mineral Extraction operation. The applicant shall maintain requirements set forth by these permits and licenses, and abide any standards set therein, as well as any other ordinances and statutes applicable to the

- operation. The applicant shall provide copies of all required permits and licenses, and inspections and reports thereunder, to the Village Zoning Administrator immediately upon applicant receipt or in another timeframe specified by the conditional use permit.
- ~~3.4.~~ For new and expanded operations, a bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property and public rights-of-way.
- ~~4.5.~~ The conditional use permit may include limits on the amount of time the non-metallic mineral extraction use shall remain in operation and/or hours and days of operation.
- ~~5.6.~~ The conditional use permit may include restrictions and/or hours for blasting, drilling, screening, asphalt batching, washing, and other processing.
- ~~6.7.~~ All mineral extraction activities and washing, crushing and similar processing shall be at least 200 feet from any right-of-way or property line. All ancillary operations, such as offices, parking areas, and stockpiles, shall be at least 100 feet from any right-of-way or property line. This provision shall apply to all Non-Metallic Mineral Extraction operations, including pre-existing ones, except to the extent that buildings, structures, and surface activity areas were closer than specified as of March 18, 2015.
- ~~7.8.~~ To prevent tracking of mud onto public roads, access driveways for all new and expanded Non-Metallic Mineral Extraction ~~O~~perations shall be hard surfaced within one 100 feet of public roads, unless the adjacent road is not hard surfaced.
- ~~8.9.~~ All public roads to all Non-Metallic Mineral Extraction operations, including operations established prior to March 18, 2015, shall be kept free of all mud, debris, and dust by sweeping or other means.
- ~~9.10.~~ Access to all Non-Metallic Mineral Extraction sites shall only be through points designated as entrances on the site or operations plan map or as otherwise legally established. The operator shall secure such access points when the site is not in operation.
- ~~10.11.~~ For all Non-Metallic Mineral Extraction operations, the site and driveway shall be sprayed to control dust, except when the temperature is below freezing. Spraying may also be required in and around the excavation pit to further reduce dust. All operations and sites, regardless of when established, shall also meet the air pollution standards in Section 94.12.14.
- ~~11.12.~~ The conditional use permit may include provisions for the upgrade, repair, and maintenance of public roads serving the use, which shall depend on the intensity of the operation and the existing condition and capacity of such roads. A bond or other performance guarantee for such work may be required as part of the conditional use permit provided that a clear relationship is established between the operation and the need for road upgrades, repair, and maintenance.
- ~~12.13.~~ If any public road is damaged or destroyed as a result of any Non-Metallic Mineral Extraction operation, including operations established prior to March 18, 2015, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operation.
- ~~13.14.~~ On-site bulk fuel storage areas and areas for fueling of equipment shall be located in accordance with the Wisconsin Administrative Code and State Statutes. A conditional use permit granted for a new or expanded operation may also require that such areas, facilities, and equipment be located above the water table to minimize the potential for groundwater contamination.
- ~~14.15.~~ If blasting, drilling, or other processing is requested and approved as part of the conditional use permit, additional standards or conditions may be applied to the conditional use permit with relation to frequency, dust, noise and vibration levels, notice to neighbors, pre-inspection of

neighboring basements and wells, and claims procedures in accordance with the Wisconsin Administrative Code.

16. All approved blasting shall be conducted in accordance with the provisions of Wis. Admin. Code Chapter SPS 307. The owner shall notify the Village Zoning Administrator, and any others as specified by law or under the conditional use permit, of blasting days and times at least three (3) days in advance of such blasting. The owner may be required to verify, such as through hiring a professional engineering firm, that vibrations and other impacts associated with actual blasting activities are within the limits prescribed by Wis. Admin. Code and the conditional use permit.
- ~~15.~~17. For all Non-Metallic Mineral Extraction operations, including operations established prior to March 18, 2015, noise levels shall be kept at or below allowable limits under Section 94.12.13. The owner may be required to verify, through use of appropriate equipment and an analysis technique approved by the Zoning Administrator, that such limits are met. If the Zoning Administrator determines that noise requirements under Section 94.12.13 are not met, he or she may enforce such requirements per Section 94.16.19 and/or refer the matter to the Plan Commission or Extraterritorial Zoning Committee. The Commission or Committee may require additional conditions or mechanisms to control noise in a manner that meets ordinance requirements, or may enact proceedings under subsection 20 below.
- ~~16.~~18. For Non-Metallic Mineral Extraction operations established or expanded after March 18, 2015, the area of extraction shall be completely enclosed by a security fence meeting applicable requirements of Section 94.12.03, or maintained at a slope not to exceed 3:1.
19. The owner of each Non-Metallic Mineral Extraction operation, regardless of when established, shall maintain insurance against liability for personal injury, death, or property damage caused by the maintenance and/or operation of the Non-Metallic Mineral Extraction operation and accessory structures. Such insurance policy shall have with a single combined limit of not less than \$1,000,000.00 per occurrence and contain a provision that it may not be canceled or materially modified without the approval of the Village. The owner shall provide the Zoning Administrator with a certificate of such insurance before issuance of a building permit, upon each policy renewal thereafter, and otherwise upon written request.
20. Upon written inquiry from the Village, each Non-Metallic Mineral Extraction ~~Operation~~operation, regardless of when established, shall have the burden of presenting credible evidence establishing the continued compliance with applicable provisions of this subsection (4), and approved plans and conditions placed upon the conditional use permit or any other prior or subsequent Village approval. Failure to establish compliance with applicable provision, the approved plans, and all conditions placed upon the conditional use permit or other Village approval shall be grounds for revocation of the permit. If the Village determines that it is necessary to consult with a third party to ascertain compliance, all costs and expenses associated with such consultation shall be borne by the owner of the Non-Metallic Mineral Extraction ~~Operation~~operation. Failure to pay such costs and expenses or provide information requested by the Village shall be grounds for revocation of the conditional use permit or other Village approval, and/or enforcement under the provisions of this chapter.
- ~~17.~~21. Any conditional use permit issued for a Non-Metallic Mineral Extraction operation shall not be transferable to a new owner of the property, except via a new or amended conditional use permit. In other words, the conditional use permit shall not run with the land.
- ~~18.~~22. Within the FP district, such use shall also be subject to the following additional limitations:
- a. The operation complies with subch. I of Wis. Stat. § 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under §§ 295.13 or 295.14, and with any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.

- b. The operation and its location in the FP district are consistent with the purposes of that district.
- c. The operation and its location in the FP district are reasonable and appropriate, considering alternative locations outside the FP district, or are specifically approved under state or federal law.
- d. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
- e. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

49-23. Minimum Required Off-Street Parking: one space per each employee on the largest work shift.

**SECTION 16:** Section 94.4.09(2) Detached Accessory Structure (for Residential Use) is hereby amended to provide as follows:

**(2) Detached Accessory Structure (for Residential Use).**

An accessory structure serving a residential principal land use and building (e.g., a house or apartment building), but not attached to the principal building. Includes detached residential garages and carports (where permitted) designed primarily to shelter parked passenger vehicles, utility sheds as defined in Section 94.17.04, private recreation structures such as gazebos, and detached elevated decks or walkways associated with residential uses. All structures that are utilized for Agricultural Land Use Types (as listed in Section 94.4.03), that exceed 2,000 square feet in floor area, are within a rural and open space or RM zoning district, or are on parcels over 10 acres in area shall instead be regulated as a principal structure, and not as a “Detached Accessory Structure.”

**Figure 4.09(2): Detached Accessory Structure (for Residential Use) Allowances**

Principal Land Use	Zoning District	Maximum Permitted Type and Quantity of Detached Accessory Structure <sup>1</sup>	Minimum Distance from Other Buildings <sup>2</sup>
Single-Family Detached Residence	FP, RM, AR and RR-5	Maximum of five <sup>3</sup>	10 feet
	Any other zoning district	1 Detached Garage; and 1 Utility Shed; and 1 Gazebo	10 feet
Two-Family Residence	Any district where principal building located	1 Utility Shed per Housing Unit	10 feet
Multi-Family Residence	Any district where principal building located	*As approved through Site Plan Procedures	10 feet
Manufactured Home or Mobile Home	MH	1 Utility Shed <sup>4</sup> and 1 Carport <sup>5</sup> or 1 Detached Garage <sup>6</sup>	5 feet from the accompanying home and 10 feet from all other buildings

<sup>1</sup> The terms detached garage, utility shed, gazebo and carport are defined in Section 94.17.04.

<sup>2</sup> See Figures 5.01(1) and 5.01(2) for maximum floor areas, maximum lot coverage, minimum property line setbacks, and maximum heights relating to detached accessory buildings.

<sup>3</sup> Except where approved by the Plan Commission as part of an approved site plan.

<sup>4</sup> Each Utility Shed within the MH zoning district shall not be greater than 144 square feet in floor area with a 5-foot building separation.

<sup>5</sup> Each Carport within the MH zoning district shall not be greater than 200 square feet in floor area with a maximum width of 10 feet.

<sup>6</sup> Each Detached Garage within the MH zoning district shall not be greater than 344 square feet in floor area with a maximum width of 14 feet.

### **Performance Standards:**

1. No Detached Accessory Structure (for Residential Use) shall be constructed on any lot prior to establishment of a principal use on that same lot.
2. Except within the AR and RM zoning districts, no hoop building, tarp shed, or carport shall be a permitted as a Detached Accessory Structure (for Residential Use), except on a temporary basis for a maximum of five consecutive days within a 30-day period for a special event such as a sale on the property following issuance of a temporary use permit.
3. The roof of each Detached Accessory Structure (for Residential Use), including those permitted under standard 2, shall be designed to withstand a minimum of a 40-pounds per square foot of snow load.
4. All driveways built to serve Detached Accessory Structures (for Residential Use) are subject to associated standards under Section 94.12.08. Each Detached Accessory Structure (for Residential Use) shall be served by a driveway connected to a public road if used to shelter a motor vehicle or trailer, or where vegetative ground cover to an overhead door cannot be maintained in the determination of the Zoning Administrator or Building Inspector.
5. The exterior walls of each Detached Accessory Structure (for Residential Use) shall be sided with wood, masonry, concrete, stucco, Masonite, horizontal vinyl or metal lap siding, or similar material approved by the Zoning Administrator. Vertical siding is also allowed in all RM and rural and open space zoning districts aside from RR-2. All exterior siding shall extend to the top of the foundation. If the top of the foundation is below grade, the siding shall extend to the ground.
6. Roofs of Detached Accessory Structures (for Residential Use) shall be surfaced with any of the following materials: wood shakes; asphalt, composition, or wood shingles; clay, concrete or metal tiles; slate; built-up gravel materials; architectural standing seam metal roofing; hidden fastener metal roofing; rubber membrane (for flat roofs or roofs with no greater than a 1:12 pitch); or similar material approved by the Zoning Administrator.
7. Pole or ladder constructed buildings shall be permitted only within the RM and rural and open space zoning districts, except for the RR-2 district, and shall be subject to subsections 5. and 6. of this section.
8. No Detached Accessory Structure (for Residential Use) shall involve or include the conduct of any business, trade, or industry, except for home occupations and residential businesses as described and limited elsewhere in this Article 4.
9. No Detached Accessory Structure (for Residential Use) shall be occupied as a dwelling unit or otherwise used for human habitation, unless it has first been approved for such use by the Building Inspector and meets all applicable requirements of the State for a dwelling and under Section 94.4.09(8).
10. In all residential, RR-2 and non-residential and mixed-use zoning districts, and for all Multi-family Residences regardless of district, no portion of a Detached Accessory Structure (for Residential Use) shall occupy any land between the principal building on a residential lot and a

street right-of-way, except where approved by the Plan Commission as part of an approved site plan.

