

**VILLAGE OF MCFARLAND
ORDINANCE 2025-08**

**AN ORDINANCE MAKING VARIOUS AMENDMENTS TO CHAPTER 2,
CHAPTER 23, CHAPTER 56, CHAPTER 62 AND APPENDIX A OF THE
MUNICIPAL CODE CONCERNING PUBLIC NOTIFICATION REQUIREMENTS**

PURPOSE: To clarify and provide consistency among public notification requirements within Chapter 2, Chapter 23, Chapter 56, Chapter 62, and Appendix A of the municipal code.

SPONSOR: Andrew Bremer, Community & Economic Development Director

RECOMMENDED REFERRAL: Plan Commission (Required)

PUBLIC HEARING: Required; Preceded by a Class 2 Notice

WHEREAS, the Village Board referred to the Plan Commission the review of the Village's public notification requirements for various land division and zoning applications, as well as notification requirements related to Tax Incremental Finance Districts; and,

WHEREAS, the Plan Commission discussed at their August 19, 2025, November 18, 2025, and December 16, 2025 meetings the Community & Economic Development Department's practices for public notices regarding land division and zoning applications, and Tax Incremental Finance Districts, comparing minimum notice requirements under state statutes and the Department's practices; and,

WHEREAS, the Department's current practice of written notice is sent to adjacent property owners within 300 feet of the subject property and is in excess of what is required under State Statute and Village Ordinances; and,

WHEREAS, the Plan Commission has determined it necessary to codify increases in the required notification radius through various amendments to the Village's Municipal Code of Ordinance for consistency; and,

WHEREAS, the Comprehensive Plan Volume 2 – Visions and Direction, Chapter 9 Intergovernmental and Stakeholder Cooperation identified Initiative 3: Practice Transparency and Inclusion in Village Activities to advance community engagement and relationships; and,

WHEREAS, Chapter 2 Administration, Chapter 23 Finance and Taxation, Chapter 56 Subdivision, Chapter 62 Zoning, and Appendix A, has been revised to include the Plan Commission's recommended changes; and,

WHEREAS, a public hearing regarding this ordinance was held by the Plan Commission on November 18, 2025; and,

WHEREAS, the Village Board finds that this ordinance is consistent with the Village's

Comprehensive Plan; and,

WHEREAS, the Village Board finds approval of this ordinance is in the public interest; and

NOW THEREFORE, be it ordained by the Village Board of the Village of McFarland, in the State of Wisconsin, as follows:

SECTION 1: AMENDMENT “2-313 Powers And Duties” of the Village of McFarland Municipal Code is hereby *amended* as follows:

A M E N D M E N T

2-313 Powers And Duties

The Village Plan Commission shall be responsible for the following functions:

(a) The Village Comprehensive Plan.

- (1) The Plan Commission shall make, adopt and, as it deems necessary, amend, extend or add to the Village Comprehensive Plan, including any neighborhood, corridor, or district sub-area plans adopted as a component to such plan. The Comprehensive Plan shall be a guide to the physical, social and economic development of the Village including areas outside of its boundaries which, in the Plan Commission's judgment, bear relation to the development of the Village. The Village Comprehensive Plan, with the accompanying maps, plats and descriptive and explanatory matter, shall show the Plan Commission's recommendations for such development, and shall include all elements required under Wis. Stats. § 66.1001.
- (2) The adoption of the Plan or any part, amendment or addition thereto, shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the Plan Commission following all procedural requirements of Wis. Stats. § 66.1001(4). The resolution shall refer to maps and other descriptive matters that relate to one or more elements of a comprehensive plan. The vote of the Commission shall be recorded in its official minutes. The Comprehensive Plan, and any amendment thereto, shall be effective only upon enactment of an ordinance by a majority vote of the members-elect of the Village Board adopting the recommended plan or amendment.
- (3) The Plan Commission shall periodically review the Comprehensive Plan, including any neighborhood, corridor, or district sub-area plans as it deems appropriate. The Plan Commission shall update the Comprehensive Plan every ten years as directed by the Village Board. Any person may apply to the Plan Commission for an amendment to the Comprehensive Plan at any other time provided, however, that any proposed amendment substantially similar to a proposal previously rejected by the Plan Commission or Village Board shall

not be resubmitted for a period of 12 months following the previous vote. Applications shall be made on a form provided by the Community & Economic Development Department and shall be accompanied by the fee established by the Village Board from time to time and provided in Appendix A to this Code. Property owners within 400 feet of the proposed amendment location shall receive written notice of the public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

(b) *Matters referred to Plan Commission.* The Village Board shall refer to the Plan Commission, for its consideration and report before final action is taken by the Village Board, public body or officer, the following matters:

- (1) The location and architectural design of any public building;
- (2) The location of any statue or other memorial;
- (3) The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alley or other public way, park, playground, airport, area for parking vehicles, or other memorial or public grounds;
- (4) The location, extension, abandonment or authorization for any public utility whether publicly or privately owned;
- (5) All plats, including condominium plats, in the Village or within the territory over which the Village is given platting jurisdiction by Wis. Stats. Ch. 236;
- (6) The location, character and extent or acquisition, leasing or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children; and
- (7) The amendment or repeal of any land use ordinance or any other ordinance adopted pursuant to Wis. Stats. §§ 61.35 and 62.23.
- (8) The temporary zoning of lands contained within a petition for annexation to the Village.
- (9) Amendments to the Village's Urban Service Area.

(c) *Miscellaneous powers.*

- (1) The Plan Commission shall:
 - a. Oversee community development block grants;
 - b. Consider and report to the Village Board all matters referred to it pertaining to planning and development of land within the Village and within one and one-half miles of the limits of the Village;
 - c. Review and recommend approval, rejection or conditional approval of all plats or replats of any lands within, or within one and one-half miles of, the limits of the Village.
 - d. Review and approve, reject or conditionally approve all applications for conditional use permits and site design permits under Chapter 62 of this Code.
- (2) The Plan Commission may:
 - a. Make reports and recommendations relating to the plan and development of the Village to public officials and agencies, civic, educational, professional and other organizations and citizens.

- b. Recommend to the Village Board, programs for public improvements and the financing thereof.
- c. In the performance of its functions, enter upon any land, make examinations and surveys, and place and maintain necessary monuments and markers thereon.
- d. Exercise such powers as may be necessary to enable it to perform its functions and promote municipal planning in cooperation with the Village Board to the extent allowed by law.

SECTION 2: **ADOPTION** “ARTICLE 23- III TAX INCREMENTAL FINANCE” of the Village of McFarland Municipal Code is hereby *added* as follows:

ADOPTION

ARTICLE 23- III TAX INCREMENTAL FINANCE(*Added*)

SECTION 3: **ADOPTION** “DIVISION 23-III-1 GENERALLY” of the Village of McFarland Municipal Code is hereby *added* as follows:

ADOPTION

DIVISION 23-III-1 GENERALLY(*Added*)

SECTION 4: **ADOPTION** “23-170 Notifications” of the Village of McFarland Municipal Code is hereby *added* as follows:

ADOPTION

23-170 Notifications(*Added*)

The Village shall provide notice of the creation or amendment of Tax Incremental Finance District following all procedural requirements of Wis. Stats. § 66.1105. In addition, where a new Tax Incremental Finance District (TID) is proposed or where the boundaries of an existing TID are proposed for amendment, the Village shall provide written notice to all property owners within the municipal boundaries of the Village within 400 feet of the boundaries of the TID or TID amendment area of the required public hearing under 66.1105. The Village Administrator or Community & Economic Development Director may request consideration of alternative notification requirements to the Village Board on a case-by-case basis. The use of alternative notification requirements shall not apply to the minimum

notification requirements of Wis. Stat. §66.1105. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the TID creation or amendment.

SECTION 5: AMENDMENT “56-35 Preliminary Consultation” of the Village of McFarland Municipal Code is hereby *amended* as follows:

A M E N D M E N T

56-35 Preliminary Consultation

Before submitting a Preliminary Plat or Certified Survey Map, the subdivider is encouraged to consult with the Community Development Director for advice regarding general Subdivision requirements. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the Community Development Department. The subdivider shall also submit a location map showing the relationship of the proposed Subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components and duly adopted plan implementation devices of the Village and to otherwise assist the subdivider in planning a development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures. Applicants are encouraged to seek preapplication conceptual review of proposed preliminary plats by the Plan Commission. The Plan Commission is under no obligation to give a response to such submittals at the same meeting as they are presented. The Plan Commission is entitled to seek outside assistance and sources of critique. No responses by the Plan Commission or by individual Plan Commissioners shall bind the Plan Commission or the Village unless the response is on behalf of the Plan Commission, is in writing and is expressed as a binding response. Notice of the time, place and purpose of a preapplication meeting shall also be sent to the applicant and the owners of record as listed in the office of the Village Assessor who are owners of the property in whole or part situated within 400 feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such preapplication meeting. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application

(Code 1998, § 14-1-30; Ord. No. 99-11, § 6, 8-23-1999)

SECTION 6: AMENDMENT “56-37 Preliminary Plat Review And Approval” of the Village of McFarland Municipal Code is hereby *amended* as follows:

A M E N D M E N T

56-37 Preliminary Plat Review And Approval

- (a) *Plan commission review.* After review of the Preliminary Plat and negotiations with the subdivider on changes deemed advisable and the kind and extent of public improvements that will be required, the Plan Commission shall, within 60 days, or within such time as extended by agreement with the subdivider of its submission, approve, approve conditionally, or reject the plat. The subdivider shall be notified in writing of any conditions for approval of the reasons for rejection. Such action of the Plan Commission shall be submitted to the Village Board for approval and the subdivider shall be notified in writing of any changes or modifications in the action of the Plan Commission and the reasons therefor.
- (b) *Public hearing.* The Village Clerk shall schedule a public hearing on the Preliminary Plat before the Plan Commission. The Village Clerk shall give notice of the Plan Commission's review and public hearing on the Preliminary Plat or Certified Survey Map by listing it as an agenda item in the Plan Commission's meeting notice published in the official Village newspaper. The notice shall be a Class 2 notice under Wis. Stats. Ch. 985 and include the name of the applicant, the address of the property in question and the requested action. Property owners within 200-400 feet of the proposed land division shall receive written notice of the public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.
- (c) *Board action.* After receipt of the Plan Commission's recommendation, the Village Board shall, within 90 days of the date the plat was filed with the Village Clerk, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the Village Board to act within 90 days or extension thereof shall constitute an approval of the Preliminary Plat, unless other authorized agencies object to the plat. The Village Clerk shall communicate to the subdivider the action of the Village Board. If the Preliminary Plat is approved, the Village Clerk shall endorse it for the Village Board.
- (d) *Effect of Preliminary Plat approval.* Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within 36 months of Preliminary Plat approval and conforms substantially to the Preliminary Plat layout, the Final Plat shall be entitled to approval. The Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat, which will be subject to further consideration by the Plan Commission and Village Board at the time of its submission.
- (e) *Preliminary Plat amendment.* Should the subdivider desire to amend the Preliminary Plat as approved, the subdivider may resubmit the amended plat, which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Village Board, of such scope as to constitute a new plat, in which such case it shall be refiled.

(Code 1998, § 14-1-32; Ord. No. 99-11, § 11, 8-23-1999; Ord. No. 2003-02, §§ 156, 157, 1-

SECTION 7: AMENDMENT “56-38 Final Plat Review And Approval” of the Village of McFarland Municipal Code is hereby *amended* as follows:

A M E N D M E N T

56-38 Final Plat Review And Approval

(a) *Filing requirements.*

- (1) The subdivider shall prepare a Final Plat and complete an application form prescribed by the Community Development Department in accordance with this Chapter and shall file 20 copies of the Plat and the application with the Village Clerk at least 15 days prior to the meeting of the Plan Commission at which action is desired. ~~The Village Clerk shall give notice of the Plan Commission's meeting in the manner prescribed in Section 56-37(a).~~ The owner or subdivider shall file 20 copies of the Final Plat not later than 24 months after the date of approval of the Preliminary Plat; otherwise, the Preliminary Plat and Final Plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the Village. The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the Village Attorney may require showing title or control in the applicant.
- (2) The subdivider shall, within two days after filing with the Village, transmit two copies to the County Planning Agency, two copies to the Director of the Planning Function in the Wisconsin Department of Administration, additional copies to the Director of the Planning Function for transmission of two copies each to the Wisconsin Department of Transportation if the Subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Commerce if the Subdivision is not served by a public sewer and provision for service has not been made, and the original Final Plat and adequate copies to the Plan Commission. The subdivider shall file with the Village Clerk an affidavit indicating full compliance with the requirement of filing with objecting agencies. The County Planning Agency, the Wisconsin Department of Administration, the Wisconsin Department of Transportation, and the Wisconsin Department of Commerce shall be hereinafter referred to as objecting agencies.
- (3) The Final Plat shall conform to the Preliminary Plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Wis. Stats. § 236.12(2). The Zoning Administrator, Village Engineer or Village Attorney shall examine the Final Plat and provide a conclusion as to whether the Final Plat conforms substantially to the

Preliminary Plat with a recommendation on approval of the Final Plat. The conclusions and recommendations shall be made a part of the record of the proceedings where the Final Plat is being considered.