11. See Figures 5.01(1) and 5.01(2) for other setback, floor area, building height, and coverage standards associated with Detached Accessory Structures in residential zoning districts. Maximum floor area and total building coverage shall not exceed the maximums set forth in Figure 5.01(1), except as allowed by a conditional use permit, subject to the procedures in Section 94.16.06 and all of the following standards for the Detached Accessory Structure ~~are met~~:
  - a. Not taller or have more floors above ground level than the principal building.
  - b. Has a similar roof slope and overhang width as the principal building. If the principal building has multiple roof slopes and/or overhang widths, the roof slopes and widths of the accessory structure shall reflect those principal building roof characteristics that are most visible from the public street.
  - c. Shingles or other roof surface shall be of a similar material and color as the roof surface of the principal building.
  - d. Siding shall be of a similar material and color as the siding on the principal building, except that where the siding on the principal building is stone or brick, another compatible material may be selected.
  - e. May not be located further toward the front lot line than the principal building.
  - f. Shall meet all setback requirements normally applicable to principal buildings per Figure 5.01(2).

12.

~~12. Detached garages serving For Multi-Family Residences, one or more detached garage may be allowed by a conditional use permit, subject to the procedures in Section 94.16.06 and all of the following standards for the Detached Accessory Structure are met:~~

~~13. No detached garage shall be located between any residential building and the public street right-of-way.~~

~~14. Each detached garage shall be screened from such rights-of-way via decorative fences, walls, buildings, landscaping, or some combination.~~

~~shall be accompanied by Aa bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided between the garage and (i) the public right-of-way and (b) a property line abutting along all property borders abutting any residentially zoned property, between any detached garage and the property line.~~

- ~~a. The development shall include other amenities to compensate for the visual impact and loss of green space associated with the detached garage(s), such as a playground, clubhouse, or other recreational amenity geared to the needs of the expected residents and stormwater management and infiltration approaches exceeding normal requirements.~~

**SECTION 17:** Section 94.4.09(3) Family Day Care Home (4 to 8 Children) is hereby amended to provide as follows:

**(3) Family Day Care Home (4 to 8 Children).**

~~An Occupied residences in which a qualified person(s) provides child care for four to eight children. Does not include a child provided care by his or her legal guardian or his or her parent, grandparent, great-grandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt of a child, whether by blood, marriage, or legal adoption. The care of less fewer than four children is not subject~~

to the regulations of this Chapter. ~~See also Wis. Stat. § 66.1017(1)(a).~~ These shall not be considered “Home Occupations” or “Residential Businesses” for purposes of this Chapter.

**Performance Standards:**

1. ~~Facility must be licensed by the State and follow rules and procedures in Wis. Stats. § 48.65 and 66.1017(1)(a) and DCF 202, Wis. Admin. Code, including but not limited to physical plant, equipment, and open space requirements.~~
2. ~~Each Intermediate Family Day Care Home must be conducted by one or more members of the immediate family residing on the premises, with no outside employees conducting care on site.~~
- 4-3. ~~The use must meet all performance standards associated with the type of dwelling in which it is located.~~
4. ~~There shall be no exterior alterations to the dwelling that change the character thereof as a dwelling.~~

**SECTION 18:** Section 94.4.09(4) Intermediate Day Care Home (9 to 15 Children) is hereby amended to provide as follows:

**(4) Intermediate Day Care Home (9 to 15 Children).**

~~An occupied residence~~ in which a qualified person(s) provides child care for 9 to 15 children. ~~Facility must be licensed by the State and follow rules and procedures set in~~ See also Wis. Stat. § 48.65. These shall not be considered “Home Occupations” or “Residential Businesses” for purposes of this Chapter.

**Performance Standards:**

1. ~~Facility must be licensed by the State and follow rules and procedures in Wis. Stat. § 48.65 and DCF 202 and 251, Wis. Admin. Code, as applicable, including but not limited to physical plant, equipment, and open space requirements.~~
- 4-2. ~~Each Intermediate Day Care Home must be conducted by one or more members of the immediate family residing on the premises.~~
3. ~~Subject to Plan Commission or Extraterritorial Zoning Committee approval, an Intermediate Day Care Home may employ up to one employee living off-site.~~
4. ~~The Plan Commission or Extraterritorial Zoning Committee may impose additional limitations on the percentage of the property and/or buildings that may be devoted to the use.~~
5. ~~The use must meet all performance standards associated with the type of dwelling in which it is located.~~
6. ~~There shall be no exterior alterations to the dwelling that change the character thereof as a dwelling, except that signage shall be as permitted for Intermediate Day Care Homes in Article 13.~~
7. ~~Each Intermediate Day Care Home shall provide for drop-off and pick-up of children in a manner that the Plan Commission or Extraterritorial Zoning Committee determines is safe and not impactful to traffic movement and the character of the neighborhood.~~
8. ~~No dwelling unit in a Two-family Residence or Multi-family Residence, and no mobile or manufactured home, may serve as an Intermediate Day Care Home.~~
9. ~~No Intermediate Day Care Home shall endanger the public health and safety or interfere with the enjoyment of other parcels in the neighborhood.~~
10. ~~No residence may serve as both an Intermediate Day Care Home and a Home Occupation or Residential Business.~~

2-11. Each conditional use permit for an Intermediate Day Care Home shall run with the applicant and not with the land.

**SECTION 19: Section 94.4.09(5) Home Occupation is hereby amended to provide as follows:**

**(5) Home Occupation.**

A low-impact economic activity performed within a dwelling unit and/or its attached garage, where the principal use of the lot is the residence of the person conducting the economic activity.

**Performance Standards:**

1. The occupation shall be conducted only within the dwelling and/or an attached garage.
2. The area used to conduct the Home Occupation shall not exceed 25 percent of the improved square footage of the dwelling unit, excluding the garage, and shall not exceed 25 percent of the area of any floor.
3. A Home Occupation shall be undertaken only by a member of the immediate family residing on the premises.
4. There shall be no exterior alterations to the dwelling that change the character thereof as a dwelling, except for signage. Signage shall be as permitted for Home Occupations in Article 13.
5. No activity, materials, goods or equipment incidental to the Home Occupation shall be externally visible, except for one licensed car, van, or light duty truck used for the Home Occupation and external storage normally allowed for the principal residential use.
6. No Home Occupation shall endanger the public health and safety or interfere with the enjoyment of other parcels in the neighborhood.
7. No mechanical or electrical equipment may be used other than such as customarily incidental to domestic use or that creates any disturbance at the property line.
8. The use shall not involve the use of commercial vehicles for more than the occasional delivery of materials to or from the premises.
- ~~8.9. No occupied residence may serve as both a Home Occupation and a Family or Intermediate Day Care Home, except if approved by conditional use permit and meeting the performance standards for a Residential Business use.~~
- ~~9.10. No Home Occupation, combined with the principal residential use of the property, shall generate more than 15 vehicle trips per day.~~

**SECTION 20: Section 94.4.09(6) Residential Business is hereby amended to provide as follows:**

**(6) Residential Business.**

Compared to a “Home Occupation,” a higher-impact economic activity performed in a dwelling unit, its attached garage, and/or its “Detached Accessory Structure (for Residential Use),” where the principal use of the lot remains the residence of the person primarily conducting the economic activity.

**Performance Standards:**

1. A Residential Business may be conducted within the dwelling, an attached garage, and/or in a permanent Detached Accessory Structure (for Residential Use).
2. The area used to conduct the Residential Business shall not exceed 25 percent of the improved square footage of the principal dwelling unit, excluding any attached garage.

3. The Plan Commission or Extraterritorial Zoning Committee may impose additional limitations on the percentage of the property and/or buildings that may be devoted to the occupation.
4. Subject to Plan Commission or Extraterritorial Zoning Committee approval, a Residential Business may employ up to one employee living off-site, provided an immediate family member residing on site is the principal owner and operator of the business.
5. No activity, materials, goods or equipment incidental to the Residential Business shall be externally visible, except for one licensed car, van, or light duty truck used for the Residential Business and external storage normally allowed for the principal residential use.
6. No Residential Business may include retail sales other than items produced or value added on site. The Plan Commission may prohibit or limit the on-site sale of items or products produced or enhanced on the premises.
7. No Residential Business shall endanger the public health and safety or interfere with the enjoyment of other parcels in the neighborhood.
8. No mechanical or electrical equipment may be used that creates any disturbance at the property line.
9. Signage shall be as permitted for Residential Businesses in Article 13.
- ~~9-10.~~ No occupied residence may serve as both a Residential Business and an Intermediate Day Care Home.
- ~~10-11.~~ Each conditional use permit for a Residential Business shall run with the applicant and not with the land.

**SECTION 21:** Section 94.4.09(11) is hereby amended to provide as follows:

(11) **Company Provided On-Site Amenities Recreation or Child Care.**

Any accessory use recreational or child care facility located on the same site as a principal land use, ~~and that is with such accessory use providing an amenity or benefit~~ reserved solely for the use of company employees, their families, and their occasional guests. Such accessory uses may be devoted to recreation, health, wellness, child care, training, and other similar employee and guest support activities as determined by the Zoning Administrator. The Zoning Administrator may also apply to a "Company Provided On-Site Amenities" use those performance standards in this Article that are normally applicable when such use is a principal use of a premises.; and Such uses may require further licensin ~~ged as may be required~~ by the State.

**SECTION 22:** Section 94.4.09(16) Outdoor Alcohol Area is hereby amended to provide as follows:

(16) **Outdoor Alcohol Area.**

Outdoor Alcohol Areas are those that serve or allow for the consumption of alcohol outside of the principal structure, generally associated with an approved "Indoor Commercial Entertainment" use such as a restaurant, tavern, bar, and/or live music venue, but possibly also certain "Indoor Institutional" uses and other land uses. Examples of Outdoor Alcohol Areas include, but are not limited to, beer gardens and outdoor dining and recreational areas (e.g., volleyball courts) that allow the consumption of alcohol.