- (4) Simultaneously with the filing of the Final Plat or map, the owner shall file with the Village Clerk 12 copies of the final plans and specifications of public improvements required by this Chapter, and a signed copy of the developer's contract required by Section 56-104.
- (5) The Village Clerk shall refer two copies of the Final Plat to the Plan Commission, one copy to the Village Engineer, and a copy each to the telephone and power and other utility companies. The abstract of title or registered property report may be referred to the Village Attorney for examination and report. The Village Clerk shall also refer the final plans and specifications of public improvements to the Village Engineer for review. The recommendations of the Plan Commission and Village Engineer shall be made within 30 days of the filing of the Final Plat. The Village Engineer shall examine the plat or map and final plans and specifications of public improvements for technical details and, if the Village Engineer finds them satisfactory, shall so certify in writing to the Plan Commission. If the plat or map or the plans and specifications are not satisfactory, the Village Engineer shall return them to the owner and so advise the Plan Commission.

(b) Plan Commission review.

- (1) Public Hearing. The Village Clerk shall schedule a public hearing on the Final Plat before the Plan Commission. The Village Clerk shall give notice of a Plan Commission's review and public hearing on the Final Plat or Certified Survey map by listing an agenda item in the Plan Commission's meeting notice published in the official Village newspaper. The notice shall be a Class 2 notice under Wis. Stats. Ch. 985 and include the name of the applicant, the address of the property in question and the requested action. Property owners within 400 feet of the proposed land division shall receive written notice of the public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.
- (2) The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this Chapter and all applicable ordinances, rules, regulations, comprehensive plans and comprehensive plan components, which may affect it and shall recommend approval, conditional approval or rejection of the Plat to the Village Board.
- (3) The objecting state and county agencies shall, within 20 days of the date of receiving their copies of the Final Plat, notify the subdivider and all other approving and objecting agencies of any objections, except that the Wisconsin Department of Administration has 30 days in which to make objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Village. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the Plat.
- (4) If the Final Plat is not submitted within 24 months of the last-required

approval of the Preliminary Plat, the Village Board may refuse to approve the Final Plat.

- (5) The Plan Commission shall, within 30 days of the date of filing of the Final Plat with the Village Clerk, recommend approval, conditional approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendations to the Village Board. The Plan Commission may hold the matter in abeyance if there is incomplete or inadequate information.

(c) Village Board review and approval.

- (1) The Village Board shall, within 60 days of the date of filing the original Final Plat with the Village Clerk, approve or reject such Plat unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Village Board may not inscribe its approval on the Final Plat unless the Village Clerk certifies on the face of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within 20 days or, if filed, have been met.
 - (2) The Village Board shall, when it determines to approve a Final Plat, give at least ten days' prior written notice of its intention to the Village Clerk of any municipality within 1,000 feet of the Final Plat.
 - (3) Failure of the Village Board to act within 60 days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.
- (d) *Recordation.* After the Final Plat has been approved by the Village Board and required improvements either installed or a contract and sureties insuring their installation is filed, the Village Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the county Register of Deeds. The Register of Deeds cannot record the Plat unless it is offered within six months after the date of last approval and within 24 months after the first approval.
- (e) *Copies.* The subdivider shall file eight copies of the Final Plat with the Village Clerk for distribution to the approving agencies, affected sanitary districts, and other affected agencies for their files.
- (f) *Partial platting.* The Final Plat may, if permitted by the Village Board, constitute only that portion of the approved Preliminary Plat, which the subdivider proposes to record at the time.
- (g) *Plats within the extraterritorial plat approval jurisdiction.* When the land to be subdivided lies within 1 1/2 miles of the corporate limits of the Village, the subdivider shall proceed as specified in Sections 56-37 and 56-38, except:
- (1) Transmittal responsibility lies with the Village Clerk/Town Clerk, or to whomever the plat is first submitted; and the subdivider shall indicate which one in the subdivider's application.
 - (2) Approval agencies include the Plan Commission or Village Board, the town board of the town within which the Subdivision is located and the Dane County Zoning and Natural Resources Committee; the subdivider shall

comply with the land division ordinances of these agencies.

- (3) After approval, the subdivider may proceed with the installation of such improvements and under such regulations as the town board of the town within whose limits the plat lies may require. Wherever connection to any Village utility is desired, permission for such connection shall be approved by the Village Board.
- (4) All improvement requirements, specified by the Town Board or any special improvement district in matters over which they have jurisdiction, shall be met before filing of the Final Plat.

(Code 1998, § 14-1-33; Ord. No. 99-11, §§ 12—16, 8-23-1999; Ord. No. 2003-02, §§ 158—165, 1-27-2002; Ord. No. 2010-23, § 2, 11-22-2010)

SECTION 8: AMENDMENT “56-39 Certified Survey Map” of the Village of McFarland Municipal Code is hereby *amended* as follows:

A M E N D M E N T

56-39 Certified Survey Map

- (a) *Use of Certified Survey Map.* When it is proposed to divide land into at least two but no more than four parcels or building sites, any one of which is 35 acres in size or less, or when it is proposed to create by land division not more than four parcels or building sites within a recorded Subdivision Plat without changing the exterior boundaries of a block, lot or outlot, the subdivider shall prepare a Certified Survey Map in accordance with this Chapter and shall file 20 copies of the map and the letter of application with the Village Clerk at least 20 working days prior to the meeting of the Plan Commission at which action is desired.
- (b) *Referral to Plan Commission.* The Village Clerk, within two normal work days after filing, transmit the copies of the map and letter of application to the Plan Commission.
- (c) *Review by other Village agencies.* The Plan Commission shall transmit a copy of the map to all affected Village boards, authorities, committees, commissions or departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Plan Commission within ten days from the date the map is filed. The map shall be reviewed by the Plan Commission for conformance with this Chapter and all ordinances, rules, regulations, comprehensive plans, comprehensive plan components and neighborhood plans.
- (d) *Review and approval.* Following public hearing by the Plan Commission in the manner used for Preliminary Plats prescribed in Sec. 56-37(b), the Plan Commission shall approve, approve conditionally and thereby require resubmission of a corrected Certified Survey Map or reject such Certified Survey Map within 60 days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a

written statement forwarded to the subdivider. If the map is approved, the Plan Commission shall cause the Village Clerk to so certify on the face of the original map and return the map to the subdivider.

- (e) *Recordation.* The subdivider shall record the map with the County Register of Deeds within 30 days of the approval.
- (f) *Copies.* The subdivider shall file five copies of the recorded Certified Survey Map with the Village Clerk for distribution to the Village Engineer, Building Inspector, Village Assessor and other affected departments for their files.

(Code 1998, § 14-1-34; Ord. No. 99-11, § 17, 8-23-1999; Ord. No. 2003-02, §§ 166—169, 1-27-2002)

SECTION 9: AMENDMENT “56-40 Replat” of the Village of McFarland
Municipal Code is hereby *amended* as follows:

AMENDMENT

56-40 Replat

- (a) Except as provided in Wis. Stats. § 70.27(1), when it is proposed to Replat a recorded Subdivision, or part thereof, so as to change the boundaries of a recorded Subdivision, or part thereof, the subdivider or person wishing to Replat shall vacate or alter the recorded Plat as provided in Wis. Stats. §§ 236.40—236.44. The subdivider or person wishing to Replat shall then proceed, using the procedures for Preliminary and Final Plats.
- (b) The Village Clerk shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a Replat of lands within the Village is filed, and shall ~~cause give~~ public notices by a Class 2 notice of the proposed Replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed Replat and to the owners of all properties within ~~200~~ 400 feet of the exterior boundaries of the proposed Replat. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.
- (c) Where lots are more than double the minimum size required for the applicable zoning district, the Plan Commission may require that such lots be arranged so as to allow resubdivision of such parcels into normal lots in accordance with the provisions of the Chapter.

(Code 1998, § 14-1-35; Ord. No. 2003-02, § 170, 1-27-2002)

SECTION 10: AMENDMENT “62-4 Definitions” of the Village of
McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-4 Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (a) *Abutting*. Having property or district lines in common (e.g., two lots are abutting if they have property lines in common).
- (b) *Accessory building or use*.
 - (1) An accessory building or use is one that:
 - a. Is customary and clearly incidental to the principal building or principal use;
 - b. Serves exclusively the principal building or principal use;
 - c. Is subordinate in area, extent or purpose to the principal building or principal use;
 - d. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
 - e. Is located on the same zoning lot as the principal use served, with exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.
 - (2) An accessory building or use includes, but is not limited to, the following:
 - a. A children's playhouse, garden house or private greenhouse;
 - b. A garage, carport, shed or building for storage incidental to a permitted use;
 - c. Incinerators incidental to a permitted use;
 - d. Storage of goods used in or produced by permitted manufacturing activities on the same zoning lot with such activities, unless such storage is excluded by the district regulations;
 - e. The production, processing, cleaning, servicing, testing, repair or storage of merchandise normally incidental to a permitted retail service or business use if conducted by the same ownership as the principal use;
 - f. Off-street motor vehicle parking areas and loading facilities;
 - g. Signs, as permitted and regulated in each district incorporated in this Chapter; and
 - h. Earth station dish antennas, which are ground-mounted or building-mounted.
- (c) *Acre, net*. The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.
- (d) *Adjacent*. Neighboring or within visible proximity (e.g., includes property that is across the street or public right-of-way and includes all properties directly impacted by a proposed development whether abutting or not).
- (e) *Agricultural use*. Any of the following activities conducted for the purpose of

producing an income or livelihood: crop or forage production, keeping livestock, beekeeping nursery, sod or Christmas tree production, floriculture, aquaculture, fur farming, forest management and enrolling land in a federal agricultural commodity payment program for a federal or state agricultural land conservation payment program.

- (f) *Alley*. A public way not more than 24 feet wide that affords only a secondary means of access to abutting property.
- (g) *Animal unit*. One animal unit is the equivalent of one cow, or one horse, or one pony, or one mule, or two hogs or ten sheep, or ten goats or 50 poultry or equivalent combination of them.
- (h) *Apartment*. A room or suite of rooms in a multiple-family structure that is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.
- (i) *Arterial street*. A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.
- (j) *Automobile laundry*. A building or portion thereof containing facilities for washing automobiles using production-line methods with a chain, conveyor, blower, steam-cleaning device or other mechanical devices or any premises with a capacity of washing 20 or more vehicles per eight-hour day.
- (k) *Awning*. A retractable, rooflike cover, temporary in nature, which projects from the wall of a building.
- (l) *Basement*. That portion of any structure located partly below the average adjoining lot grade, which is not designed or used primarily for year-around living accommodations.
- (m) *Block*. A tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad right-of-way, bulkhead lines or shorelines of waterways. A block may be located in part beyond the boundary lines of corporate limits of the Village.
- (n) *Boardinghouse*. A building other than a hotel or restaurant where meals or lodging are regularly furnished by a rearrangement for compensation for three or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.
- (o) *Bufferyard*. A unit of land, together with a specified type and amount of planting thereon, and any structures that may be required between land uses to eliminate or minimize conflicts between them.
- (p) *Buildable lot area*. The portion of a lot remaining after required yards have been provided.
- (q) *Building*. Any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and which is permanently affixed to the land. When any portion thereof is completely separated from every other portion by masonry or firewall without any window, which wall extends from the ground to the roof, then such portion shall be deemed to be a separate building.
- (r) *Building, completely enclosed*. A building separated on all sides from the adjacent

open space or from other buildings or structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

- (s) **Building coverage.** The proportion of the lot area, expressed as a percent, that is covered by the maximum horizontal cross section of a building or buildings.
- (t) **Building detached.** A building surrounded by open space on the same lot.
- (u) **Building height.** A vertical distance from the curb level or the approved ground level opposite the center of the front of a building to the highest point of the roof in the case of a flat roof, to the deck line of a mansard roof, and to the mean-height level between eaves and ridges of a gable, hip or gambrel roof.
- (v) **Building, principal.** A building in which the principal use of the lot on which it is located is conducted.
- (w) **Building setback line.** A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.
- (x) **Bulk.** Used to indicate the size and setbacks of buildings or structures and the location of such buildings or structures with respect to one another and includes the following:
 - (1) Size and height of buildings;
 - (2) Location of exterior walls at all levels in relation to lot lines, streets or to other buildings;
 - (3) Gross floor area of buildings in relation to lot area (floor area ratio);
 - (4) All open spaces allocated to buildings; and
 - (5) Amount of lot area provided per dwelling unit or lodging room.
- (y) **Business.** An occupation, employment or enterprise that occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
- (z) **Channel.** Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.
- (aa) **Clinic, medical and dental.** A building in which a group of physicians, dentists or physicians and dentists and allied professional assistants are associated for the purpose of carrying on their professions. The clinic may include an accessory dental or medical laboratory. It shall not include in-patient care or operating rooms for major surgery.
- (ab) **Club or lodge, private.** A nonprofit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests. The affairs and management of such private club or lodge are conducted by a Board of Directors, Executive Committee or similar body chosen by the members at their annual meeting. It shall be permissible to serve food and meals on such premises, provided adequate dining room space and kitchen facilities are available. Where properly licensed under existing Village ordinances, the consumption of intoxicating beverages by members of such club or lodge or their guests may be permitted.
- (ac) **Community living arrangement.** The following facilities licensed or operated or permitted under the authority of the child welfare agencies under Wis. Stats. § 48.60, foster homes for children under Wis. Stats. § 48.02(6), group homes for children under Wis. Stats. § 48.02(7), and community-based residential facilities under Wis. Stats. § 50.01(1g), but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living

arrangement shall be in conformance with applicable Sections of Wis. Stats. §§ 46.03(22), 59.69(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

- (ad) *Conditional uses*. Uses of a special nature as to make impractical their predetermination as a principal use in a district.
- (ae) *Conforming building or structure*. Any building or structure that:
 - (1) Complies with all the regulations of this Chapter or any amendment thereto governing bulk or the zoning district in which such building or structure is located; or
 - (2) Is designed or intended for a conforming use.
- (af) *Conservation standards*. Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the Natural Resources Conservation Service for Dane County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets the landowner's needs in developing soil and water conservation.
- (ag) *Controlled access arterial street*. The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.
- (ah) *Convalescent home and nursing home*. A home for the aged, infirm, chronically ill or incurable persons in which five or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation but not including hospital clinics or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases or mental illness.
- (ai) *Curb level*. The level of the established curb in front of such building measured at the center of such front.
- (aj) *Development*. Any manmade change to improved or unimproved real estate, including, but not limited to, construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.
- (ak) *District, basic*. A part of the Village for which the regulations of this Chapter governing the use and location of land and building are uniform.
- (al) *District, overlay*. Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.
- (am) *Down Zoning Ordinance*. A zoning ordinance that affects an area of land in one of the following ways:
 - (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
 - (2) By reducing the permitted uses of the land, that are specified in a zoning ordinance or other land use regulation, to fewer uses than were allowed under its previous usage.

- (an) *Dwelling*. A building or part of a building containing one or more dwelling units and also containing other directly associated elements such as hallways, storage areas or common laundry facilities. For purposes of this Chapter, this term does not include "group lodging facilities."
- (ao) *Dwelling, attached*. A dwelling separated from another dwelling unit and having any portion of any roof, wall or floor in common with another dwelling unit.
- (ap) *Dwelling, detached*. A dwelling that is entirely surrounded by open space on the same lot.
- (aq) *Dwelling, multiple-family*. A building, or portion thereof, containing three or more dwelling units.
- (ar) *Dwelling, single-family*. A building containing one dwelling unit only.
- (as) *Dwelling, two-family*. A building containing two dwelling units only.
- (at) *Dwelling unit*. An area within a dwelling that is designed, occupied or intended to be occupied by a family (or by a nonfamily household) as permitted by this Chapter as separate living quarters with private kitchen, sanitary, sleeping and living quarters within the unit.
- (au) *Eating place*. Establishments primarily engaged in the retail sale of prepared food and drinks for consumption on the premises. Caterers and institutional food service establishments are included. The term shall not apply to houses of worship, religious, fraternal, youths' or patriotic organizations, service clubs and civic or union organizations that occasionally prepare or serve or sell meals to transients or the general public, nor shall it include any public or private school lunchroom.
- (av) *Efficiency unit*. A dwelling unit consisting of one principal room exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove shall not exceed 90 square feet in area and shall not be used for sleeping purposes.
- (aw) *Elderly dwelling*. A building, or portion thereof, designed, designated and used exclusively by a person who is 55 years of age or older, or a family, the head of which or spouse is 55 years of age or older.
- (ax) *Essential services*. Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.
- (ay) *Establishment, business*. A place of business carrying on operations that are physically separate and distinct from those of any other place of business located on the same zoning lot.
- (az) *Family*. An individual or group of two or more individuals who are related by blood, marriage or adoption, together with not more than four additional persons not so related, living as a single household in a dwelling unit. For purposes of this Chapter, family includes nonfamily households.
- (ba) *Family day care*. The provision of day care for children for compensation within a dwelling whether or not licensed by the state, including educational services so long as

- the care and services are taking place within a dwelling.
- (bb) *Farming, general.* Includes floriculture, forest and game management, orchards, raising of grain, grass, mint and seedcrops, raising of fruits, nuts and berries, sod farming and vegetable farming. General farming includes the operating of such an area for one or more of the above uses with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.
 - (bc) *Farmstead.* A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.
 - (bd) *Floor area.* The sum of the gross floor area for each of a building's stories measured from the exterior limits of the faces of the structure. The floor area of a building includes basement floor area. It does not include cellars and unenclosed porches or any floor space in an accessory building or in the principal building that is designed for the parking of motor vehicles in order to meet the parking requirements of this Article.
 - (be) *Floor area ratio.* An intensity measured as a ratio derived by dividing the total floor area of a building by the gross area site. Where the lot is part of a larger development and has no bufferyard, that lot area may be used instead of the gross site area.
 - (bf) *Foster home.* Any facility that is operated by a person required to be licensed by Wis. Stats. § 48.62(1)(a) and that provides care and maintenance for no more than four children or, if necessary to enable a sibling group to remain together, for no more than six children or, if the State Department of Children and Families promulgates rules permitting a different number of children, for the number of children permitted under those rules.
 - (bg) *Frontage.* All the property abutting on one side of a street between two intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.
 - (bh) *Garage, private.* A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.
 - (bi) *Garage, public.* Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.
 - (bj) *Gross floor area.* The area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The gross floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.
 - (bk) *Gross site area.* The area of land that is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. The gross site area shall be legally described and made part of the application for zoning approvals.
 - (bl) *Group foster home.* Any facility operated by a person required to be licensed by Wis.

Stats. § 48.62 for the care and maintenance of five to eight foster children.

- (bm) *Group lodging facilities.* Building or parts of buildings designed, occupied or intended to be occupied as living quarters on a basis other than as a dwelling, dwelling unit, hotel or motel.
- (bn) *Group lodginghouse.* A group lodging facilities containing general lodging rooms not having kitchen facilities, offered for rent or comparable compensation on a monthly or longer basis. Meals or access to common meal preparation facilities may be offered as part of the service to occupants.
- (bo) *Guest, permanent.* A person who occupies or has the right to occupy on a monthly or longer basis a hotel or apartment hotel accommodation as such person's domicile and place of permanent residence.
- (bp) *Historic District.* An area designated by the Village Board on the recommendation of the Landmarks Commission, pursuant to this Section, composed of two or more improvement parcels that together comprise a district of special character or special historic interest or value as part of the development, heritage or cultural characteristics of the Village, state or nation.
- (bq) *Historic site.* A parcel of land having historic significance due to a substantial value in tracing prehistory or history of aboriginal people, or upon which an historic event has occurred, and which has been designated as an historic site under this Chapter, or an improvement parcel, or part thereof, on which is situated an historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.
- (br) *Historic structure.* An improvement that has a special character or historic interest or value in showing the development, heritage or cultural characteristics of the Village, state or nation, which has been designated as an historic structure under this Chapter.
- (bs) *Home occupation.* Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit or in structures accessory thereto.
- (bt) *Home professional office.* A home occupation consisting of the office of a recognized profession.
- (bu) *Hotel.* A facility containing sleeping rooms with private or semi-private bathroom facilities offered overnight lodging to the public for compensation and catering primarily to the traveling public. A hotel shall offer services such as maid, telephone, desk and vending services. It may offer a restaurant, recreational facilities and meeting facilities.
- (bv) *Hotel, apartment.* A building in which at least 90 percent of the accommodations are dwelling units or are occupied by permanent guests.
- (bw) *Household.* A family or nonfamily group living in a nontransient manner in a single dwelling unit.
- (bx) *Impervious surface.* Those surfaces that do not absorb water. They consist of all buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt. In the case of lumberyards, areas of stored lumber constitute impervious surfaces.
- (by) *Impervious surface ratio.* A measure of the intensity of land use that is determined by dividing the total area of all impervious surfaces on a site by the gross site area.

- (bz) *Improvement*. Any building, structure, place, work of art or other object that is all or part of any physical betterment of real property.
- (ca) *Improvement parcel*. A parcel of property containing an improvement that is treated as a single entity for the purpose of levying real estate taxes. The term shall also include any unimproved area of land which is treated as a single parcel for real estate tax purposes.
- (cb) *Junk*. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.
- (cc) *Junkyard*. An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junkyard includes an automobile wrecking or dismantling yard, but does not include uses established entirely within enclosed buildings.
- (cd) *Kennel, animal*. Any premises, or portion thereof, where dogs, cats and other household pets are maintained, boarded, bred or cared for in return for remuneration, or are kept for the purpose of sale.
- (ce) *Landmarks Commission*. The Landmarks Commission under this Code.
- (cf) *Landscape surface area ratio (LSR)*. The percentage of the gross site area that is preserved as permanently protected landscaped area.
- (cg) *Landscaped area*. The area of the site that is planted and continually maintained in vegetation, including grasses, ground cover, shrubs, bushes and trees. Landscaped area includes the area located within planted and continually maintained landscaped planters.
- (ch) *Loading area*. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.
- (ci) *Lodging room*. A room rented as sleeping and living quarters without kitchen facilities and with or without an individual bathroom.
- (cj) *Lodging room (for determining lot area requirements and off-street parking requirements)*. For the purpose of determining the lot area requirements, any lodging room designed or intended to be occupied by more than two persons shall be determined as one lodging room for each two persons; provided, however, that in a lodginghouse or a fraternity and sorority house the number of lodging rooms shall be determined by dividing the total number of persons intended to occupy the lodging rooms by two.
- (ck) *Lodginghouse*. A building where lodging only is provided for compensation for not more than three persons not members of the family.
- (cl) *Lot*. A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.

- (cm) *Lot area*. The area of a horizontal plane bounded by the front, side and rear lot lines.
- (cn) *Lot, corner*. A lot of which at least two adjacent sides abut for their full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than 135 degrees.
- (co) *Lot coverage (residential)*. The area of a lot occupied by the principal building or buildings and accessory building.
- (cp) *Lot coverage (except residential)*. The area of a lot occupied by the principal buildings or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.
- (cq) *Lot depth*. The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.
- (cr) *Lot, interior*. A lot situated on a single street that is bounded by adjacent lots along each of its other lines and is not a corner lot.
- (cs) *Lot line*. A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.
- (ct) *Lot line, front*. In the case of a lot abutting upon only one street, the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this Chapter, have the privilege of electing any street lot line the front lot line, providing that such choice, in the opinion of the Zoning Administrator, will not be injurious to the existing, or to the desirable future development of the adjacent properties.
- (cu) *Lot line, rear*. The lot line that is opposite the most distant from the front lot line. In the case of an irregular, triangular or gore-shaped lot, a line 20 feet in length, entirely within the lot parallel to and most distant from the front lot line shall be considered to be the rear lot line for the purpose of determining depth of rear yard.
- (cv) *Lot line, side*. Any lot line not a front lot line or a rear lot line.
- (cw) *Lot lines*. The property lines bounding the lot.
- (cx) *Lot lines and area*. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (cy) *Lot of record*. A lot that is part of a Subdivision or a Certified Survey Map that has been recorded in the Office of the Register of Deeds of Dane County or a parcel of land, the deed to which was recorded in the Office of said Register of Deeds prior to the effective date of the ordinance from which this Chapter is derived. Any lot or parcel of land created through a violation of any other applicable laws or ordinances of the state and the Village shall not, in this instance, be considered a lot of record.
- (cz) *Lot, reversed corner*. A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
- (da) *Lot, substandard*. A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having

insufficient size to meet the lot width, lot area, yard, off-street parking areas or other open space provisions of this Code as pertaining to the district wherein located.