**Performance Standards:** The following standards shall apply to all Outdoor Alcohol Areas established or expanded after March 18, 2015, except as specifically indicated below:

1. In the zoning districts where they are allowed, Outdoor Alcohol Areas that are proposed to be within 300 feet of residentially zoned property and/or propose hours different than subsection 6 shall first require a conditional use permit, and all other Outdoor Alcohol Areas shall be a permitted use. In either case, all of the following standards shall be met.
- 4.2. Non-temporary Outdoor Alcohol Areas shall be set back a minimum of 100 feet from any residential use in any zoning district and provide a bufferyard meeting the requirements of Section 94.11.02(3)(d) along all property borders abutting residentially zoned property.
- 2.3. The maximum allowable area for an Outdoor Alcohol Area shall not exceed 50 percent of the indoor gross floor area where accessory to a principal “Indoor Commercial Entertainment” use.
- 3.4. As may be limited by State Statute or rule, the exterior of the Outdoor Alcohol Area may shall be required to be enclosed with a fence or wall, which shall be decorative except for temporary areas as determined by the Zoning Administrator as limited by State Statute. Emergency exits shall be provided in accordance with applicable Fire and Building Codes.
- 4.5. Except as a temporary use or in conjunction with a recreational use, an Outdoor Alcohol Area must be located on an impervious surface or hard all-weather decking material. No parking lot or driveway shall be used for any Outdoor Alcohol Area established or expanded after February 23, 2018, unless the pavement is professionally replaced or overlaid with a raised non-asphaltic material to establish the Outdoor Alcohol Area as a protected and deliberately designed space for persons outside of vehicles.
- 5.6. Except where otherwise specified by the conditional use permit, Outdoor Alcohol Areas shall not open earlier than 7 a.m. or remain open later than 11 p.m. on any day.
- 6.7. Except where otherwise limited by conditional use permit, Outdoor Alcohol Areas may play amplified music, whether live or recorded and may have speakers, microphones, televisions, or other audio or video devices provided all noise standards established in Section 94.12.13 are met.
- 7.8. Outdoor Alcohol Areas shall at all times comply with all applicable regulations concerning accessibility and nondiscrimination in the providing of service.
- 8.9. Conditional use permit All applications for conditional use permit or site plan approval for an Outdoor Alcohol Area shall include operational details and site plan details addressing each of the requirements above in addition to the requirements for site plan review in Section 94.16.09. Any application for this use directly abutting a public right-of-way, parking lot, or driveway shall include details regarding the specific location of street, parking lot, or driveway improvements, and how the activity will be kept off of the street, parking lot, or driveway.
- 9.10. Each Outdoor Alcohol Area shall meet all state and local permit and license requirements before commencing operations and at all times during operation, including but not limited to a local liquor license and a Wisconsin Department of Health and Family Services to operate said establishment pursuant to Wis. Stat. Chapter 254.
- 40.11. Minimum Parking Off-Street Requirements: one space for every three persons at the maximum capacity of the Outdoor Alcohol Area. No conversion of space formally utilized for parking spaces to the Outdoor Alcohol Area shall reduce the number of parking spaces serving all uses on the premises below, or further below, the minimums under this chapter.

SECTION 23: Figure 5.01(1) is hereby amended to provide as follows:

**Figure 5.01(1): Rural, Open Space and Residential District Lot Dimension and Intensity Standards**

Zoning District	Minimum Lot Area	Minimum Lot Width (ft)	Minimum Public Street Frontage (ft)	Maximum Total Building Coverage	Maximum Accessory Structure Floor Area (sf) (a)	Minimum Landscape Surface Ratio (LSR)
FP Farmland Preservation	20 acres	300	<del>400</del> 60	N/A	N/A	N/A
AR Agriculture and Residential	20 acres(f)(g)	300(f)	<del>400</del> 60	N/A	1,600 <sup>(h)</sup>	N/A
RR-2 Rural Residential 2 Acres	2.0 acres	150	<del>80</del> 60	20%	1,600	N/A
RR-5 Rural Residential 5 Acres	5.0 acres	200	<del>80</del> 60	20%	1,600 <sup>(h)</sup>	N/A
PR Parks and Recreation	N/A	N/A	N/A	10%	N/A	75%
SF-L Single Family – Large Lot	20,000 sf	100	50	30%	1,000	50%
SF-S Single Family – Small Lot	10,000 sf	80	40	40%	800	40%
2F Two Family Residential (c)	10,000 sf	80 (b)	40	40%	800	40%
MF Multi Family Residential (d)	3,000 sf/dwelling unit	100 (b)	40	40%	10% of Lot Area	30%
MH Manufactured Home	5,000 sf/home (e)	50	N/A	40%	350	30%

SECTION 24: Figure 5.02(1) is hereby amended to provide as follows:

**Figure 5.02(1): Non-residential District Density and Intensity Standards**

Zoning District	Minimum Lot Area	Minimum Lot Width (ft)	Minimum Public Street Lot Frontage (ft)	Minimum Landscape Surface Ratio (LSR)	Max Floor Area Ratio (FAR) (a)
<b>INT Institutional</b>	20,000 sf	80	40	20%	0.5
<b>B-1 Neighborhood Business</b>	20,000 sf	80	40	20%	0.5
<b>B-2 Highway Business</b>	30,000 sf	80	40	20%	1.0
<b>B-3 General Business</b>	30,000 sf	80	40	20%	0.5
<b>BP Business Park</b>	40,000 sf	100	50	20%	1.5
<b>LI Light Industrial</b>	30,000 sf	80	40	15%	0.5
<b>GI General Industrial</b>	40,000 sf	100	50	10%	1.0
<b>RM Rural Mix</b>	20 acres (b)	300	<del>100</del> 60	N/A	0.1

(a) Does not include structured parking or underground parking.  
 (b) Parcel size in the RM district to be calculated based on gross acreage, including roads and navigable waters within the deeded parcel. Each such parcel meets the 20-acre minimum, even if net acreage is less than 20 acres following the removal of roads and navigable waters, if such removal does not reduce the gross acreage by greater than 15% for corner parcels or 10% for all other parcels.

**SECTION 25:** Section 94.10.03(3) is hereby amended to provide as follows:

- (3) **When Licensed Architect Required.** All proposed new construction and ~~building~~ additions to multi-family residential and non-residential buildings shall require building elevations stamped by an architect licensed in the State of Wisconsin, except for buildings devoted to a storage or disposal land use listed in Section 94.4.06, a transportation land use in Section 94.4.07, an industrial land use in Section 94.4.08, or ~~as unless~~ otherwise approved by the Plan Commission or Extraterritorial Zoning Committee. All such elevations shall demonstrate compliance with Section 94 by showing the calculated percentages of all proposed exterior materials.

**SECTION 26:** Section 94.10.03(7) is hereby amended to provide as follows:

- (7) **Approved Materials.** Material selection shall relate to the prevailing material already used on recently constructed buildings in the area, or to a different character if identified in the Village's Comprehensive Plan, the examples in Figures 10.03(3) and (4), or unique requirements associated with any D Design overlay district applicable to the site. In addition:
- (a) All new construction shall have a façade that consists of 60 percent of brick, native stone, tinted and/or textured concrete masonry units, glass, copper panels, stainless steel, brushed nickel, stained natural woods (as provided in subsection (c)) or other comparable material as approved by the site plan approval authority, except as provided below:
    - 1. On all new commercial construction, for non-public facing façades, the requirement in subsection (a) shall remain, but at 40 percent.
    - 2. On all new industrial construction, 60 percent of all non-expansion facades abutting a public right-of-way and the extension of 20 feet or 10 percent of the length of the side, whichever is greater, on either side shall meet the requirements of subsection (a). The remaining sides shall be matching masonry brick, stone or concrete panel for the first 4 feet from the finished floor elevation where abutting an all-weather surface and/or not screened by landscaping.
    - 3. On all new industrial construction, the site plan approval authority may reduce the requirement in subsection (a) to 40 percent so long as the property is not ~~(i)~~ abutting Schofield Avenue, Camp Phillips Road, Weston Avenue, Ross Avenue and/or State Highway 29 or (ii) within the Weston Business and Technology Park or any additions thereto.
  - (b) Vinyl, Dryvit, Exterior Insulation Finishing Systems (EIFS), plaster products, and metal panels shall not be counted towards the 60 percent requirement in subsection (a), except for (i) architecturally finished and decorative versions of such materials if approved by the site plan approval authority and (ii) metal panels without exposed fasteners that are copper, brushed nickel, stainless steel, or other comparable material approved by the site approval authority.
  - (c) Natural wood, including treated wood, shall be painted or stained. The site plan approval authority may authorize the use of cedar, redwood, or other naturally weather resistant wood species to be untreated.
  - (d) Facades with an uninterrupted length of 200 feet or more shall include the use of two or more colors or employ the use of protruding or intruding exterior walls in a way that breaks and reduces the monotony.
  - ~~(e)~~ (e) Multifamily dwellings are required to have architectural and trim details such as frieze board, vertical corner trim, drip caps, gable vents, shingles and shakes.
  - ~~(e)~~ (f) Commercial buildings are required to be designed to provide human scale, interest, and variety, which shall be accomplished by incorporating at least two of the following techniques:

1. Variation in building form, such as recessed or projecting bays, shifts in massing or distinct roof shapes.
2. Emphasis on building entries through projecting or recessing forms (e.g., cover entries or columns), details or material differences.
3. Variation in materials, material modules, express joints and details, surface relief, and/or texture to break up building forms and walls.

(f)(g) \_\_\_\_\_ Where concrete block or masonry is used on industrial buildings, such material shall be painted with no less than two coats of paint, stain, or shall be a decorative pattern or treatment as approved by the site plan approval authority.

**SECTION 27:** Section 94.10.03(8) is hereby amended to provide as follows:

- (8) **Materials—Use of Metal and Other Non-Decorative Materials.** No exposed façade shall be faced with a material that presents an unfinished appearance to the public and surrounding properties. The following exterior construction materials shall not be exposed along front or street side yard facing building facades: non-decorative concrete block, cinder block, or concrete foundation walls (except for the first two feet above grade), non-decorative plywood, chipboard, T1-11, asphaltic siding, vinyl siding less than 0.044 inches of thickness, any material using non-concealed fastener systems, metal sheets not designed for commercial exterior walls, paneling, and ~~material using exposed fastener systems, metal sheets, panels~~ or other similarly inferior materials as determined by the site plan approval authority. No façade of any principal building intended for a residential, institutional, or commercial use as listed in Figure 3.04 shall be sided with metal sheets or panels. Any accessory non-residential building sided with metal sheets or panels shall be fully screened from the public rights-of-way. Pole buildings shall be prohibited in any residential, commercial, and industrial zoning district.

**SECTION 28:** Section 94.10.03(14) is hereby amended to provide as follows:

- (14) **Building Orientation.** All buildings shall be sited to present their most desirable façade(s) to adjacent public rights-of-way. Garages and loading docks shall be designed as integral elements to the building and site, and shall not be the dominant visual element from public rights-of-way unless pre-existing site or building conditions would not allow this. For multi-family residential buildings, achieving this standard may require techniques such as rear- or side-loaded garages, or front-loaded garages that are fully or partially recessed into the main body of the building. All new loading docks shall be screened from public view to the extent practical. No truck canopies with visible wall hangers are permitted.

**SECTION 29:** Section 94.11.02(1) is hereby amended to provide as follows:

- (1) **Applicability.** Except as exempted elsewhere in this Chapter, Any use for which site plan approval is required under Section 94.3.03(10) shall provide landscaping in accordance with the requirements of this Section, including expansion, renovation, and redevelopment of existing buildings and sites. Where the predecessor zoning ordinance, or a Village zoning decision under that ordinance, required landscaping which ~~have~~has not been satisfactorily installed or maintained, the property owner shall be required to install or restore such landscaping. Where the appropriate site plan approval authority under Section 94.16.09 determines that full compliance with the requirements of this Section is impractical, the approval authority may require compliance to the extent it determines practical. Such a determination of “impracticality” may be based on one or more of the following conditions:
  - (a) Preexisting buildings or impervious services, and/or insufficient lot area, do not provide sufficient green space for full compliance.

- (b) Village stormwater management or easement requirements do not provide sufficient area for full compliance.
- (c) A redevelopment project would otherwise be infeasible, based on financial information provided by the applicant.
- (d) Full compliance would result in a plan in which landscaping would, by maturity, interfere with or compete with one another for survival and may therefore require removal at a later date.
- (e) Where a proposed ~~addition~~ expansion, plus any other expansions in the previous five years, does not exceed 50% ~~or of the original~~ building or hard surfaced area before such expansion(s) size. In such cases, the quantitative landscaping standards shall be met in proportion to the size of the addition as compared to the original building or hard surfaced area.