- (db) *Lot, through.* A lot that has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
- (dc) *Lot width.* The horizontal distance between the side lot lines of a lot, measured at right angles to the lot depth, said measurement to be made at the rear line of the required front yard.
- (dd) *Lot, zoning.* A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. Therefore, a zoning lot or lots may or may not coincide with a lot of record.
- (de) *Minor structures.* Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four feet in height.
- (df) *Mobile home.* A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.
- (dg) *Mobile home lot.* A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (dh) *Mobile home park.* A parcel of land that has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.
- (di) *Mobile home Subdivision.* A land Subdivision, as defined by Wis. Stats. Ch. 236 and any Village land division ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.
- (dj) *Modular unit.* A factory fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational or industrial purposes.
- (dk) *Motel.* A facility offering services of a hotel but where the sleeping rooms are physically arranged so that most have access to outside, adjacent parking areas without passing through the lobby.
- (dl) *Motor freight terminal.* A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate or interstate shipment by motor truck.
- (dm) *Multifamily development.* One lot having a total of three or more dwelling units, regardless of the number of principal residential structures.
- (dn) *Nameplate.* A sign indicating the name and address of a building, or the name of an occupant thereof, and the practice of a permitted occupation therein.
- (do) *Nonconforming building or structure.* A building or structure that does not comply with all of the regulations of this Chapter or of any amendment hereto governing bulk

for the zoning district in which such building or structure is located.

- (dp) *Nonconforming use.* A use of land that does not comply with all the regulations of this Chapter or of any amendment hereto governing use for the zoning district in which such use is located.
- (dq) *Nonfamily households.* A group of individuals not exceeding five in number who do not constitute a "family" as defined in this Section and who live as a single household in a dwelling unit.
- (dr) *Nursery school.* A facility licensed as a day care center by the state where persons provide for compensation and/or consideration for service, group care for four or more children under seven years of age, for less than 24 hours a day at a location other than the child's own home or the homes of relatives or guardians.
- (ds) *Nursing home.* An establishment used as a dwelling place by the aged, infirm, chronically ill or incurably afflicted, in which not less than three persons live or are kept or provided for on the premises for compensation, excluding clinics and hospitals and similar institutions devoted to the diagnosis, treatment or the care of the sick or injured.
- (dt) *Office for a professional person.* An office for a professional person is one in which services are performed by persons engaged in a profession requiring advanced training in a recognized professional specialty and including the fields of religion, architecture, engineering, law, medicine, personal health services and instruction in the liberal or fine arts.
- (du) *Off-street parking.* A site not within the public right-of-way devoted to the parking of vehicles, including parking spaces, aisles, access drives, and landscaped areas, and providing vehicular access to a public street.
- (dv) *Outdoor furnace.* An apparatus designed to burn solid or liquid combustible material to produce heat and/or heat hot water for a building in which it is not located.
- (dw) *Parking lot.* A structure or premises containing five or more parking spaces open to the public.
- (dx) *Parties in interest.* Includes all abutting property owners, all property owners within ~~100~~400 feet, and all property owners of opposite frontages.
- (dy) *Planned residential development, dwelling.* A parcel or tract of land having an area as required in the district regulations under common management, single ownership, and which is the site for two or more principal residential buildings and where regulations may be modified as regulated in this Chapter.
- (dz) *Professional office in a home.* The office or studio in a person's residence or a person engaged in a recognized professional specialty and including the fields of religion, architecture, engineering, law, medicine, personal health services and instruction in the liberal or fine arts, provided that such use shall comply with all of the conditions of a home occupation, except that mechanical equipment customarily appurtenant to said profession may be used, provided no external manifestations thereof are apparent at the property line.
- (ea) *Public airport.* Any airport that complies with the definition contained in Wis. Stats. § 114.013(3), or any airport that serves or offers to serve common carriers engaged in air

transport.

- (eb) *Public way*. Any sidewalk, street, alley, highway or other public thoroughfare.
- (ec) *Railroad right-of-way*. A strip of land containing railroad tracks and customary auxiliary facilities for only track operation. For the purpose of this Chapter, a railroad right-of-way does not include land used or intended to be used for switching, spur, lead, team or siding tracks, freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, car yards or classification yards.
- (ed) *Reserved parking space*. Those off-street parking spaces allocated for temporary standing of automobiles awaiting entrance to a particular establishment.
- (ee) *Retail*. The sale of goods or merchandise in small quantities to the consumer.
- (ef) *Roadside stand*. A temporary structure that is not permanently affixed to the ground and is readily removable in its entirety, which is used solely for the display or sale of farm products produced on the premises upon which such roadside stand is located. No roadside stand shall be more than 300 square feet in ground area and there shall not be more than one roadside stand on any one premises.
- (eg) *Row house*. A place of abode not more than two stories in height, arranged to accommodate three or more attached living units in which each living unit is separated from the adjoining unit by an unpierced vertical occupancy separation of not less than one hour fire-resistive construction, extending from the basement or lowest floor to the underside of the roof boards. Each living unit shall have separate entrances and exits leading directly to the outside.
- (eh) *Screening*. A hedge, wall or fence to provide a visual separator and physical barrier not less than four feet nor more than six feet in height, unless otherwise provided for in this Chapter.
- (ei) *Setback*. The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed 24 inches. Any overhang of the cornice in excess of 24 inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over 24 inches. Uncovered steps shall not be included in measuring the setback.
- (ej) *Reserved*.
- (ek) *Signs*. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.
- (el) *Solar Energy Collection System*. All equipment required to harvest solar energy to generate electricity, including solar panels, solar storage units, power conditioning equipment, transfer equipment, and parts related to the functioning of those items.
- (em) *Solar Energy Collection System, Building & Roof Mounted (Accessory Use)*. A solar photovoltaic system mounted on a rack that is ballasted on, or is attached to, the roof or side of a building or other permitted principal or accessory structure, including limited accessory equipment associated with the system which may be ground mounted. Building and roof mounted systems are accessory to the principal use.

- (en) *Solar Energy Collection System, Ground Mounted (Accessory Use)*. A solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and is accessory to the principal use.
- (eo) *Solar Energy Collection System, Ground Mounted (Principal Use - Solar Farm)*. A solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and is the principal use for the lot on which it is located and typically designed for providing energy to off-site uses or export to the wholesale market..
- (ep) *Solar Photovoltaic System*. A solar energy collection system that converts solar energy directly into electricity, the primary components of which are solar panels, mounting devices, inverters, and wiring.
- (eq) *Solar Storage Units*. A component of a solar energy collection system or device that is used to store solar generated electricity or heat for later use.
- (er) *Story*. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof. A basement having one-half or more of its height above grade shall be deemed a story for purposes of height regulation.
- (es) *Story, half*. That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two opposite exterior walls, are not more than 4 1/2 feet above the finished floor of such story. In the case of single-family dwellings, two-family dwellings and multifamily dwellings less than three stories in height, one-half story in a sloping roof shall not be counted as a story for the purposes of this Code.
- (et) *Street*. Property other than an alley or private thoroughfare or travelway that is subject to public easement or right-of-way for use as a thoroughfare and serves as a principal means of access to abutting property.
- (eu) *Street yard*. A yard facing a street and extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two or more street yards.
- (ev) *Structural alterations*. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.
- (ew) *Structure*. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.
- (ex) *Temporary auxiliary apartment*. A living arrangement that permits an elderly or handicapped person to live in a temporary separate living area within a single-family detached dwelling unit in the R-1 Residential District, or which permits a relative or personal attendant of an elderly or handicapped person to live in a temporary, separate living area within such a dwelling unit. Such living area may contain separate bath and kitchen facilities to permit a degree of independence. Ingress and egress for such a living area may be either from within the principal dwelling unit or from a side or rear entrance.
- (ey) *Temporary structure*. A movable structure not designed for human occupancy nor for

- the protection of goods or chattels and not forming an enclosure, such as billboards.
- (ez) *Traditional neighborhood development.* A development as defined by Wis. Stats. § 66.1027(1)(c) that exhibits several of the following characteristics: alleys, streets laid out in a grid system, buildings oriented to the street, pedestrian-orientation, compatible mixed land uses, village squares and greens.
 - (fa) *Trailer.* Any structure that is or may be mounted upon wheels for moving about and is propelled by its own or drawn by other motive power and which is used as a dwelling or as an accessory building or structure in the conduct of a business, trade or occupation or issued for hauling purposes.
 - (fb) *Urban residential district(s).* The R-1, R-1A, R-1B, R-2, R-3, R-MH or R-E zoning districts and residences allowed at a conditional use C-G zoning district.
 - (fc) *Usable open space.* That part of the ground level of a zoning lot, other than in a required front or corner side yard, which is unoccupied by driveways, drive aisles, service drives, off street parking spaces and/or loading berths and is unobstructed to the sky. This space of minimum prescribed dimension shall be available to all occupants of the building and shall be usable for greenery, drying yards, recreational space, gardening, and other leisure activities normally carried on outdoors. Where and to the extent prescribed in these regulations, balconies and roof areas, designed and improved for outdoor activities, may also be considered as usable open space. The usable open space shall be planned as an assemblage or singularly designed area that maximizes the size for open space usage. The only exception to this standard is where the required open space is designed to be part of the individual living units in the form of patios or decks.
 - (fd) *Use.* The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.
 - (fe) *Use, accessory.* A subordinate building or use that is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.
 - (ff) *Use, conditional.* A use that, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. After due consideration, as provided for in this Chapter, of the impact of such use upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be granted.
 - (fg) *Use, permitted.* A use that may be lawfully established in a particular district or districts provided it conforms with all requirements and regulations of such district in which such use is located.
 - (fh) *Use, principal.* The main use of land or building as distinguished from subordinate or accessory use.
 - (fi) *Utilities.* Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power

plants.

- (fj) *Vision triangle*. A vision triangle is the triangular area located at the street corner formed by connecting the point of intersection of the curbs of the intersecting streets, or the point of intersection of the asphalt edges of the streets if no curb is present, with two other points located a distance away from the point of intersection along the line of the intersecting curb, or the asphalt edge of the street if no curb is present. On collector and arterial streets, the distance away from the point of intersection to the point along that collector or arterial street is 35 feet. For local streets, the distance away from the point of intersection to the point along that street is 30 feet. For private streets, the distance away from the point of intersection to the point along that street is 25 feet. For alleys, the distance away from the point of intersection to the point along that alley is 20 feet. The functional classification of streets and alleys shall be determined by the Village Engineer consistent with the definitions provided under Section 56-2.
- (fk) *Yard*. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.
- (fl) *Yard, front*. A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building. The side where the address is shall be considered the front yard.
- (fm) *Yard, rear*. A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the principal building.
- (fn) *Yard, side*. A yard extending from the front yard to the rear yard, lying between the main building and a side lot line. The width of a side yard shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. A side yard does not include any yard that is a street yard.
- (fo) *Zero lot line*. The concept whereby two respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.
- (fp) *Zoning permit*. A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.

(Code 1998, § 13-1-300; Ord. No. 2003-03, § 1(13-1-300), 3-24-2003; Ord. No. 2003-04, §§ 2, 3, 3-24-2003; Ord. No. 2009-08, § 2, 3-23-2009; Ord. No. 2009-11, §§ 1, 3, 4-27-2009)

SECTION 11: AMENDMENT “62-67 PD Planned Development District”
of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-67 PD Planned Development District

(a) *General requirements.*

- (1) *Use regulations.* The uses allowable in this district are the uses approved as part of the general or detailed plan for particular sites that are placed in the Planned Development District.
- (2) *Density and dimensional regulations.* This Section sets no prescribed density or dimensional regulations in the Planned Development District.
- (3) *Off-street parking and loading.* There shall be no prescribed requirements for off-street parking and loading in the Planned Development District. However, in the review and approval of any general or detailed plan in a Planned Development District, due consideration shall be given to Subdivision IV of this Division of regulations and requirements for off-street parking and loading facilities for uses similar to those proposed in such plan.
- (4) *Standards.* The following standards shall apply in the review of all general or detailed plans proposed for the Planned Development District:
 - a. The uses proposed in the planned development shall be in general conformance with the Village Comprehensive Plan.
 - b. The establishment, maintenance or operation of the uses proposed in the planned development shall not substantially impair or diminish the use, value and enjoyment of other properties within the neighborhood.
 - c. Traffic circulation into and within the development shall be designed to minimize traffic congestion and traffic hazards, provide for the accessibility of all uses and buildings and also provide for the safe and convenient movement of both vehicles and pedestrians.
 - d. The planned development shall incorporate environmental design considerations, including the preservation of topography, trees and ground cover, streams and natural bodies of waters, and other significant natural features and control of erosion and runoff in accord with the Village Erosion Control and Stormwater Management Ordinances.
 - e. The planned development shall provide for convenient and harmonious groups of buildings, structures and uses; and buildings shall be spaced and sited to ensure adequate safety, light, ventilation and privacy.
 - f. The following provisions shall apply:
 1. In a planned development for residential use, adequate open space and recreational areas shall be provided in appropriate locations, and all public and common open spaces shall be designed and located to provide safe and convenient access to residents.
 2. Planned Development District housing impacts on community resources in the same manner as other new developments, which are characterized by division of land

into lots. In particular, the additional population density places demands upon Village parks and recreation areas.