**SECTION 30:** Section 94.11.02(2) is hereby amended to provide as follows:

- (2) **Required Landscape Plan and Preparer Qualifications.** All proposed landscape plantings to be located on the subject property shall be depicted on a landscape plan as to their location, type, and size at time of planting and maturity. All landscape plans required under this Article shall be prepared in accordance with landscaping best practices and by a licensed landscape architect, certified landscape designer, or another professional or individual skilled in landscape design ~~as determined by the Zoning Administrator. The Zoning Administrator shall have the right to reject any landscape plan that does not follow best practices and/or is not prepared by a person with such credentials or skills.~~

**SECTION 31:** Section 94.12.03(3)(d) is hereby amended to provide as follows:

- (d) Fences within all Non-residential Zoning Districts, Except for RM and for Residential Fences Located in Such Districts.
  - 1. Fences, walls, and continuous hedges not exceeding ten feet in height are permitted. Such fence, wall, or continuous hedge shall be set back a minimum of two feet from any front or street side property line abutting a public street, but may be installed up to the property line of interior side and rear yards.
  - 2. Fences, walls, or continuous hedges may be required for screening particular land uses per Article 4 and Section 94.11.02(3)(d).

**SECTION 32:** Section 94.12.06(2) Exterior Storage Standards for Multi-Family Dwellings and Non-Residential Facilities and Properties is hereby amended to provide as follows:

- (2) **Exterior Storage Standards for Multi-Family Dwellings and Non-Residential Facilities and Properties.**
  - (a) All exterior (outside) storage of recyclable and non-recyclable containers, within multi—family dwellings and non-residential facilities and properties (all land uses other than “Single-Family Detached Residence”, “Two-Family Residence”, and “Agricultural Use”), shall be placed and maintained within a three-sided enclosure and enclosed on the fourth side with a gate to contain garbage, refuse, waste, recycling, and other debris. The enclosure shall further meet all of the following requirements:
    - 1. Subject to accessory structure setback requirements included in Figures 5.01(2) and 5.02(2).

2. Must be at least 10 feet from any combustible walls, openings, or combustible roof eave lines, as per NFPA 1 (most recent addition).
  3. Not placed in any minimum required front or street side yard.
  4. Must be placed to the interior side or rear of the principal structure, unless such a location is not possible in the determination of the Zoning Administrator.
  5. Must be a minimum of 30-feet long by 10-feet wide.
  6. Must be 8-feet tall.
  7. Placed on a permanent hard surface.
  8. The recyclable and non-recyclable containers shall be fully screened and not visible from public rights-of-way and adjacent properties from the ground level; the screening shall consist of a solid fence constructed of masonry, commercial grade wood fencing, or other commercial grade material approved by the Zoning Administrator.
  9. This fence shall be constructed in such a manner so as to prevent paper, debris, and other refuse material from being blown through the fence.
  10. The Village's Refuse and Recycling Site Application must be submitted and approved by the Village prior to installation. The owner shall provide proof to the Zoning Administrator, from the owner's contracted solid waste/recycling hauler, that the design provides safe and reasonable access to the hauler to provide the contracted service.
- (b) ~~The site plan approval authority, or Zoning Administrator in the case where the project does not require site plan approval under this chapter, may waive or modify one or more requirements in subsection (a). Such waiver or modification may be provided only if the authority or Administrator determines that the intent of the ordinance requirement(s) will be met in another way and that the reduction will not harmis not contrary to the public interest, the purpose of this chapter, and the purpose of the associated zoning district. The owner or designated agent may apply for a special exception from the Zoning Administrator regarding the minimum size, location, shape, and style of enclosure specified in subsection (a). The Zoning Administrator may grant a special exception if the applicant clearly shows that the ordinance requirement creates an unnecessary hardship and granting the special exception will not harm the public interest or undermine the purpose of this Chapter.~~
- (c) The exterior storage of non-recyclable and recyclable material, and associated containers and enclosures, which are not in compliance with this subsection as of March 18, 2015, shall have one year from such date to comply.

**SECTION 33:** Section 94.12.09(2) is hereby amended to provide as follows:

- (2) **Depiction on Required Site Plan; Parking Lot Permit.** Any and all proposed parking and traffic circulation areas shall be depicted as to their location and configuration on the site plan, if a site plan is required under Section 94.3.03(10). For any construction, expansion, ~~or reconstruction, resurfacing, reconfiguration, or restriping~~ of a parking lot with six or more parking spaces, where a site plan is not required under Section 94.3.03(10), a parking lot permit shall instead be required. Such permit shall be issued by the Zoning Administrator, following submittal of a completed application form, all required material under such form, payment of the associated fee per the Village's fee schedule, and the Zoning Administrator's determination of compliance with applicable requirements of this Chapter.

**SECTION 34:** Section 94.12.09(6) is hereby amended to provide as follows:

(6) **Off-Street Parking and Traffic Circulation Design Standards.**

- (a) **Surfacing.** All off-street parking, driveway, and traffic circulation areas constructed or expanded after March 18, 2015, including residential driveways and former gravel surfaces proposed for refurbishment, shall be surfaced and continuously maintained with a hard surface as defined in Section 94.17.04, except that gravel, crushed stone, or a similar material is permitted for:
1. Agricultural uses.
  2. Driveways in rural and open space zoning districts, where the intersecting road is gravel, or the driveway is greater than 50 feet in length.
  3. Emergency access driveways where required or approved by the Zoning Administrator.
  4. Lightly traveled service drives for non-residential uses where included as part of an approved site plan under Section 94.16.09, and where in the Village at least the first 50 feet connecting to a public street is hard surfaced.

In cases where gravel or crushed stone is permitted under one of the above exceptions, the portion of the driveway within the public street right-of-way shall be hard surfaced, except where serving agricultural uses, where the intersecting public road is gravel surfaced, or for uses outside of non-residential and mixed-use zoning districts in the ETZ area. Where any gravel or crushed stone driveway exists, the Village Public Works Director may require a hard surface tracking pad adjacent to the public street right-of-way, or other remedial action, if he or she determines that gravel or stone is being tracked into the public street.

- (b) **Marking.** All hard-surfaced areas intended for six or more parking stalls shall be striped in a manner that clearly indicates the boundaries of required parking spaces.
- (c) **Curbing.** For developments that require site plan approval under this Chapter, construction of concrete curb and gutter shall be required around all parking lots, driveways, other vehicular access areas, and landscaped islands and peninsulas within such areas. The site plan approval authority may modify this standard in one or more of the following circumstances:
1. To facilitate a unique stormwater management approach or condition.
  2. For lightly traveled service or emergency access drives.
  3. At the edges of a phase of development of a parking area.
  4. Around paved areas primarily used for the storage of waste, snow, or other materials, as opposed to vehicle parking or circulation.
  5. For approved gravel surfaced areas.
  6. Within industrial zoning districts, where the public street providing access to the site does not have curb and gutter or where the parking lot, driveway, other vehicular access area, and landscaped islands and peninsulas will not be visible or accessible to the public.
- [6.7. For reconstruction or resurfacing of existing parking lots, or expansion of existing parking lots where the size of the expansion plus any other expansions in the previous five years does not exceed 50% of the parking lot area before such expansion\(s\).](#)

- (d) **Lighting.** All off-street parking and traffic circulation areas serving six or more cars shall be lit so as to ensure the safe and efficient use of said areas during the hours of use, with said illumination level shall not exceeding the standards of Section 94.12.11.
- (e) **Access.** Each required off-street parking space shall open directly upon an aisle or driveway that is wide enough and designed to provide a safe and efficient means of vehicular access to the parking space without directly backing or maneuvering a vehicle into a public right-of-way. All off-street parking and traffic circulation facilities shall be designed with an appropriate means of vehicular access to a street or alley, in a manner that least interferes with traffic movements. Off-street parking

spaces for residential uses may be stacked or in front of one-another for the same dwelling unit. Parking spaces located behind an enclosed garage and located directly off a through aisle shall be a minimum of 30 feet deep.

- (f) **Signage.** All signage located within, or related to, required off-street parking or traffic circulation areas shall comply with the requirements of Article 13.
- (g) **Handicapped Parking Spaces.** Parking for the handicapped shall be provided at a size, number, location, design, and with signage as specified by State and Federal regulations.
- (h) **Dimensional Standards.** Other than parking required to serve the handicapped, the minimum required length of parking spaces shall be 18 feet and the minimum required width is 10 feet (8½ feet for end spaces). All parking spaces shall have a minimum vertical clearance of 8 feet. Horizontal widths for driveways serving parking spaces shall be no less than 24 feet for two-way driveways and 12 feet for one-way driveways, except that wider driveways may be required for loading and service routes.
- (i) **Landscaping Standards.** Parking lot landscaping shall comply with the hard and gravel surface area landscaping requirements in Section 94.11.02(3)(b), ~~as may be modified under Section 94.11.02(1)(e). For any area expansion to a hard surfaced or formerly gravel parking lot, landscaping shall comply with the hard and gravel surface area landscaping requirements in Section 94.11.02(3)(b) to the extent the Zoning Administrator determines practical. Provided that the project does not involve an area expansion, such landscaping requirements shall not apply to the reconstruction, resurfacing, reconfiguration, or restriping, or conversion from a gravel, crushed stone, grass, or similar surface to a hard surface as defined in Section 94.17.04 of a parking lot, driveway, or vehicle circulation area legally constructed before March 18, 2015, provided that the project does not involve an area expansion or conversion from a gravel, crushed stone, grass, or similar surface to a hard surface as defined in Section 94.17.04. For any such expansion or conversion, parking lot landscaping shall comply with the hard and gravel surface area landscaping requirements in Section 94.11.02(3)(b) to the extent the Zoning Administrator determines practical.~~
- (j) **Setback Requirements.** See Figures 5.01(2) and 5.02(2) for hard and gravel surface setback requirements that apply to off-street parking, driveway, and traffic circulation areas, except for the reconstruction, resurfacing, reconfiguration, or restriping of a parking lot, driveway, or vehicle circulation area existing before March 18, 2015 and not meeting such setback requirements, provided that the project does not involve an area expansion or conversion from a gravel, crushed stone, grass, or similar surface to a hard surface as defined in Section 94.17.04. In the instance of such expansion or conversion, parking lot setbacks shall comply with Figures 5.01(2) and 5.02(2).

**SECTION 35:** The title of Section 94.13.02 is amended from “Sign Permits” to “Sign Permitting and Approval Procedures.”

**SECTION 36:** Section 94.13.02(3) Granting and Issuance is hereby amended to provide as follows:

(3) **Granting and Issuance.**

- (a) Upon the receipt of a complete application, in cases where the requested sign does not require an approval or recommendation from another body under this Chapter, the Zoning Administrator shall review said application and shall, in writing, approve or deny a sign permit within 10 working days of acceptance of the complete application.
- (b) Upon the receipt of a complete application, and in cases where the requested sign requires an approval or recommendation from another body under this Chapter, such as a conditional uses special

exception permit, the Zoning Administrator shall within 10 working days of the acceptance of the complete application notify the applicant of such additional action and schedule the item on the appropriate meeting agenda(s). Following all necessary approvals, the Zoning Administrator shall then, in writing, approve or deny a sign permit based on the submitted application and such additional body's action within 10 working days of action by the body with final approval authority.

- (c) Denial of a sign permit shall not result in total or partial reimbursement of permit fees paid.

**SECTION 37:** Section 94.13.02(4) is hereby amended to provide as follows:

- (4) **Basis for Granting.** In deciding whether or not to grant a sign permit, the Zoning Administrator shall determine whether the proposed sign is in compliance with the provisions of this Article; whether the sign is in compliance with all provisions of this Chapter, including those related to traffic safety, traffic visibility, sign setbacks, and structural integrity; and whether a ~~conditional use~~special exception permit or other required Village approval has or has not be granted for the sign.