Accordingly, each dwelling unit newly established shall be required to dedicate land or provide fees in lieu of land, in accordance with the procedures set forth in Section 62-64.

- g. The planned development will not adversely affect the ability of public agencies to provide school or other municipal services.
 - h. The width of street rights-of-way, width of paving, width and location of street or other paving, outdoor lighting, location of sewer and water lines, provision for stormwater drainage or other similar environmental engineering considerations shall be based on a determination of the appropriate standards necessary to implement the specific function in the specific situation; provided, however, that in no case shall standards be less than those necessary to ensure the public safety and welfare as determined by the Village.
 - i. The proponents of a Planned Development District application shall provide evidence satisfactory to the Village Board of its economic feasibility of available adequate financing and that it would not adversely affect the economic prosperity of the Village or the values of surrounding properties.
 - j. The proponents of a Planned Development District shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Village Board, including suitable provisions for assurance that each phase could be brought to completion in a manner that would not result in an adverse effect upon the community as a result of termination at that point.
- (5) *Minimum area.* A Planned Development District shall not be less than three acres of contiguous land under the same ownership. This Subsection shall not be interpreted to prohibit the post-development sale of all or part of an approved PD subject to the provision of this Section and all applicable statutes and Subdivision regulations.
- (6) *Subdivision review.* The applicable Subdivision review under Chapter 56 shall be carried out as an integral part of the review of a Planned Development District. The plan required must be submitted in a form that substantially satisfies requirements of the Subdivision regulations for the Preliminary and Final Plat approvals. Subdivision application may be submitted for the whole, a part, or parts of the overall planned development as indicated by phases in the detailed plan for staged development.
- (b) *Procedure for establishment of Planned Development Districts.* The provisions set forth in Division 62-II-4 of this Article shall apply for the establishment of any Planned Development District, provided the amendatory ordinance shall be considered only in conjunction with a general or detailed plan.
- (c) *Preapplication procedures.* Applicants are encouraged to seek preapplication, conceptual review of proposed plans by the Plan Commission. The Plan Commission

is under no obligation to give a response to such submittals at the same meeting as they are presented. The Plan Commission is entitled to seek outside assistance and sources of critique. No responses by the Plan Commission or by individual Plan Commissioners shall bind the Plan Commission or the Village unless the response is on behalf of the Plan Commission, is in writing and is expressed as a binding response. Notice of the time, place and purpose of a preapplication meeting shall also be sent to the applicant and the owners of record as listed in the office of the Village Assessor who are owners of the property in whole or part situated within 400 feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such preapplication meeting. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

- (d) *Approval of general or detailed plan and adoption of zoning ordinance amendment.* In the event that the Village Board approves a general (or detailed) plan and adopts a zoning amendment creating a Planned Development District in connection with such general (or detailed) plan, the requirements of the plan shall constitute the zoning regulations for the district and the zoning district maps shall be amended to show all lands included in such general (or detailed) plan as within the Planned Development District. In the approval of any general (or detailed) plan, the Village Board may stipulate any conditions or restrictions in the establishment, maintenance and operation of any uses proposed in such plan and may also require any guarantees, including the filing of a contract together with a surety, satisfactory in form to the Village Attorney and satisfactory in amount to the Village Engineer, with the Village to ensure that improvements will be installed and completed as proposed in the plan.
- (e) *Recording of approved general or detailed plans and zoning ordinance amendments.* Whenever the Village Board designates land as being within a Planned Development District, the Village Attorney shall record in the Office of the Register of Deeds of Dane County a facsimile copy of the approved general (or detailed) plan, together with a certified copy of the related zoning ordinance amendment and any other action taken thereon by the Village Board. The cost for preparing a facsimile copy of the general (or detailed) plan in recordable form and the recording fee shall be paid by the owners of the lands included in the general (or detailed) plan.
- (f) *Changes or modifications to general or detailed plans and zoning ordinance amendments.* Any approved general or detailed plan, together with the related zoning ordinance amendment, may be amended in whole or in part pursuant to the same procedure and subject to the same limitations by which general or detailed plans were approved and the zoning ordinance amended. However, minor modifications may be made by any general or detailed plan upon approval of the Village Plan Commission provided that such modifications shall be in general conformity with the approved general or detailed plan and shall not substantially change the concept of such approved plan. All approved minor modifications shall become a part of the approved general or detailed plan and shall be recorded as provided in Subsection (e) of this Section. The Plan Commission shall decide whether a proposed amendment is minor or major, with appeals made to the Village Board.
- (g) *Construction of building and establishment of uses.* No zoning or building permit shall

be issued until the detailed plan and the related zoning ordinance amendment have been recorded as required above. Within one year of the date of recording of any detailed plan and the zoning ordinance, construction thereon must begin; and construction must be substantially completed throughout the project within three years of such date of recording, unless extensions are granted by the Village Board. If initial construction has not begun within one year of the date of recording or within the prescribed time period granted as an extension by the Village Board, the approval of the detailed plan and the related zoning ordinance amendment shall become null and void, and the zoning shall revert to the classification that applied prior to the approval of the PDD zoning. No occupancy of dwelling units shall occur until all public works that have been scheduled to be completed before occupancy are completed to the satisfaction of the Village.

(h) *Procedure for establishment of the Planned Development District—General plan for staged development.*

(1) *Submittal of general plan.* The general plan shall contain any information and representations deemed necessary by the Plan Commission and shall consist of a statement entitled "Planned Development District—General Plan, Statement of Owner's Intent and Description of Development," which shall include, without limitation, the following:

- a. A legal description describing all of the tract of land included in the proposed development.
- b. A statement indicating the nature of the applicant's interest in the land included in the proposed development.
- c. A statement describing the proposed development, including the character, method and operation of the development and a development schedule or timetable for construction.
- d. A statement as to the following data or graphic information referenced to a map or plan of the proposed development:
 1. The location and size of the site including dimensioned exterior boundaries, topography and other salient features, and existing buildings and structures, and also adjacent properties and streets, including all public utilities and public easements.
 2. The use and approximate location and bulk of buildings and structures, including number of stories and dimensions of buildings.
 3. The approximate location of vehicular and pedestrian facilities, such as streets, sidewalks and off-street parking areas, including approximate number of parking spaces.
 4. The approximate location of areas for public or common open spaces and for other public or semipublic uses.
 5. A tabulation of land areas for the different types of uses in relation to the total area.
 6. A tabulation of the gross floor areas of buildings by types of uses.

7. A tabulation of the number of types of dwelling units.

(2) *Review of general plan.* The Plan Commission shall review the general plan and determine whether it complies with the standards set forth in Subsection (h)(1) of this Section. Following the review of the general plan, the Plan Commission shall forward the petition to the Village Board, together with a recommendation that the general plan be either approved as submitted, or approved with modifications or disapproved.

(3) *Approval of general plan.*

- a. In the event that the Village Board approves the general plan and adopts the related zoning ordinance amendment, the zoning district maps shall be amended to include all of the lands within the general plan as within the Planned Development District (general plan approved). However, no building construction shall be permitted in any portion of the approved general plan until a detailed plan prepared in accordance with the requirements hereunder has been approved by the Village as provided below.
- b. In the event the Village Board fails to approve the general plan and ordinance, the Village Board shall communicate its objections back to the Plan Commission for reconsideration and further discussions.

(i) *Procedure for establishment of the Planned Development District—Detailed plan for staged development.*

(1) *Submittal of plan.* Within one year after the recording of the general plan and the copy of the related zoning ordinance amendment, a detailed plan for at least one stage of the general plan shall be filed with the Village Clerk, unless an extension is granted by such Village Board. The detailed plan shall contain any information and representation deemed necessary by the Plan Commission and shall consist of a statement entitled, "Planned Development District—Detailed Plan, Statement of Owner's Intent and Description of Development," which shall include without limitations, the following:

- a. A legal description describing all of the tract of land included in the proposed development, referenced to a locational map indicating the relationship of the tract to the total general plan.
- b. A statement indicating the nature of the applicant's interest in the land included in the proposed development.
- c. A statement describing the proposed development, including the character, method and operation of the development, and a development schedule or timetable for construction. Where the formation of organizations such as a homeowners' association is proposed, such statement shall include any agreements, bylaws or covenants which govern the organizational structure, use, maintenance and protection of the development and any of its common services, common open spaces or other common facilities.
- d. A statement as to the following date or graphic information referenced to a map of the proposed development:

1. The location and size of the site, including dimensioned exterior boundaries, topography and other salient features, and existing buildings and structures, and also adjacent properties and streets.
2. The use and location of all buildings or structures, including the architectural character and design of each building, the number of stories and dimensions of each building, and the dimensioned yards between buildings or structures and lot lines.
3. The location of vehicular and pedestrian facilities, including dimensioned streets, walkways, access driveways, off-street parking spaces and loading berths, and refuse receptacle areas.
4. The location and size of areas for public or common open spaces and for other public and semi-public uses.
5. A grading plan, including any storm sewer system, a landscaping plan, and an erosion control plan.
6. A sanitary sewer and water distribution system plan.
7. A tabulation of land areas for the different uses in relation to the total tract area.
8. A tabulation indicating the number of buildings and the use and the total gross floor area for each building.
9. A tabulation indicating the number and types of dwelling units in each building.

(2) *Review of the detailed plan.*

- a. The Plan Commission shall review the detailed plan as a conditional use review and shall determine whether the plan complies with the standards set forth in Subsection (h)(1) of this Section and is in general conformance with the approved general plan. Following Plan Commission approval of a detailed plan, the Village Attorney shall record in the Office of the Register of Deeds of Dane County a facsimile copy of the approved detailed plan and a certified copy of the Plan Commission action approving the same. The costs for copies and recording shall be paid by the owners of land within the plan areas.
- b. The action of the Plan Commission on the proposed detailed plan shall be appealable to the Village Board. The Village Board shall consult with the Plan Commission before making its appeal decision, but in no case shall a detailed plan be approved that is out of conformity with a general plan approved.

(3) *Approval of detailed plan.* Once the detailed plan is approved, the zoning district maps shall be amended to include all of the lands within the detailed plan as Planned Development District—detailed plan approved.

- (j) *Planned Development District—Single-stage procedure.* Upon request by applicants and subject to Village Board concurrence, the general and detailed stages of plan

review and approval can be combined. Under this option, the plan is submitted in detailed form and is processed as is a general plan.

(Code 1998, § 13-1-46; Ord. No. 2003-03, § 1(13-1-46), 3-24-2003)

SECTION 12: **AMENDMENT** “62-108 Application For Conditional Use”
of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-108 Application For Conditional Use

- (a) *Required application materials.* An application for a conditional use shall be filed in duplicate on a form prescribed by the Village. Such applications shall be forwarded to the Plan Commission on receipt by the Zoning Administrator. Such applications shall include where applicable:
- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within ~~100~~ 400 feet.
 - (2) Description of the subject site by lot, block and recorded Subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees and the zoning district within which the subject site lies.
 - (3) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping.
 - (4) Additional information as may be required by the Plan Commission or other authorities, boards, commissions or officers of the Village. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
 - (5) A detailed written description and proof meeting the substantial evidence standard showing each of the standards set forth in Section 62-111 (a) through (h) will be satisfied, including a detailed description of how each said standard is met, and how the proposed use will comply with any applicable regulations regarding light, noise, traffic, nuisance, health, safety, welfare and environment. When any applicable law, ordinance or other regulation prohibits a certain measurable level of any activity or substance, including, but

not limited to, noise, light, dust, particulate emissions, odor, visibility, pollution, and vibration and frequency levels, the applicant shall also demonstrate and prove how the proposed use will comply with such regulations.