**SECTION 38:** Section 94.13.02(9) Special Exceptions is hereby created to provide as follows:

(9) **Special Exceptions.**

- (a) **Applicability and Procedure.** Following submittal of a complete special exception application, the Plan Commission (or Extraterritorial Zoning Committee if in the ETZ Area) may grant a special exception to one or more requirements in Sections 94.13.04(2)-(6), 94.13.05, 94.13.06, and 94.13.07. The application requirements and procedure for, and other requirements associated with, a special exception shall be the same as those for a conditional use permit under Section 94.16.06, except as follows:

- 1. The application for special exception shall also include materials required to obtain a sign permit under Section 94.13.02(2).
- 2. The criteria for consideration of a special exception shall be those in subsection (b) below.

- (b) **Criteria.** No special exception shall be granted unless the Commission or Committee finds that the sign(s) authorized thereby, as limited by any enforceable conditions, will meet all of the following criteria:

- 1. Consistent with the purpose and intent of this Chapter and this Section.
- 2. Consistent with the Comprehensive Plan including any applicable aesthetic signage guidelines therein.
- 3. Not negatively affecting the reasonable use and development of nearby properties or the community.
- 4. Compatible with existing signage on and visible from the subject site and not significantly exceeding the height, area, or quantity of such existing signage.
- 5. Proportional with the scale of the subject site and the building(s) and use(s) on the subject site to which the sign relates or advertises.
- 6. Not hazardous, harmful, or otherwise adverse to the natural environment and aesthetic value of the site, nearby properties, and the community.
- 7. Not negatively affecting the safe and efficient installation, use, and maintenance of public facilities serving the area, including but not limited to roadways, sidewalks and paths, and utilities.

8. Supported by evidence that normally applicable requirements do not provide for sufficient visibility for the proposed signage or use(s) it advertises, such as a highway visibility study for freestanding signage that exceeds normally applicable height or area requirements.

**SECTION 39:** The title of Section 94.13.05(5) is amended from “On-Premise Home Occupation, Residential Business, or Bed and Breakfast Sign” to “On-Premise Home Occupation, Residential Business, Intermediate Day Care Home, or Bed and Breakfast Sign”

**SECTION 40:** Section 94.13.08(2) Construction or Project Identification Signs is hereby amended to provide as follows:

- (2) **Construction or Project Identification Signs.** Such signs shall be erected no sooner than the beginning of work for which a valid building or demolition permit has been issued, and shall be removed within 30 days of completion of such work. Construction or project identification signs shall not exceed 64 square feet in area and 12 feet in height, except that each fence surrounding a construction site may be partially or fully covered with a banner including signage.

**SECTION 41:** Section 94.13.11(2) Maintenance and Alteration of Nonconforming Signs is hereby amended to provide as follows:

- (2) **Maintenance and Alteration of Nonconforming Signs.** Nonconforming signs may be maintained. No nonconforming on-premise sign shall be altered, extended, enlarged, converted, or moved to a new location without being brought into compliance with the requirements of this Article, except that sign face copy or materials may be repaired or replaced, and a marquee or other permanent sign with a manually changeable message may be converted to a variable message sign, provided that sign area is not increased or reconfigured. Alteration of a nonconforming on-premise sign is considered to be any other change to the exterior appearance of any part of the sign, frame, supporting structure, lighting, material, height, location, or any other alterations as determined by the Zoning Administrator.

**SECTION 42:** Section 94.15.02 is hereby repealed and recreated to provide as follows:

#### **94.15.02 Nonconforming and Substandard Lots**

- (1) No lot shall be created which does not meet the lot dimensional requirements of the associated zoning district.
- (2) Legal nonconforming or substandard lots, as defined in Article 17, may be utilized as a building site for a permitted use (but not for a conditional use) in the associated zoning district, if all of the following apply:
  - (a) Such lot has never been developed with one or more of its structures placed partly on an adjacent lot or parcel.
  - (b) Such lot is developed to comply with this Chapter and other applicable chapters of the Weston Municipal Code.
- (3) Conforming structures existing at the time of the adoption or amendment of this Chapter may be continued, although the lot does not conform to the newly adopted or amended requirements of this Chapter, as long as all uses on the lands containing the structure are legal conforming uses.

- (4) Each aforementioned structure may be extended, enlarged, substituted, moved, remodeled, modified, added to, or rebuilt as long as any such change conforms to the established building setback lines along streets and the yard, height, and floor area ratio provisions of this Chapter.

**SECTION 43:** Section 94.16.03(8) [zoning ordinance map amendment] is hereby amended to provide as follows:

**(8) Village Board Action.**

- (a) The Zoning Administrator shall schedule the proposed amendment for potential Village Board action. After careful consideration of all comments, the Village Board shall within 120 days of submittal of a complete application, act to approve or reject the proposed amendment, unless extended by written or electronic agreement of the applicant. Failure of the Board to act within 120 days of submittal of a complete application (unless said deadline is extended by agreement of the applicant) shall constitute approval of the application as presented.

(b) The Village Board may approve an amendment by a simple majority of a voting quorum, except that a two-thirds or greater vote of the full Village Board is required in one or more of the following circumstances if:

1. if ~~the~~ The Board action is opposed to or alters a recommendation of the Plan Commission (or Extraterritorial Zoning Committee for land in the ETZ Area), ~~and/or an official~~
2. A valid protest ~~petition~~ against the requested amendment to the Official Zoning Map meeting the requirements of Wis. Stat. ~~§ 62.23(7)(d)2~~ ~~made~~ definition in Section 94.17.04 is filed, ~~then approval of the amendment to the Official Zoning Map shall require an affirmative vote from three-fourths or greater of the full Village Board and/or~~
3. The amendment relates to down zoning as defined in Wis. Stat. § 66.10015(1)(as), unless the down zoning is requested or agreed to by all persons who own the land(s) affected by the proposed down zoning.

**SECTION 44:** Section 94.16.06 is hereby amended to provide as follows:

**Section 94.16.06 Conditional Use Permits**

(1) Purpose and Applicability. The development and execution of this Chapter is based upon the division of the Village and its ETZ Area into zoning districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use at a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to their location, development, and operation. Such uses are classified as conditional uses and require a conditional use permit except as specified under subsection (14).

(+)(2) Initiation of Conditional Use Permit. Any person, firm, corporation, or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest that may become a freehold interest or an exclusive possessory interest, and that is specifically enforceable on the land for which a conditional use is sought, may file an application to use such land for one or more of the conditional uses in the zoning district in which such land is located.

~~(2)~~(3) **Application for Conditional Use Permit.** No application for a conditional use permit shall be placed on any agenda as an item to be acted upon unless the Zoning Administrator has certified acceptance of a complete application. Prior to publication of the required Notice of Public Hearing, the applicant shall provide the Zoning Administrator with the complete application certified by the Zoning Administrator, including an easily reproducible electronic copy plus hard copies in a quantity directed by the Zoning Administrator. Said complete application shall be comprised of all of the following:

- (a) A completed conditional use permit application form furnished by the Zoning Administrator.
- (b) A scale map of the subject property showing all lands for which the conditional use permit is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds. ~~Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) that maintains that control. Said map and all its parts and attachments shall be submitted in a form that is clearly reproducible with a photocopier, and shall be at a scale that is not less than one inch equals 800 feet.~~ All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
- ~~(c) A map, such as the Future Land Use Map from the Comprehensive Plan, of the generalized location of the subject property in relation to the Village as a whole.~~
- ~~(d)~~(c) A written description of the proposed conditional use describing the type, duration, and density of activities, buildings, and structures proposed for the subject property and their general locations, plus such additional information as may be required for the particular land use under Article 4.
- ~~(e)~~(d) A site plan of the subject property, with any alterations as may be proposed to accommodate the conditional use. Said site plan shall conform to any applicable requirements of Section 94.16.09, and any additional requirements as may be specified for the particular land use under Article 4. If the conditional use will make use of existing site improvements only, a site plan need only be of sufficient detail to confirm the portion of the site used by the conditional use.
- ~~(f)~~(e) Written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the approval criteria set forth in this Section and all applicable requirements of this Chapter.
- ~~(g)~~(f) Any other plans and information deemed necessary by the Zoning Administrator or the Plan Commission (or Extraterritorial Zoning Committee if in the ETZ Area) to ensure that the ~~requirements intent~~ of this Chapter are or will be fulfilled.
- ~~(h)~~(g) Any required fee per the fee schedule approved by the Village Board.

~~(3)~~(4) **Zoning Administrator Review and Recommendation.**

- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. Only a complete application in the determination of the Zoning Administrator shall entitle a public hearing under subsection (4). The Zoning Administrator shall inform the applicant if the application is incomplete in his or her determination.
- (b) Once the Zoning Administrator determines that the application is complete, the Zoning Administrator or designee shall authorize the public hearing and prepare a written evaluation of the application based on the criteria for evaluating conditional use permits in subsection ~~(87)~~ below. The Zoning Administrator shall forward a copy of the evaluation to the Plan Commission (or Extraterritorial Zoning Committee for land in the ETZ Area).

~~(4)~~(5) **Public Hearing.** The Village Clerk shall schedule a public hearing before the Plan Commission (or Extraterritorial Zoning Committee for land in the ETZ Area) to be held within 45 days after acceptance of a complete application as determined by the Zoning Administrator. Notice of the time, place, and purpose of such hearing shall be given by publication as a Class 2 Notice in conformance with the requirements of Wis. Stats. § 62.23(7)(d) ~~and (de)~~. The Village Clerk shall also send said notice to the applicant, owners of record of all lands within 300 feet of the boundaries of the subject property, and the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter at least ten days prior to the date of such public hearing. Failure to mail said notice or failure to meet the time requirements herein, provided it is unintentional, shall not invalidate proceedings under this Section.

~~(5)~~(6) **Review and Action by the Plan Commission or Extraterritorial Zoning Committee.** Within 60 days after the public hearing, or an extension of said period requested in writing or electronic format by the applicant and granted by the Commission or Committee, the Plan Commission or Extraterritorial Zoning Committee shall take final action on the conditional use permit request. Prior to acting on a conditional use permit application, the Plan Commission or the Extraterritorial Zoning Committee may request further information and/or additional reports from the Zoning Administrator, the applicant, outside experts and/or any other source. The Commission or Committee may approve the conditional use as originally proposed, may approve the proposed conditional use with conditions or modifications, or may deny approval of the proposed conditional use and include reasons for denial. Any action to approve or amend the proposed conditional use permit requires a majority vote of Commission or Committee members in attendance. Nothing in this Chapter requires ~~T~~own ~~p~~lan ~~c~~ommission or ~~t~~own ~~b~~oard action on proposed conditional use permits in the ETZ Area.

~~(6)~~(7) **Appeal to the Village Board.** An appeal of a decision under subsection ~~(6)~~(5) may be taken to the Village Board by any person, firm or corporation; any officer, department, board, commission or agency of the Village or, in the case of lands within the ETZ Area, the town in which the affected land is located, who is aggrieved by the decision. Such appeal shall be made in writing to the Zoning Administrator within ten days after the date of the Commission's or Committee's decision. In the case of an appeal:

- (a) The Zoning Administrator and Building Inspector shall issue no permits to enable commencement or continuation of building and other activities authorized by the conditional use permit, and shall issue a "stop work" order for any such activities already commenced.
- (b) The Zoning Administrator shall immediately notify the applicant and property owner of the appeal in writing, and shall schedule the appeal for Village Board consideration.
- (c) The Village Board shall, by resolution, make a final decision to grant, with or without conditions, or to deny each application for a conditional use permit after receiving and reviewing the Commission's or Committee's findings and making its own findings as to whether or not the proposed use will satisfy the ~~criteria~~standards for approval set forth in section ~~(7)~~(8), and shall have all of the powers of the Commission under this Section. The Village Board's determination shall be final and subject to appeal to the circuit court under any procedure authorized by statute.