- (6) Upon request by the Village Board, Plan Commission or Zoning Administrator, the applicant shall provide reports and studies, prepared by a qualified professional, addressing any applicable standard. The applicant is solely responsible for the cost of such reports and studies. A qualified professional is one with appropriate education, experience, license and/or certification pertinent to the applicable standard, and the professional's qualifications should be provided with the report or study (e.g. a curriculum vitae or resume).
 - (7) The fee established by the Village Board from time to time and provided in Appendix A to this Code for application for a conditional use. The applicant shall also pay all costs incurred by the Village in notifying the public and property owners pursuant to Section 62-110.
- (b) *Plans.* In order to secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a building permit, the following information:
- (1) A plan of the area showing contours, soil types, high-water mark, groundwater conditions, bedrock, slope and vegetation cover;
 - (2) Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting;
 - (3) Plans for buildings, sewage disposal facilities, water supply systems and arrangements of operations;
 - (4) Specifications for areas of proposed filling, grading, lagooning or dredging;
 - (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter.
- (c) *Third party consultants.* If necessary expertise is not available from staff or other appropriate governmental agency, the Village Board, Plan Commission or Zoning Administrator may consult with a third-party consultant to effectively evaluate the application. The Zoning Administrator will select the consultant. The applicant is solely responsible for all reasonable costs and expenses associated with such consultation. Applicants retain the right to withdraw an application if they choose not to pay consultant fees.
- (d) *Preapplication procedures.* Applicants are encouraged to seek preapplication, conceptual review of proposed conditional use permit petitions by the Plan Commission. The Plan Commission is under no obligation to give a response to such submittals at the same meeting as they are presented. The Plan Commission is entitled to seek outside assistance and sources of critique. No responses by the Plan Commission or by individual Plan Commissioners shall bind the Plan Commission or the Village unless the response is on behalf of the Plan Commission, is in writing and is expressed as a binding response. Notice of the time, place and purpose of a preapplication meeting shall also be sent to the applicant and the owners of record as listed in the office of the Village Assessor who are owners of the property in whole or

part situated within 400 feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such preapplication meeting. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application

(Code 1998, § 13-1-63; Ord. No. 2003-03, § 1(13-1-63), 3-24-2003; Ord. No. 2006-04, § 1, 2-13-2006)

SECTION 13: AMENDMENT “62-110 Notice Of Hearing On Application”
of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-110 Notice Of Hearing On Application

Notice of the time, place and purpose of such hearing shall be given by publication of a class 2 notice under the Wisconsin Statutes Chapter 985 in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within ~~100~~ 400 feet of the boundaries of the properties affected, said notice to be sent at least ~~five~~ ten (10) days prior to the date of such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

(Code 1998, § 13-1-65; Ord. No. 2003-03, § 1(13-1-65), 3-24-2003)

SECTION 14: AMENDMENT “62-113 Appeals” of the Village of
McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-113 Appeals

Any action of the Plan Commission in granting or denying a conditional use permit may be appealed to the Village Board, if a written request for an appeal is filed within ten days after the date of the Plan Commission's action in granting or denying the permit. Such request for appeal shall be signed by the applicant or by the owners of at least 20 percent of the land area 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. The request shall be filed with the Zoning Administrator who shall submit it to the Village Board at its next meeting, together with any documents and other data used by the Plan

Commission in reaching its decision. The Village Board may consider the matter forthwith, refer the matter to a subsequent meeting or set a date for a public hearing thereon. In the event the Village Board elects to hold a public hearing, notice thereof shall be given by mail to the known owners of the lands ~~immediately adjacent thereto and directly opposite any street frontage~~ within 400 feet of the lot or parcel in question and by publication of a class 1 notice in the official newspaper at least ten days before the date of the hearing. The Village Board may either affirm or reverse in whole or in part the action of the Plan Commission and may finally grant or deny the application for a conditional use permit. The Village Board's decision to approve or deny the conditional use permit must be supported by substantial evidence.

(Code 1998, § 13-1-68; Ord. No. 2003-03, § 1(13-1-68), 3-24-2003)

SECTION 15: AMENDMENT “62-310 Site/Design Review” of the Village of McFarland Municipal Code is hereby *amended* as follows:

A M E N D M E N T

62-310 Site/Design Review

- (a) *Purpose.* Site/design review is implemented under municipal authority to promote the public health, safety and welfare and under municipal zoning authority by the Plan Commission. Requirements for design review and approval apply to uses and developments regardless of the characterization of the use or development within this Chapter as a permitted use or conditional use.
- (b) *Scope of site/design review.*
 - (1) *Applicability.* The following developments shall be subject to site/design review by the Plan Commission:
 - a. Development of residential projects consisting of three or more dwelling units.
 - b. Any development in a Commercial District.
 - c. Any development in an Industrial District.
 - d. Any development for which the applicant is a public utility or governmental entity or religious organization.
 - e. Any parking area including five or more parking spaces.
 - (2) *Limit.* Site/design review shall be limited to development for which current application is made for an erosion control or building permit. This Section shall not be deemed to apply to any existing development or use of land that is not affected by current application for erosion control or building permit, nor shall this Section apply to any rehabilitation of an existing structure so long as the size of the rehabilitated structure is not increased.
 - (3) *Development.* Any new construction or exterior improvement to real property for which application for a building permit may be required by this Code.

- (4) *Village planning consultant.* Any Village planning consultant appointed by the Village Board.
- (c) *Development to comply with site/design standards.* No development subject to site/design review shall occur unless such development complies with all applicable site/design review standards.
- (d) *Manner of site/design review.*
- (1) Upon application for a building permit, the applicant shall be advised by the Zoning Administrator whether compliance with site/design review standards is required by this Section. If such compliance shall be required, the applicant shall be provided with a checklist and a site/design review application, which shall be in such form as the Zoning Administrator shall approve, and which shall be accompanied by such information as may be necessary to determine and provide for enforcement of this Section.
 - (2) The site/design review application shall be reviewed by the Zoning Administrator, who may consult with a planning consultant, if necessary.
 - (3) When the Zoning Administrator deems the application to be complete, review by the Plan Commission shall be scheduled. At least ten days prior to the Plan Commission meeting, written notice shall also be given to the owners of all properties within 400 feet of the land included in the site/design review application. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.
 - (4) The Plan Commission's determination of compliance or noncompliance with this Section shall be issued by the Zoning Administrator, in writing, within ten business days of the determination and sent to the applicant via U.S. Mail. The written determination shall specifically describe all areas of noncompliance and shall identify changes necessary to bring the proposed development into compliance.
 - (5) No building permit shall be issued for any development until the Plan Commission has determined that the development is in compliance with site/design review standards. All construction and improvement subject to site/design review shall conform with approved site/design plans.
 - (6) The determinations of the Plan Commission on site/design plan applications shall be appealable to the Village Board pursuant to the procedures set forth in Section 62-113.
- (e) *Site/design standards.* In reviewing plans for development the Plan Commission shall determine that the following standards are met:
- (1) *Grading.* Grading shall insure a positive drainage consistent with established water runoff patterns in the area. All grading shall allow for the installation and maintenance of appropriate landscape materials. Respect for the natural topography in site development will be recommended as a means of capitalizing on the sloping terrain, and earth berms are required to screen out unpleasant views and accentuate pleasant views.
 - (2) *Landscaping.* Landscaping shall be required to be installed in accordance with an approved landscaping plan as a component of site and design review. The requirements for landscaping plans are set forth in Appendix B to this Chapter

Code, Village of McFarland Landscaping Standards. All references to the Village Forester shall have the same meaning as referenced in Section 59-20(d).

(3) *Building relationships.*

- a. The structures shall be related to the site to enhance or maintain current contours. New development shall consider activities on adjacent properties with relation to access from abutting streets, parking areas, service areas, building setbacks, height of structures, and color and materials of adjacent or nearby buildings.
- b. In the development of the site, the existing quality vegetation should ordinarily be maintained in accordance with Section 59-29.

(4) *Lighting.* The functions of exterior lighting on private property shall be:

- a. To illuminate building facades, especially those bearing business identification signs. Architectural lighting should be free from glare and of a type to complement the existing development in the district.
- b. To illuminate pedestrian walks and spaces. Security lighting should provide necessary levels of illumination to insure safety of the property and its residents, while not reflecting direct rays of light into adjacent property.
- c. To illuminate parking and service areas. Off-street parking area lighting should be so arranged as to conform with applicable provisions of Section 62-172. (The choice of equipment, design, quantity, and placement of on-site lighting shall relate to these functions. Lighting shall be adequate but not excessive. The height and number of lighting standards shall be appropriate to the building and its function and to the neighborhood.)

(5) *Utility service.* It shall be a goal of the Village to eliminate overhead wiring within the Village. To this end, owners of property within the Village, working with the utilities servicing the Village shall, in all new development and major additions, make provision for underground service. This shall be accomplished during building development and construction. Sanitary sewer and water utility services shall comply with Village Standard Specifications.

(6) *Building design.* Buildings shall meet the following requirements:

- a. Materials shall be of a durable, low-maintenance type. The colors shall be harmonious with other buildings in the neighborhood.
- b. Mechanical elements on the roof or ground shall be screened from the view of adjacent properties and roadways.
- c. Buildings shall be designed with an architectural flavor that will complement and enrich the character of the Village.
- d. The overall design of the building shall be of high quality, considering the importance of the particular zoning district.
- e. With the exception of the M-IC Zoning District, the front, sides, and rear of all commercial and industrial buildings shall be entirely faced with nonmetallic or wood material. In the M-IC District, a minimum of 15 vertical feet of the front of all buildings shall be faced with

nonmetallic or wood material extending across the full front of the building, and also extending a distance of not less than 20 feet on each side of the building. The portion of any building facing or backing onto public streets, or abutting a Residential Zoning District, shall be held to the same requirements as that of the front. These requirements may be waived in whole or in part by the Plan Commission.

- f. An addition shall relate to the existing building in terms of scale, materials and color.
 - g. Structures should be designed to be compatible with the structures that are adjacent to them.
 - h. Unbroken exterior facades exceeding 70 feet in length shall be avoided.
 - i. All building elevations are of importance and should be carefully designed. Building should avoid blank facades.
- (f) *Recommendation of Village Plan Commission.* The Village Plan Commission may, during the site/design review process, suggest features of site/design, and construction, building and structural design, that are not a part of site/design standards but that, in the opinion of the Village Plan Commission, would be desirable to make the development a positive asset to the visual appearance of the community and a positive contribution to the growth and stability of the community tax base. Compliance with such recommendations shall not be required of the developer.
- (g) *Validity of site/design approval.* Where the Plan Commission has approved or conditionally approved an application for site/design approval, such approval shall become null and void within 12 months of the date of the Plan Commission's action unless construction is commenced or the current owner possesses a valid building permit under which construction is commenced within six months of the date of issuance and which shall not be renewed unless construction has commenced and is diligently pursued. No sooner than 60 days nor less than 45 days prior to the automatic revocation of such site/design approval, the Zoning Administrator shall notify the property owner by certified mail of such revocation. Extensions of up to one year each may be granted by the Plan Commission for just cause, if application is made to the Village at least 30 days before the expiration of said permit.
- (h) *Fees.* The fee for review of a site/design review application shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code, to be paid at the time of submission of the application. The applicant shall also pay all costs incurred by the Village in notifying the public and property owners pursuant to Section 62-310(d)(3).
- (i) *Penalties.* Violations of this Section shall be subject to Section 62-311, except that each day a violation continues shall not be deemed a separate violation until the 30 day notice period expires. Nothing herein shall preclude the Village from maintaining a separate action to prevent or abate or remove violations.

Editor's note(s)—Section 1 of Ord. No. 2011-06, adopted May 23, 2011, repealed the former § 62-310, and enacted a new § 62-310 as set out herein. The former § 62-310 pertained to similar subject matter, and derived from the Code of 1998, § 13-1-224; Ord. No. 2003-03, § 1(13-1-224), adopted March 24, 2003; Ord. No. 2006-11, § 1, adopted June 26, 2006; and Ord. No. 2008-03, § 2, adopted Feb. 25, 2008.

SECTION 16: AMENDMENT “62-343 Procedure For Changes Or Amendments” of the Village of McFarland Municipal Code is hereby *amended* as follows:

A M E N D M E N T

62-343 Procedure For Changes Or Amendments

- (a) *Request for changes.* Petitions for any change to the district boundaries and maps or amendments to the text regulations shall be addressed to the Village Board and shall be filed with the Zoning Administrator, describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:

- (1) Plot plan, drawn to a scale of one inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within ~~34~~400 feet of the area proposed to be rezoned.
- (2) Owners' names and addresses of all properties lying within ~~100~~400 feet of the area proposed to be rezoned.
- (3) Together with additional information as may be required by the Plan Commission or Village Board.

- (b) *Plan Commission review and recommendations.*

- (1) Preapplication procedures. Applicants are encouraged to seek preapplication, conceptual review of proposed rezoning petitions by the Plan Commission. The Plan Commission is under no obligation to give a response to such submittals at the same meeting as they are presented. The Plan Commission is entitled to seek outside assistance and sources of critique. No responses by the Plan Commission or by individual Plan Commissioners shall bind the Plan Commission or the Village unless the response is on behalf of the Plan Commission, is in writing and is expressed as a binding response. Notice of the time, place and purpose of a preapplication meeting shall also be sent to the applicant and the owners of record as listed in the office of the Village Assessor who are owners of the property in whole or part situated within 400 feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such preapplication meeting. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

- (2) The Zoning Administrator shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. Following receipt of the petition, the Plan Commission shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a class 2 notice, pursuant to Wis. Stats. Ch. 985. At least ten days prior, written notice shall also be given to the clerk of any municipality within 1,000 feet of any land that would be affected by the proposed change or amendment. ~~The Plan Commission~~Village Clerk shall also notify the owners of all properties lying within ~~100-400~~feet of the land proposed to be rezoned said notice to be sent at least ten (10) days prior to the date of which such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.
- (3) Following such hearing, the Plan Commission shall review all proposed amendments to the text and Zoning Map within the corporate limits of the Village, and shall recommend, in writing, that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation.