~~(8)~~ **Review Criteria for Conditional Use Permit.** ~~Each requested conditional use permit shall meet the following criteria (achieve "yes" answers) to be approved:~~

- (a) If the applicant meets, or agrees to meet, all of the applicable requirements specified in this Chapter and conditions imposed by the Plan Commission or the Extraterritorial Zoning Committee, the Commission or Committee shall under Wis. Stats. § 62.23(7)(de)2.a. grant the conditional use permit. The Village may require written agreement from the applicant in a form prescribed by the Village Attorney.
- (b) Any decision to grant or deny the conditional use permit must be supported by substantial evidence, as that term is defined in Wis. Stats. § 62.23(7)(de)1.b. Any condition or modification must be related

to the purpose of this Chapter, reasonable, measurable to the extent practicable, and based on substantial evidence.

~~(a)~~(c) To the extent consistent with Subsections (a) and (b), no conditional use permit shall be granted unless the Plan Commission or the Extraterritorial Zoning Committee finds that the use authorized thereby meets the following criteria:

- ~~1. Is~~1. The proposed conditional use ~~is consistent in harmony~~ is consistent with the Comprehensive Plan, this Chapter, and ~~all~~ other plans, programs, ~~and~~ ordinances adopted by the Village.<sup>2</sup>
- ~~2. Does~~2. The proposed conditional use, in its proposed location and as depicted on the required site plan, will not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Chapter, the Comprehensive Plan, or ~~all~~ other plans, programs, ~~map, or~~ and ordinances adopted by the Village.<sup>2</sup>
- ~~3. Does~~3. The proposed conditional use will maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.<sup>2</sup>
- ~~4. Is~~4. The proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, or services provided by public agencies serving the subject property.<sup>2</sup>
- ~~5. Do~~5. The potential public benefits of the proposed conditional use outweigh potential adverse impacts of the proposed conditional use, after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts.<sup>2</sup>

~~(7)~~(9) **Issuance, Notice, and Recording of Conditional Use Permit or Denial.** Within 30 days following the granting of a conditional use permit, the Zoning Administrator shall issue to the applicant ~~a written the approved~~ conditional use permit. Said permit shall ~~enumerating~~ the details of the conditional use permit, including an identifiable description of what land ~~the use and subject property (s) and/or development was approved~~ and any specific conditions or requirements of approval. The Zoning Administrator shall record the conditional use permit against the property, assigning all costs thereof to the applicant, and shall make record of the conditional use permit on the Official Zoning Map. In the case of a denial of a conditional use permit, the Zoning Administrator shall provide written notification to the applicant that the conditional use permit was denied, including the reasons for denial.

~~(8)~~(10) **Effect of Denial.** No conditional use permit application that has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors relative to the review criteria in subsection (8) that are found valid by the Zoning Administrator.

~~(11)~~ **Termination-Penalties, Revocation, or Modification of an Approved Conditional Use Permit.**

(a) Any violation of an approved conditional use permit shall be subject to Section 94.16.19.

(b) A conditional use permit shall be automatically revoked if:

1. All buildings and other improvements authorized by the conditional use permit have not been developed, and the conditional use has not commenced operation, within two years of the granting of the conditional use permit, unless the Commission or Committee has extended this period by request of the applicant, based on reasons beyond the reasonable control of the applicant.

2. Once initially made operational, the operation of the conditional use has been discontinued for a period exceeding one year. The burden of proof shall be with the conditional use permit holder or operator to conclusively demonstrate that the conditional use was operational during this period.

(c) A conditional use permit may be revoked or modified by the Plan Commission or the Extraterritorial Zoning Committee, where the Commission or Committee determines that the use, its operation, and/or associated improvements are not in compliance with (i) the terms of this Chapter including one or more criteria in subsection (8) and/or (ii) the approved conditional use permit including any associated plan or approval condition. The Commission, Committee, or Zoning Administrator may commence proceedings to consider revocation or modification, with such proceedings following the process in subsections (5) and (6). An appeal of any such decision shall be allowed per subsection (7).

~~Once a conditional use permit is granted, no erosion control permit, site plan approval, certificate of occupancy, zoning permit, or building permit shall be issued for any development that does not comply with all requirements of the conditional use permit and this Chapter. Any conditional use found not to be in compliance with the terms of this Chapter or the approved conditional use permit shall be considered in violation of this Chapter and shall be subject to all applicable procedures and penalties. A conditional use permit may be revoked for such a violation by the Plan Commission, following the procedures outlined for original granting of a conditional use permit.~~

~~(9) **Time Limits on the Development of Conditional Use.** The start of construction of any and all conditional uses shall be initiated within 365 days of approval of the associated conditional use permit and shall be operational within 730 days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use permit. For the purposes of this Section, “operational” shall be defined as occupancy of the conditional use. Prior to such a revocation, the applicant may request an extension of this period. Said request shall require formal approval by the Plan Commission (or Extraterritorial Zoning Committee for land in the ETZ Area) and shall be based upon a showing of acceptable justification.~~

~~(10) **Discontinuing an Approved Conditional Use.** Any and all conditional uses that have been discontinued for a period exceeding 365 days shall have their conditional use permit automatically invalidated. The burden of proof shall be on the property owner to conclusively demonstrate that the conditional use was operational during this period.~~

~~(14)(12) **Duration and TransferChange of Ownership.** The Commission or Committee may approve a conditional use permit with a limitation on the Permit’s start date, duration, and/or transfer if such limitations(s) relate to the purpose of this Chapter and the conditional use permit review criteria in subsection (8). Unless the Commission or Committee approved a conditional use permit with a transfer limitation, or Article 4 prescribes a transfer limitation for the particular conditional use, a~~ All requirements of the approved conditional use permit shall be continued regardless of ownership or operation of the subject property or use and shall run with the land, except as otherwise limited by this Chapter or by a specific condition attached to the conditional use permit. ~~Modification, alteration, or expansion of any conditional use in violation of the approved conditional use permit, without approval by the Plan Commission (or Extraterritorial Zoning Committee), shall be considered a violation of this Chapter and shall be grounds for revocation of said conditional use permit.~~

(13) **Amendments to Approved Conditional Use.** Any expansion of or amendment to a previously approved conditional use permit or grandfathered conditional use, including any change in an associated plan or approval condition found to be material by the Zoning Administrator, shall be processed in accordance with subsections (2) through (10), except where its initial approval allowed expansion or amendment by some other process.

~~(12)~~(14) **Uses Now Regulated as Conditional Uses That Were Legal Land Uses (Permitted-by-Right or as Conditional Uses) Prior to the Effective Date of This Chapter.** A use ~~now~~ regulated as a conditional use under Figures 3.04 and 3.05 or elsewhere this Chapter that was a legal land use--either permitted-by-right or as a conditional use--prior to March 18, 2015 shall be considered ~~as~~ a legal, conforming land use so long as any previously approved conditions of use and site plan are followed. Any substantial expansion or modification of such use or any previously approved condition of such use, in the determination of the Zoning Administrator, shall require application and Village consideration of a ~~new~~ conditional use permit under this Section.

**SECTION 45:** Section 94.16.09(4) Application Contents is hereby amended to provide as follows:

- (4) **Application Contents.** The applicant shall provide the Zoning Administrator with the complete application certified by the Zoning Administrator, including an easily reproducible electronic copy plus hard copies in a quantity directed by the Zoning Administrator. Except as otherwise allowed below or with the express approval of the Zoning Administrator, the application shall include the following information within the site plan or in supporting documentation to be considered complete:
- (a) A completed application on a form provided by the Zoning Administrator.
  - (b) A title block that indicates the name, address, and phone/fax number(s) of the current property owner and/or agent(s) (developer, architect, engineer, planner) for project.
  - (c) The date of the original plan and the latest date of revision to the plan.
  - (d) A north arrow and a graphic scale.
  - (e) A legal description or plat of survey of the subject property.
  - (f) All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled.
  - (g) Delineations and labels of floodplains, shoreland-wetlands, shoreland areas, steep slopes, and other natural resource areas.
  - (h) All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose.
  - (i) All required building setback lines/minimum yards applicable to the zoning district(s), including setbacks from natural resource areas.
  - (j) A grading plan at the same scale as the main site plan; showing existing and proposed grades; finish floor elevations of all existing and proposed buildings; elevations of adjacent curbs, property lines, and street center lines; and retention walls and related devices.
  - (k) An erosion control plan, meeting applicable state and local requirements.
  - (l) The location of existing and proposed stormwater management and structures, along with any technical data required by the Director of Public Works or designee to determine the adequacy of the proposed facilities.
  - (m) Proposed land use or uses, with projected number of employees, residents, and maximum customer capacity.
  - (n) All existing and proposed buildings, structures, and hard surfaced and graveled areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, walls, wells (in use or abandoned), on-site waste treatment tank locations and drainage fields, labeling actual and proposed setbacks from all lot lines.

- (o) The location and dimension of all access points onto public streets.
- (p) The location and dimension of all on-site parking (and, if applicable, off-site parking), including a summary of the number of parking stalls provided versus required by this Chapter.
- (q) The location and dimension of all loading and service areas on the subject property and labels indicating the dimension of such areas.
- (r) The location of all outdoor storage areas including dumpsters and the design and materials for all screening fences, including pre-approval from the contracted hauler on proposed design and location.
- (s) The location of all outdoor areas for daily, seasonal, or longer-term sales, display, and/or collection of merchandise, including but not limited to donation drop-off boxes and vending machines.
- (t) The location, type, height, fixture design, and cut-off angle of all exterior lighting, including a detailed photometric plan showing the distribution of light output across the property to the property lines.
- (u) A detailed landscaping plan for the subject property at the same scale as the main plan showing the location, type, and size of all proposed landscaping. All landscape plans shall be subject to the requirements of Article 11, including but not limited to professional quality and preparer qualifications under Section 94.11.02(2)~~prepared by a licensed landscape architect, certified landscape designer, or another professional or individual skilled in landscape design as determined by the Zoning Administrator.~~
- (v) Elevation drawings, drawn to a recognized architectural scale, of proposed buildings or proposed remodeling of existing buildings to include exterior or roof mechanical equipment and lighting, and showing finished exterior treatment, with adequate labels provided to clearly depict exterior materials, texture, color, and overall appearance. Drawings shall also include or be accompanied by calculations of each exterior facade building material by type, square footage, and percentage of total facade area.
- (w) The location, type, height, size and lighting of all existing signage on the subject property, and for proposed signage to the extent practical at the time. Multitenant retail centers and group developments shall provide a sign plan for the project that:
  1. Meets the submittal requirements of Section 94.13.02(2).
  2. Includes proposed signable areas on building facades.
  3. Includes a group development sign with space for individual business identification if desired.
- (x) In the site plan map legend, the following additional data for the subject property:
  1. Proposed zoning (or existing zoning if no change)
  2. Lot area
  3. Total number and type of residential dwelling units (if applicable)
  4. Total gross floor area of building and outdoor storage space
  5. Landscape surface area, and percentage of site to be covered in green space
  6. Building heights
- (y) Plans and methods for fire control and suppression, which may include hydrants, sprinklers, alarms, and/or access rooms. Compliance with the Fire Code shall be required.
- (z) If hazardous materials are to be kept or stored on site, a written description of such materials and the operations involving such materials conducted on their property. The Village may also require a process safety management, risk management, containment, and emergency response program.

(aa) All other materials required to assure compliance with the performance standards associated with the particular land use, as indicated in Article 4.

~~(aa)~~(bb) Any required fee per the fee schedule approved by the Village Board.

**SECTION 46:** Section 94.16.11 is hereby amended to provide as follows:

### **Section 94.16.11 Variance Procedures**

(1) **Purpose.** The purpose of this Section is to provide regulations that enable a hearing and decision on requests for permitted variation from the terms of this Chapter, in accordance with the requirements of this Section and Wisconsin law.

(2)

**Eligible Provisions for Which Variances may be Granted.** ~~A~~ Variances from the regulations of this Chapter may be granted to any term or regulation of this Chapter, subject to the procedures and criteria in this Section, except that no variance may enable a land use that is not allowed in the zoning district under Article 3 of this Chapter only in the following instances and in no others:

~~(3) To permit any setback, principal building separation distance, or landscape surface ratio that is less than the setback, principal building separation distance, or landscape surface ratio required within the applicable zoning district under Article 5.~~

~~(4) To permit building construction on a lot where otherwise prohibited solely because of the insufficient lot area, lot width, or lot frontage within the applicable zoning district under Article 5. In no event shall the respective lot area, lot width, or lot frontage be less than 75 percent of the required dimension under Article 5.~~

~~(5) To permit a building, fence, wall, or other structure height that is greater than that required within the applicable zoning district under Article 5, Section 94.12.03, or any other provision of this Chapter.~~

~~(6) To permit a maximum or minimum floor area or density of any building or use so limited by the applicable regulations in this Chapter to vary by not more than 25 percent, where the matter is not otherwise covered by the above eligible variances.~~

~~To permit variations from an access, driveway, off-street parking, traffic circulation, or loading standard in Sections 94.12.08 to 94.12.10.~~

~~(7)~~(3) **Initiation of Request for Approval of a Variance.** Proceedings for approval of a requested variance shall be initiated by an application of the owner(s) or their authorized agent of the subject property.

~~(8)~~(4) **Application Requirements.** The applicant shall provide the Zoning Administrator with the complete application certified as complete by the Zoning Administrator under subsection 5(a), including an easily reproducible electronic copy plus hard copies in a quantity directed by the Zoning Administrator. Said complete application shall be comprised of all of the following:

(a) A completed application on a form provided by the Zoning Administrator.

(b) A scale map of the subject property showing all lands for which the variance is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds. ~~Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) that maintains that control. Said map and all its parts and attachments shall be submitted in a form that is clearly reproducible with a photocopier, and shall be~~

~~at a scale that is not less than one inch equals 800 feet.~~ All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

~~(e) A map, such as the Future Land Use Map from the Comprehensive Plan, of the generalized location of the subject property in relation to the Village as a whole.~~

~~(4)~~(c) \_\_\_\_\_ A written description of the proposed variance describing the type of specific requirements of the variance proposed for the subject property.

~~(e)~~(d) \_\_\_\_\_ A site plan of the subject property, including existing conditions and proposed changes. Said site plan shall conform to those requirements of Section 94.16.09 to the extent deemed necessary by the Zoning Administrator

~~(4)~~(e) \_\_\_\_\_ Written justification for the requested variance consisting of the reasons why the applicant believes the proposed variance is appropriate, particularly as evidenced by compliance with the criteria set out in subsection (7) below.

~~(e)~~(f) \_\_\_\_\_ Any fee as may be required under the fee schedule approved by the Village Board.

~~(9)~~(5) **Review by the Zoning Administrator.**

The requested variance shall be reviewed by the Zoning Administrator as follows:

- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Chapter, he or she shall return the application to the applicant with explanation. If the Zoning Administrator determines that the application is complete, he or she shall certify the application as complete. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred.
- (b) Once the Zoning Administrator determines that the application is complete, the Zoning Administrator or designee shall authorize the public hearing and prepare a written evaluation, including whether there is justification for the proposed variance based on the application and the criteria for variance approval.
- (c) The Zoning Administrator shall forward the application and evaluation report to the Zoning Board of Appeals for that Board's review and action.

~~(10)~~(6) **Review and Determination.**

- (a) Within 45 days after filing of the complete application as determined by the Zoning Administrator, the Zoning Board of Appeals shall hold a public hearing. Notice of the requested variance and the public hearing shall conform to the requirements of Wis. Stat. § 62.23(7)(d). Said notice shall contain a description of the subject property and the proposed variance. In addition, at least ten days before said public hearing, the Village Clerk shall mail an identical notice to the applicant of the proposed variance to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the subject property, and to all property owners within 300 feet of the boundaries of the subject property. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
- (b) Within 30 days after the holding of the public hearing or, within an extension of said period approved by the applicant and granted by the Zoning Board of Appeals, that Board shall make its findings based on the criteria in this Section, and its determination regarding the application as a whole. The Board may request further information and/or additional reports from the Zoning Administrator and/or the Applicant. The Board may take final action on said request for approval of the requested variance at time of its initial meeting, or said proceedings may be continued from time-

to-time for further consideration. The Board shall make a written report of its findings and determinations following its decision.

- (c) If the Board fails to make a determination within 30 days after said public hearing, then the request for the variance shall be considered denied.
- (d) Said report shall include a formal findings of fact developed and approved by the Board concerning the requirements of subsection (7).

~~(11)~~(7) **Criteria for Grant of a Variance.** The Zoning Board of Appeals shall determine that all of the following criteria have been met before granting a variance:

~~(a)~~ That the variance will not be contrary to the public interest, safety, welfare, and justice.

~~(a)~~(b) That compliance with the strict letter of the zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. It is not sufficient that a variance applicant show that the zoning regulation(s) prevents or burdens his or her planned activity. Such applicant must show by competent evidence that the regulation unreasonably prevents or unnecessarily burdens the proposed activity.

~~(c)~~ That compliance with the strict letter of the zoning ordinance would create unnecessary hardship due to a unique property condition, meaning a special physical feature or limitation of the property that is not generally shared ~~by nearby on most other land or properties~~ within the same zoning district, subject to the following limitations:-

1. If a variance applicant fails to prove the existence of a unique property condition and a connection between the condition and the hardship, even if the hardship is great, a variance may not be granted.
2. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance.
3. Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be such self-imposed hardships.
4. The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)

~~(b)~~(d) That the requested variance will not be contrary to the ~~public interest, the~~ intent and purpose of this ~~Chapter, or~~ Chapter and the Village's Comprehensive Plan.

~~(e)~~(e) That the requested variance is for a provision of this Chapter authorized for potential variances under Section 94.16.11(2), and in no case shall allow a land use that is not listed as a permitted, conditionally permitted, or temporary land use in the associated zoning district.

~~(f)~~ That the granting of the proposed variance shall not impose a substantial detriment to adjacent properties. The applicant shall clearly indicate how the proposed variance will have no substantial detriment on adjacent properties.

~~(g)~~(g) That the proposed variance would make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property. ~~Violations by, or variances granted to, other properties shall not justify a variance.~~

~~(12)~~(8) **Recording of Variance.** The Zoning Administrator shall record the variance against the property, assigning all costs thereof to the applicant, and shall make record of the variance on the Official Zoning

Map. The document recording the variance shall indicate that the property owner has the burden of proof to conclusively demonstrate that activities associated with the variance are being completed within the following applicable periods, or the variance shall become null and void:

- (a) A building permit associated with the approved variance shall be obtained within one calendar year of the approval.
- (b) Upon issuance of a building permit, the associated work must be completed in accordance with Section 94.16.04.
- (c) In the event the variance does not require a building permit; the associated work must be completed within two calendar years of the variance approval.

In the event that a variance is rendered null and void under this subsection, the Zoning Administrator may record an amendatory document against the property, assigning all costs thereof to the applicant, and shall remove or modify record of the variance on the Official Zoning Map.

~~(13)~~**(9) Effect of Denial.** No application for a variance that has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

~~(14)~~**(10) Limited Effect of a Variance.** Where the Zoning Board of Appeals has granted a variance, such approval shall neither change the use classification of the building or premises, nor give it any status as a nonconforming use other than that which it has as a result of the variance. Granting of a variance shall be considered unique to the variance granted, and shall not be construed as precedent for any other proposed variance. A variance granted under this Chapter shall run with the land, meaning it shall be in effect regardless of ownership or operation of the building or premises, except as otherwise limited by this Chapter or by a specific condition attached to the variance.

~~(15)~~**(11) Stay of Proceedings.** An application for a variance shall stay all legal proceedings furthering enforcement of any provisions of this Chapter from which the applicant is requesting a variance, unless the Zoning Administrator certifies to the Zoning Board of Appeals after the request for the variance has been filed, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals, or by a Court of Record on application, on notice to the Zoning Administrator, and on due cause shown.

~~(16)~~**(12) Fee.** The Village may require a fee may for this procedure, per the fee schedule approved by the Village Board.

[Amended via Ord. 15-023, 10/21/2015; Ord. 16-009, 4/20/2016; Ord. 16-026, 5/18/2016; Ord. 17-018, 6/21/2017]

**SECTION 47:** Section 94.16.17(5) is hereby amended to provide as follows:

(5) **Jurisdiction and Authority.** The Zoning Board of Appeals shall have the jurisdiction and authority as specified in Wis. Stats. § 62.23(7)(c) and shall have the following powers:

- (a) Hear and decide appeals-applications in such specific cases where it is alleged there is error in any interpretation pertaining to the order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer under this Chapter.
- (b) Hear and grant requests for variances to this Chapter under Section 94.16.11.

In exercising the above mentioned powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such

order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.

**SECTION 48:** Section 94.17.03 Abbreviations is hereby amended to provide as follows:

The following abbreviations in this Chapter are intended to have the following meanings:

<b>Abbreviation</b>	<b>Meaning</b>
2F	2F Two Family Residential (standard zoning district)
Ac	Acre
AH	AH Airport Height (overlay zoning district)
AR	AR Agricultural and Residential (standard zoning district)
B-1	B-1 Neighborhood Business (standard zoning district)
B-2	B-2 Highway Business (standard zoning district)
B-3	B-3 General Business (standard zoning district)
BP	BP Business Park (standard zoning district)
Db	Decibel
DNR	Wisconsin Department of Natural Resources (also “WisDNR”)
DOT	Wisconsin Department of Transportation (also “WisDOT”)
D	D Design (overlay zoning district)
Du	Dwelling unit (also “housing unit”)
FAA	Federal Aviation Administration
FAR	Floor Area Ratio
Ft	Foot
FP	FP Farmland Preservation (standard zoning district)
GFA	Gross Floor Area
GI	GI General Industrial (standard zoning district)
GSA	Gross Site Area
HUD	U.S. Department of Housing and Urban Development
INT	INT Institutional (standard zoning district)
ISR	Impervious Surface Ratio
LI	LI Limited Industrial (standard zoning district)
LSR	Landscape Surface Ratio
Max	Maximum
MF	MF Multiple Family Residential (standard zoning district)
MGD	Maximum Gross Density
MH	MH Manufactured Home (standard zoning district)
Min	Minimum
MLA	Maximum Lot Area
MSA	Minimum Site Area
N/A or NA	Not applicable

Abbreviation	Meaning
N	N Neighborhood (refers both to a special zoning district and each unique development within such a district)
PSC	State of Wisconsin Public Services Commission
<u>RM</u>	<u>RM Rural Mix (standard zoning district)</u>
RR-2	RR-2 Rural Residential (standard zoning district)
RR-5	RR-5 Rural Residential (standard zoning district)
SF or sq. ft.	Square feet
SF-L	SF-L Single Family Residential – Large Lot (standard zoning district)
SF-S	SF-S Single Family Residential – Small Lot (standard zoning district)
UDC	Uniform Dwelling Code
WHP	WHP Wellhead Protection Area (overlay zoning district)
-	Or fewer (as in “8-“)
+	Or more (as in “9+”)

**SECTION 49:** The following definitions are hereby created or amended in Section 94.17.04 to provide as follows:

**Boarder:** A person renting a room, or being provided a room as a stipulation of employment, in a Boarding House.

**Company provided on-site ~~recreation or child care~~ amenities (land use):** See Section 94.4.09.

**Protest petition:** A written protest against a proposed amendment to the Official Zoning Map (or Official Zoning Overlay Map), duly signed and acknowledged by the owners of 20 percent or more either of the areas of the land included in such proposed amendment, or by the owners of 20 percent or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land.