(c) *Village Board action.*

- (1) Following receipt and consideration of the Plan Commission's recommendation, the Village Board shall take action on the proposed ordinance implementing the proposed change or amendment. Approval of the proposed ordinance requires a simple majority of a quorum of the Village Board, except the Village Board may not enact a down zoning ordinance unless at least two-thirds of the members-elect approve the ordinance. If the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the members-elect.
 - (2) The Village Board shall hold an additional public hearing, preceded by the same notice required for the Plan Commission public hearing, upon the written request of the petitioner or any of the parties identified in Section 62-342. In addition, the Village Board may, on its own volition, conduct its own public hearing on the proposed amendment.
- (d) *Fee.* The application fee for processing a petition for a zoning change or amendment shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. The applicant shall also pay all costs incurred by the Village in notifying the public and affected property owners pursuant to Subsections (b)(2) and (c) of this Section.

(Code 1998, § 13-1-242; Ord. No. 2003-03, § 1(13-1-242), 3-24-2003)

SECTION 17: AMENDMENT “62-363 Applications For Hearings” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-363 Applications For Hearings

- (a) *Time of appeal.* Appeals shall be filed within 30 days after the receipt of the written decision or order from which the appeal is taken by filing in duplicate a notice of appeal with the Village Clerk. The date of receipt of the decision shall not be counted in determining the time for filing of the appeal. Sundays and holidays shall be counted, except if the last day falls on a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next secular day.
- (b) *Who may appeal.* Appeals or applications to the Board of Zoning Appeals may be made by:
 - (1) The owner, mortgagee, purchaser under a land contract, optionee or occupant under a written lease for one year or more of the property for which relief is sought.
 - (2) Any officer (other than the Zoning Administrator), department, board or bureau affected by a decision or order of the Zoning Administrator.
 - (3) Any person aggrieved and whose use and enjoyment of property within the Village is directly and adversely affected by a decision or order of the Building Inspector, Zoning Administrator or the requested Board of Zoning Appeals action.
- (c) *Appeal and application forms.* Every appeal or application shall be made upon forms furnished by the Village Clerk which have been approved by the Board of Zoning Appeals. A scale drawing shall accompany each form showing the location and size of the property, existing improvements, all abutting properties and improvements thereon and change or addition requested. The applicant or appellant shall provide all information requested on the form and any additional information requested in writing by the chair or Clerk of the Board of Zoning Appeals, which is necessary to inform the Board of Zoning Appeals of the facts of the appeal. Failure to supply such information shall be grounds for dismissal of the appeal or application.
- (d) *Filing appeal or application.* The appellant or applicant shall file the required appeal form in duplicate with the Village Clerk. The Village Clerk shall deliver one copy to the Zoning Administrator or other officer or body from whose decision an appeal is taken. Upon receipt of an appeal, the Zoning Administrator or other officer or body responsible for the original determination shall transmit to the Clerk of the Board of Zoning Appeals all notes or papers relating to the order or decision from which the appeal is being taken.
- (e) *Fee.* All appeals and applications filed with the Village Clerk shall be accompanied by payment of a required fee as established by the Village Board from time to time and provided in Appendix A to this Code. If the appellant or applicant elects the contested

- case method, the appellant or applicant shall also pay the amount determined by the Board of Zoning Appeals to cover the additional administrative costs involved.
- (f) *Insufficient notice.* No appeal or application shall be considered by the Board of Zoning Appeals unless it is made on the required form. Upon receipt of any communication purporting to be an appeal or application, the Village Clerk shall supply the applicant with the proper forms which must be filed within ten days, in addition to the 30 days specified in Subsection (a) of this Section, in order to be considered by the Board of Zoning Appeals.

(Code 1998, § 13-1-261; Ord. No. 2003-03, § 1(13-1-261), 3-24-2003; Ord. No. 2006-04, § 2, 2-13-2006; Ord. No. 2006-08, §§ 1, 2, 4-24-2006)

State law reference(s)—Board of appeals, Wis. Stats. § 62.23(7)(e).

SECTION 18: **AMENDMENT** “62-364 Hearings” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-364 Hearings

- (a) *Notice of hearing.* Notice of time, date and place of the hearing of an appeal or application shall be given in the following manner:
- (1) By certified mail or personal service to the appellant or applicant and to the Zoning Administrator or other administrative official or body from whose decision an appeal is taken and the Village Clerk on behalf of the Plan Commission not less than ten days prior to the date of the hearing.
 - (2) In every case involving a variance, conditional use, exception, planned unit development or public utility exception, the Village Clerk shall mail notice to the owners of record of all land within the area included in the application and within ~~100~~ 400 feet of any part of the building or premises affected not less than ten days prior to the hearing. Names and last-known addresses of such owners shall be furnished by the applicant at the time of filing the appeal or application. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.
 - (3) By publication of a class 2 notice under Wis. Stats. Ch. 985.
 - (4) Notice of an application for construction of a building in the bed of a future street, highway or parkway shall be published in the official newspaper not less than 15 days prior to the hearing.
 - (5) Notice of an application for a proposed special exception in a Shoreland-Wetland District shall be mailed to the district office of the Wisconsin Department of Natural Resources at least ten days prior to the hearing.

- (b) *Time of hearing, docketing.* Each appeal or application properly filed shall be numbered serially, docketed in a special book provided therefor and placed upon the calendar by the Clerk of the Board of Zoning Appeals. Cases docketed more than 15 days preceding a regular meeting shall be set for hearing at such meeting. Cases docketed seven days or less prior to a regular meeting shall be scheduled by the Clerk of the Board of Zoning Appeals, or designee, for a hearing on the second regular meeting day thereafter unless otherwise directed by the chair.
- (c) *Appearances.* The appellant or applicant may appear in person or by agent or attorney. In the absence of an appearance for or against an appeal or application, the Board of Zoning Appeals may dismiss the appeal or application or may dispose of the matter on the record before it.
- (d) *Oath.* Unless waived by the appellant or applicant and the chair, or as otherwise specifically provided in this Section, all witnesses shall be sworn before testifying by the chair or presiding officer.
- (e) *Compelling attendance of witnesses.* The chair, or, in the absence of the chair, the presiding officer, may compel the attendance of witnesses by subpoena. Written request for subpoenas shall be filed with the Clerk of the Board of Zoning Appeals not less than two days prior to the hearing except by special permission of the chair.
- (f) *Order of hearing.* Appeals and applications shall be heard in numerical order except for good cause shown.
- (g) *Hearing procedure.* All hearings shall be conducted in accordance with the following procedure unless otherwise stipulated by the parties and approved by the chair:
 - (1) The chair shall call each hearing to order.
 - (2) Opening statements may be delivered by the appellant or applicant followed by any opening statement from the Zoning Administrator or Village representative.
 - (3) The appellant or applicant shall first present its case followed by the Zoning Administrator or Village representative. Each witness shall be subject to cross-examination followed by the opportunity for re-direct testimony. Members of the Board of Zoning Appeals shall also be permitted to examine witnesses the timing of which shall be subject to the discretion of the chair.
 - (4) Rebuttal testimony shall be allowed subject to the scope of the matters raised by adverse parties.
 - (5) Evidence from any other aggrieved or interested parties, if any, shall be presented after the Zoning Administrator or Village representative's case in chief.
 - (6) The Board of Zoning Appeals may accept opinion testimony and written testimony from interested parties, which shall not be subject to cross-examination, however, any party may introduce any rebuttal testimony addressing any factual issues raised.
 - (7) Closing statements shall be heard after all evidence is taken.
 - (8) The Board of Zoning Appeals shall deliberate and decide the matter in accordance with Section 62-365.
- (h) *Evidence.* The Board of Zoning Appeals shall not be bound by common-law or statutory rules of evidence except for rules of privilege. The Board of Zoning Appeals

shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony. Basic principles of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

(Code 1998, § 13-1-262; Ord. No. 2003-03, § 1(13-1-262), 3-24-2003; Ord. No. 2006-08, § 3, 4-24-2006; Ord. No. 2006-08, §§ 4, 5, 4-24-2006)

State law reference(s)—Board of appeals, Wis. Stats. § 62.23(7)(e).

SECTION 19: **AMENDMENT** “62-401 Historic Designation Procedures” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-401 Historic Designation Procedures

- (a) *Recommendations; notice; public hearing; independent investigation; designation.*
The Landmarks Commission may, after notice and public hearing, recommend that the Village Board establish historic structures, sites and historic districts. At least ten days prior to such hearing, the Landmarks Commission shall give written notice to the owners of record, listed in the Village Assessor's records, of the affected property and other property situated within ~~200~~ 400 feet of the affected property. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application. The Landmarks Commission shall also give notice of such hearing to the Director of Public Works, Parks and Recreation Committee, Fire and Emergency Medical Services Department, Police Department, Building Inspector and Plan Commission. Each may respond to the proposed designation in writing or by appearance at the hearing. The Landmarks Commission shall then conduct such public hearing and may hear expert witnesses and may subpoena such witnesses and records as it deems necessary. The Landmarks Commission may conduct an independent investigation into the proposed designation. Within ten days after the public hearing, the Landmarks Commission may recommend to the Village Board the designation of the property as an historic structure, an historic site, or recommend to the Village Board the designation of the property as an historic structure, an historic site, or recommend its inclusion in an historic district. The Village Board may hold a separate public hearing on the owner's or its own request before designation. After the designation has occurred, notification shall be sent to the property owner and to the persons who appeared at the public hearing. The Landmarks Commission shall cause the designation to be recorded, at Village expense, in the Dane County Register of Deeds.
- (b) *Voluntary restrictive covenants.* The owner of any historic structure or site may, at any

time following such designation, enter into restrictive covenants on the subject property after negotiation with the Landmarks Commission. The Landmarks Commission may assist the owner in preparing such covenants in the interest of preserving the historic property. The owner shall record such covenants in the Dane County Register of Deeds, and shall notify the Village Assessor of such covenants and the conditions thereof.

(c) *Creation of Historic District.*

- (1) The Landmarks Commission may select geographically defined areas within the Village for designation by the Village Board as Historic Districts and shall prepare a historic preservation and land use plan in ordinance form for each area. An Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the Village that:
 - a. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community;
 - b. Is identified with historic persons or with important events in national, state or local history; or
 - c. Embodies the distinguishing characteristics of architectural type specimens inherently valuable for study of a period, style, method, or construction, indigenous materials or craftsmanship; or
 - d. Is representative of the notable works of master builders, designers, or architects who influenced their age.
- (2) Each historic preservation plan prepared for by the Landmarks Commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development and a statement of preservation objectives.

(d) *Criteria for the review of alterations in Historic Districts.*

- (1) *Height.* All additions shall be no higher than the existing structure.
- (2) *Second exit platforms.* Second exit platforms shall not be added to the front or sides of a structure unless not visible from the street.
- (3) *Solar collectors.* Passive and active solar collectors will be allowed only if they do not detract from the architectural integrity of the structure and are as unobtrusive as possible. Solar collectors will not be permitted if they hide from street view significant architectural features of the building or neighboring buildings, if their installation requires the loss of significant architectural features, or if they are of such a large scale that they become a major feature of the design.
- (4) *Repairs.* Repairs in materials that exactly duplicate the original in composition, texture and appearance are encouraged. Repairs in new materials that duplicate the original in texture and appearance are also permitted. Repairs in materials that do not duplicate the original in appearance will be permitted on an individual basis if the repairs are compatible with the character and materials of the existing building and if repairs that duplicate the original in appearance are prohibitively expensive.
- (5) *Restoration.* Projects that will return the appearance of the building to an earlier appearance are encouraged and will be permitted if such projects are

documented by photographs, architectural or archeological research, or other suitable evidence.

(6) *Aluminum or vinyl siding.*

- a. Residing with aluminum or vinyl that replaces clapboards will be permitted, only if the new siding imitates the width of the original siding within one inch, and provided that all architectural details (such as window trim, wood cornices, and ornament) either remain uncovered or are duplicated exactly in appearance.
- b. Siding that imitates wood graining will not be permitted.
- c. If the alteration adds additional layers of siding or insulation on the building, the new siding may be applied over it if the trim is also built up to project from the siding as in the original.

(7) *Storm windows, screens and storm doors.* The repair and retention of original storm windows, screens and storm doors, or their replacement with new units that duplicate the original in materials and appearance is encouraged. Replacements with nonoriginal materials, such as combination metal components, may also be permitted. Painting of raw aluminum storm windows after a year of weathering of the finish is encouraged. Storm doors that imitate a specific style shall be permitted only if the style matches the style of the house.

(8) *Additions and alterations to street facades.* The appearance of all street facades of a structure shall not be altered unless the design is sensitive to the historic character of the building. Specifically, the design shall be compatible with the existing building in scale, color, texture and the proportion of solids to voids. Materials and architectural details used in such alterations and additions shall either match those on the existing building or shall be materials and details used for the original construction of other buildings in the historic district of similar materials, age, and architectural style.