**Substandard lot:** A legally created lot that met any applicable lot dimensional requirement when it was created but does not meet the minimum dimensional requirements applicable to the zoning district that are listed in this Chapter. Also referred to as a “legal nonconforming lot.” A lot of record that lawfully existed prior to this Chapter that would not conform to the applicable regulations if the lot were to be created under the current provisions of this Chapter. See Section 94.15.02.

**Townhouse (land use):** A type of Multi-family Residence containing between 3 and 8 dwelling units, where each unit has a private individual exterior access (beyond one that connects only to a private patio, porch, deck, or balcony), shares at least one common wall with an adjacent dwelling unit, and is not stacked on top of and does not share interior space with any other unit. Also referred to as a “row house.” See Section 94.4.02.

**Unnecessary hardship:** A circumstance where strict compliance with this Chapter would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with this Chapter unnecessarily burdensome. The property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner. The circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of the Chapter.

SECTION 50: The amendment effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

SECTION 51: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

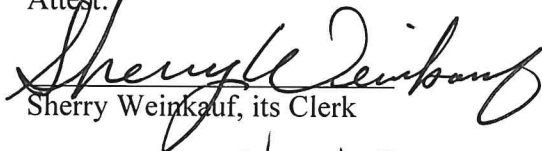
SECTION 52: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 21<sup>st</sup> day of January, 2019

WESTON VILLAGE BOARD

By:   
Barbara Ermeling, its President

Attest:

  
Sherry Weinkauff, its Clerk

APPROVED: 1/21/19

PUBLISHED: 1/23/19

# REQUEST FOR CONSIDERATION

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<b>Public Mtg/Date:</b>	Board of Trustees, January 21, 2019
<b>Description:</b>	Ordinance No. 19-001 <i>An Ordinance to Amend Various Provisions Within Chapter 94 (Zoning Ordinance) to Address Recent Changes in State Law, Respond to Village Land Development Review Services Audit, and Make Other Miscellaneous Zoning Ordinance Changes.</i>
<b>From:</b>	Plan Commission/ETZ Committee  Jennifer Higgins, Director of Planning and Development / Zoning Administrator
<b>Question:</b>	Should the Board accept the proposed changes to Chapter 94 Zoning as recommended by the Zoning Steering Committee and staff and recommend the BOT adopt the proposed changes by ordinance?

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## Background

Mark Roffers of MDRoffers was hired by the former administrator to conduct an audit of the Planning and Development Department. As a part of the audit business owners were offered to meet and discuss their opinions on their interactions with the department. Out of those conversations, and a change in state law regarding conditional use permits, it was recommended that the new 2015 zoning code be revisited and be made more user friendly and business friendly. A Zoning Steering Committee was formed in 2018 and met three times throughout the year to discuss possible changes to the Zoning Code. They finalized their recommendation of changes to the PC/ETZ at their 10/29/18 meeting.

The Plan Commission/ETZ Committee reviewed the proposed changes at their 12/10/18 meeting and each body made a motion to direct staff to send the changes to public hearing at the next available meeting date. The public hearing was noticed per state statute requirements with publications in the Wausau Daily Herald on 12/31/18 and 1/7/19. The Public Hearing was held at their joint meeting on 1/14/19. No one spoke in opposition. Staff spoke in support of the changes and on behalf of the Zoning Steering Committee in support of the recommended changes. Both the PC and ETZ recommended the changes be sent to the BOT for final approval by adoption of the ordinance.

Mark Roffers has provided a memo explaining the proposed ordinance amendments in more detail. It is attached to this packet.

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<b>Attached Docs:</b>	Memo from MDRoffers  Draft Amendatory Zoning Ordinance – Ordinance No. 19-001
<b>Committee Action:</b>	Recommended by Zoning Steering Committee, 10/29/2018  Plan Commission/ETZ Committee review of the proposed ordinances changes at their 12/10/18 meeting. Directed staff to send to public hearing. 12/10/18

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# REQUEST FOR CONSIDERATION

Public Hearing held 1/14/19 - Plan Commission/ETZ Committee has recommended approval with changes. Changes requested have been updated in the new draft Ordinance attached.

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**Fiscal Impact:** TBD

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**Recommendation:** The Plan Commission, ETZ Committee, and staff recommend that the Village Board approve a motion adopting Ordinance 19-001, making a number of amendments to the Village's Zoning Code to address state law changes, the results of a 2018 audit of the village's land development review services, and the work of the ad hoc Zoning Committee.

## Recommended Language for Official Action

**I move to approve Ordinance No. 19-001 as recommended by the PC, ETZ and staff.**

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**Additional action:** Publication of the approved Ordinance in the Wausau Daily Herald (Staff)



To: Village of Weston Board of Trustees  
From: Mark Roffers, AICP, Planning Consultant  
Date: January 15, 2019  
Re: Proposed Amendments to the Zoning Code for Village and Extraterritorial Area

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**Recommendation:** The Plan Commission, ETZ Committee, and staff recommend that the Village Board approve a motion adopting Ordinance 19-001, making a number of amendments to the Village’s Zoning Code to address state law changes, the results of a 2018 audit of the village’s land development review services, and the work of the ad hoc Zoning Committee.

**Background:** Over the past year, village staff and I have worked with the ad hoc Zoning Committee on a series of proposed amendments to the Zoning Code (Chapter 94). These amendments are driven by a series of state law changes over the past 18 months, including 2017 Wisconsin Acts 67 and 243, and the Land Development Review Services audit that I completed for the village this past spring.

In October, the Zoning Committee recommended the commencement of the formal approval process of the attached ordinance, but it did not review proposed flexibility in sign regulations described later in this memo. In December, the Plan Commission and ETZ Committee met to review the amendments, and advised a few changes. Because the ordinance would change zoning regulations in both the village and the extraterritorial zoning area in the Town of Weston, a public hearing was required and the Plan Commission and Extraterritorial Zoning Committee recommended approval of Ordinance 2019-001 to the Village Board. The Board may now act to adopt the amendatory ordinance.

**Overview of Amendatory Ordinance:** The amendatory ordinance is in the Board packet. Proposed language additions are generally marked by underlined text. Proposed deletions are ~~crossed out~~. Normal text indicates existing ordinance language that would remain. The exceptions are Figures 4.02(2) and (3) in Sections 6 and 7, which would be entirely new.

The following points summarize the proposed zoning ordinance amendments, referring to appropriate section numbers in the attached amendatory ordinance.

**Adjust Allowable Land Uses (Figures 3.04 and 3.05 in Sections 1 and 2):** Multi-family residences of all sizes would become permitted-by-right uses in the MF Multiple Family Residential zoning district, but subject to additional performance standards via the new Figure 4.02(2). Two types of uses—outdoor storage and outdoor alcohol service—would switch from conditional to permitted uses when at least 300 feet from residential zoning districts.

**Adjust Performance Standards for Certain Uses (Sections 5-22):** Performance standards for new multi-family residences would be consolidated and expanded within the new Figure 4.02(2) in Section 6 of the amendatory ordinance. The standards would increase as the number of housing units in a proposed project increases. The standards in Figure 4.02(2) relate to building and site design, parking, management and security, and on-site recreational amenities. They are based on what higher-quality multiple family projects for all ages and incomes throughout Wisconsin are providing. Other proposed changes in Sections 7, 8, and 16 are related.

The description and standards for the “Boarding House” land use would change (Section 10), in a manner that addressed Zoning Committee discussion of such potential uses in rural areas (AR zoning district).

“Tourist Rooming House” standards (Section 11) would change to reflect changes in State law, notably by removing any regulation when rental periods are more than seven days.

One key objective of the proposed amendments is to make sure the village has good standards for common or potentially impactful conditional uses, because rejection of conditional use permit applications is now harder under state law changes (2017 Wisconsin Act 67). In response:

- Performance standards for “personal storage facilities” (or mini-warehouses) would be increased, enhancing design standards, limiting outdoor and hazardous materials storage, addressing security, and restricting unwanted uses like business operations out of storage units and habitation (Section 13).
- “Solid Waste Disposal, Composting, and/or Recycling Facility” standards would be enhanced to more closely reflect standards for “Non-Metallic Mineral Extraction”, for which performance standard changes are also proposed (Sections 14 and 15).
- Standards for in-house day care facilities are also proposed to be enhanced (Sections 17-20). Where the number of kids reaches nine or greater, standards would be greatest and reflect those of other home occupations already in the ordinance.

**Adjust Certain Building, Site, and Landscape Design Standards (Sections 25-34, 45):** These changes are mainly in response to the spring 2018 audit of the village’s land development review services, and include:

- Relaxing current requirement that all industrial buildings be designed by an architect.

- Relaxing building material standards for interior Business Park parcels and clarifying building material standards overall.
- Clarifying permitted exemptions or reductions in required landscaping associated with building and parking lot additions.
- Allowing trash and recyclable dumpsters to not have to be screened by an opaque fence or wall in certain cases where ordinance intent and public interest would not be compromised.
- Eliminating current requirement for a permit when simply resurfacing or restriping an existing parking lot, with no parking lot expansion.
- Eliminating curbing requirements associated with moderate parking lot additions, where the original parking lot does not have curbing.
- Clarifying that additional landscaping is not required for resurfacing or restriping of parking lots or where a pre-2015 gravel parking lot is converted to pavement, with no expansion.

**Makes Other Procedural Amendments Required by State Law Changes (Sections 42-44, 46, 47, 49):** These include:

- Relaxing rules related to nonconforming lots.
- Establishing a higher threshold for Village Board approval of rezonings that amount to a “down zoning” of land (2/3 vote of all Board members required), and unifying existing supermajority voting requirements already in the ordinance with that 2/3 standard.
- Adjustments to standards and procedures for consideration of applications for conditional use permits and variances. This was the focus of 2017 Wisconsin Act 67.

**Adjust Sign Regulations (Sections 35-41):** The primary suggested change is to establish a process whereby greater quantities and sizes of commercial signs than normally allowed could be approved through a “special exception” process. While not frequently deployed, special exceptions are enabled by Wisconsin law and traditional zoning practice. The proposal in the attached ordinance is that the Plan Commission (or ETZ Committee in ETZ area) would consider applications for special exceptions, following a public hearing. The Commission or Committee would consider each request on its merits, with reference to special exception criteria included in the proposed ordinance. That criteria relates mainly to the “fit” of the proposed sign(s) within the surroundings, compatibility with local plans and zoning, and public safety concerns.

Most of the proposed amendments to the sign regulations were not reviewed by the ad hoc Zoning Committee, but were instead identified by staff after that Committee’s last meeting. They are, however, along the general direction of the work of that Committee and the spring 2018 audit—to establish some additional flexibility in zoning regulations.