(9) *Additions and alterations not visible from the street.* Additions and alterations not visible from streets contiguous to the lot lines are permitted if their design is compatible with the scale of the existing building and, the materials used are compatible with the existing materials in texture, color and architectural details. Alterations shall harmonize with the architectural design of the building, rather than contrast with it.

(10) *Side additions.* Side additions shall be set back from the front wall of the structure.

(11) *Roof alterations.*

- a. Roof alterations creating increased building volume, additional windows, headroom, or area are not permitted unless approved as a variance by the Plan Commission. In addition, the roof shape of the front of the building shall remain the same unless the owner wishes to restore an earlier, documentable appearance.
- b. If the existing roofing material is the same as the original, changes in the appearance of roofing materials (excluding color) are prohibited except when the repair of the existing roof is unfeasible and the cost

of replacing it in kind is prohibitive. The new roof shall match the original in appearance (excluding color), as closely as is economically feasible.

- c. If the existing roofing material is not original to the house, the new roofing materials shall harmonize in color with the house. Thick wood shakes, rolled roofing and hexagonal shingles are prohibited. Restoration to a documentable earlier appearance is encouraged.

(e) *Criteria for the review of new construction in Historic Districts.*

(1) *Primary buildings.*

- a. *Height.* The maximum height for new buildings in the R-1, R-1A, R-1B, R-2 and R-3 zoning districts shall be 35 feet. Conditional use permits may be granted by the Plan Commission for three story buildings of exceptional design in the R-3 zoning district. The maximum height for new buildings in the C-G zoning district shall be 40 feet, and the C-P, C-H, C-L and C-C zoning districts shall have a 35 foot height limit. Maximum heights for buildings for all commercial districts may be increased upon issuance of a conditional use permit by the Plan Commission.
- b. *Roofs.* The following roof shapes are encouraged: hipped, gable, gambrel, shed. Roof shapes will be considered on an individual basis, but must be compatible with the building in the visually related area.
- c. *Materials.* Materials for the exterior walls of new buildings shall be the same or similar to the materials prevalent in the district. The following materials will be permitted: brick, narrow gauge horizontal clapboards under four inches in exposed width, stone, stucco, smooth shingles, or any combination of the above. The following materials are prohibited: concrete block, asbestos, wide clapboards over four inches in exposed width, diagonal boards, vertical boards, rough sawn wood, rough split shingles, shakes, and sheet metal. Other materials will be considered on an individual basis.
- d. *Visual size.* The gross area of the front facade (all walls facing the street) of a single-family, two unit or commercial building shall be no greater than 125 percent of the gross area of the front facades of buildings in the visually related area. The gross area of the front facade of a multiple-family building should be no more than 125 percent of the average gross area of the front facades of all buildings within the visually related area. If this is not possible, changes in the setback should be designed in the front facade of the building to repeat the rhythm and proportions of buildings verses space between them within the visually related area.
- e. *Solar collectors.* Solar collectors will be permitted on new buildings, including the front facades. Solar collectors are prohibited if such devices hide from street view significant architectural features of neighboring buildings, or are of such a large scale that they become a major feature of the design.

f. *Parking lots.* No new surface parking lots will be allowed in the R-1, R-1A or R-2 districts. In the other zoning districts, no new parking lots will be allowed unless accessory to and on the same zoning lot as a multiple unit residential building.

- (2) *Accessory buildings.* Accessory buildings shall be compatible with the design of the existing buildings on the zoning lot and as unobtrusive as possible. Exterior wall materials permitted are the same as for construction of new primary buildings, but should be the same as the exterior materials of existing buildings on the same zoning lot wherever possible.

(Code 1998, § 13-1-288; Ord. No. 2003-03, § 1(13-1-288), 3-24-2003; Ord. No. 2013-14, § 71, 11-11-2013)

SECTION 20: **AMENDMENT** “62-402 Historic District Review And Adoption Procedures” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-402 Historic District Review And Adoption Procedures

- (a) The Landmarks Commission shall hold a public hearing when considering the plan for an Historic District. Notice of the time, place, and purpose of such hearing shall be made by First Class Mail to the owners of the places, structures or objects of the determination, and as otherwise provided by law. Notice of the time, place and purpose of the public hearing shall also be sent by the Village Clerk to the owners of record, as listed in the assessment records, who are owners of property situated within the district or within ~~200~~400 feet of the boundaries of the proposed district at least ten days prior to the date of the hearing. Following the public hearing, the Landmarks Commission shall vote to recommend, reject or withhold action on the plan. The recommendation, if any, shall be forwarded to the Village Board.
- (b) Upon receipt of the recommendations of the Landmarks Commission, the Village Board shall hold a public hearing, notice to be given as noted in Subsection (a) of this Section, and shall, following the public hearing, either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan in Article form prepared for that district directing implementation of said plan.

(Code 1998, § 13-1-289; Ord. No. 2003-03, § 1(13-1-289), 3-24-2003)

SECTION 21: **AMENDMENT** “62-679 Board Of Zoning Appeals” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-679 Board Of Zoning Appeals

- (a) *Appointment.* The Village President shall appoint a Board of Zoning Appeals under Chapter 2, Article IV, and Wis. Stats. § 62.23(7)(e), consisting of five members subject to confirmation by the Village Board. The Board of Zoning Appeals shall adopt rules for the conduct of the business of the Board of Zoning Appeals as required by Wis. Stats. § 62.23(7)(e)3.
- (b) *Powers and duties.* The Board of Zoning Appeals:
- (1) Shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
 - (2) May authorize, upon appeal, a variance from the dimensional standards of this Chapter where an applicant convincingly demonstrates:
 - a. That literal enforcement of the terms of the Chapter will result in unnecessary hardship for the applicant;
 - b. That the hardship is due to special conditions unique to the property and is not self-created or based solely on economic gain or loss;
 - c. That such variance is not contrary to the public interest as expressed by the purpose of this Chapter; and
 - d. That such variance will not grant or increase any use of property that is prohibited in the zoning district.
- (c) *Appeals to the Board of Zoning Appeals.* Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board of Zoning Appeals, by filing with the official from whom the appeal is taken and with the Board of Zoning Appeals, a notice of appeal specifying the reasons therefor. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board of Zoning Appeals all the papers constituting the record on which the appeal action was taken.
- (d) *Public hearings.*
- (1) Before making a decision on an appeal, the Board of Zoning Appeals shall, within a reasonable period of time, hold a public hearing. The Board of Zoning Appeals shall give public notice of the hearing by publishing a class 2 notice under Wis. Stats. Ch. 985, specifying the date, time and place of the hearing and the matters to come before the Board of Zoning Appeals. Property owners within 400 feet of the proposed location of petition shall receive written notice of the public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the appeal. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.
 - (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten days prior to all public

hearings on issues involving shoreland-wetland zoning.

(e) *Decisions.*

- (1) The final disposition of an appeal, or application for a variance, to the Board of Zoning Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board of Zoning Appeals chair. Such decision shall state the specific facts, which are the basis of the Board of Zoning Appeals' determination and shall either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application for a variance.
- (2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Wisconsin Department of Natural Resources within ten days after the decision is issued.

(Code 1998, § 13-3-35; Ord. No. 2003-03, § 1(13-3-35), 3-24-2003)

State law reference(s)—Board of appeals, Wis. Stats. § 62.23(7)(e).

SECTION 22: **AMENDMENT** “CHAPTER 2 - ADMINISTRATION FEES” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

CHAPTER 2 - ADMINISTRATION FEES

Section	Description	Fee
2-313(a)(3)	Application to the Plan Commission to amend the Comprehensive Plan	\$500.00 plus actual <u>legal and engineering costs, including publication and notification charges incurred by the Village</u>
2-875(f)	Public records per-page fee for copies, certified or otherwise, of any document	\$0.25

SECTION 23: **AMENDMENT** “CHAPTER 56 - SUBDIVISIONS FEES” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

CHAPTER 56 - SUBDIVISIONS FEES

Section	Description	Fee
56-238(b)	Engineering fee	Engineering fee shall be equal to the actual cost as billed to the Village including inspections
56-238(c)(1)a.	Preliminary Plat review:	
	Preliminary Plat review fee	\$500.00, plus actual legal, financial and engineering costs, including publication and notification charges <u>incurred by the Village</u>
	Additional fee, per lot \$50.00	\$50.00, plus actual legal and engineering costs, including publication and notification charges <u>incurred by the Village</u>
56-238(c)(1)b.	Preliminary Plat Reapplication fee if submitted within 36 months of original preliminary plat	\$500.00, plus actual legal, financial and engineering costs, including publication and notification charges <u>incurred by the Village</u>
56-238(c)(2)a.	Final Plat review:	
	Final Plat review fee	\$500.00, plus actual legal, financial and engineering costs, <u>including publication and notification charges</u> , incurred by the Village
	Additional fee, per lot \$50.00	\$50.00, plus actual legal and engineering costs incurred by the Village
56-238(c)(2)b.	Final Plat Reapplication fee if submitted within 36 months of original final plat	\$400.00, plus actual legal, financial and engineering costs, <u>including publication and notification charges incurred by the Village</u>
56-238(c)(2)c.	Review of the development agreement including addendums for each phase of a plat	\$400.00, plus actual legal, financial and engineering costs incurred by the Village
56-		\$300.00, plus actual legal, financial and engineering costs,

238(c) (3)	Certified Survey Map review fee	including publication and notification charges <u>incurred by the Village</u>
56- 238(d)	Condominium development review:	
	Condominium review fee	\$300.00, plus actual legal, financial and engineering costs, including publication and notification charges <u>incurred by the Village</u>
	Additional fee, per unit shown on a condominium plat, less \$20.00 for each lot shown on a Preliminary Plat or CSM for the same project	\$40.00, per lot plus publication and notification charges <u>incurred by the Village</u>
56- 238(f)	Digitizing the mapping of the approved land division, plat or condominium	Cost
56- 238(g) (1)	Escrow deposits for plats	\$5,000.00

SECTION 24: **AMENDMENT** “CHAPTER 62 - ZONING FEES” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

CHAPTER 62 - ZONING FEES

Section	Description	Fee
62-17	Escrow deposits:	
	R-E, R-3 General Residence and PD Planned Development Districts up to 50 acres	\$5,000.00
	R-E, R-3 General Residence and PD Planned Development Districts greater than 50 acres	\$10,000.00
	Site/design review for new buildings/additions less than 2,000 square feet and requiring site/design review under Section 62-310(b)	\$1,000.00
	Site/design review for new buildings/additions 2,000 or more square feet and requiring	\$2,000.00

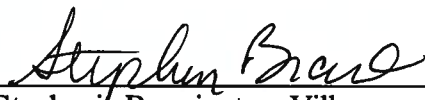
	site/design review under Section 62-310(b)	
	Staff and consultant review costs	Consultant costs shall be the actual costs as billed
62-64	Where no previous fee has been collected (fees in lieu of parkland dedication)	\$4,115.00 per dwelling unit
62-69(d)	Chickens Annual Permit Fee	\$30.00
62-108(a)(5)	Conditional use permit application and issuance fee	\$500.00, plus actual legal and engineering costs, including publication and notification charges incurred by the Village
62-117(d)(2)d.	Permit application fee for bed and breakfast establishments	\$100.00
62-206(d)	Application for signal receiving antenna permit where a conditional use permit is required	Same as fee for conditional use permit and site design plus actual legal and engineering cost by a Telecommunications and safety consultant <u>incurred by the Village</u>
62-309(b)(5)	Occupancy permit fees:	
	One-family residences	\$50.00
	All other uses	\$75.00
	Multifamily residences (per dwelling unit)	\$50.00
62-310(g)	Site/design review	\$400.00, plus actual legal and engineering costs, <u>including publication and notification charges incurred by the Village</u>
62-343(d)	Fee for processing a petition for a zoning change or amendment:	
	Text amendment	\$500.00, plus actual legal <u>and engineering costs</u> , including publication and notification charges <u>incurred by the Village</u>
	Map amendment	\$500.00, plus <u>actual legal and engineering costs</u> , including publication and notification

		<u>charges incurred by the Village</u>
62-363(e)	Application for hearing before Board of Zoning Appeals	\$475.00, plus actual legal and engineering costs, including publication and notification charges incurred by the Village
62-676(b)	Fee for issuance of certificate of compliance	Fee included with occupancy permit

PASSED AND ADOPTED BY THE VILLAGE OF MCFARLAND VILLAGE BOARD
JANUARY 13, 2026.

	AYE	NAY	ABSENT	ABSTAIN
Annen	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Boyd	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Brassington	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Fessler	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Leamy	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Peña	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Prill	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer


Stephanie Brassington, Village
President, Village of McFarland

Attest


Cassandra Suettinger, Deputy
Administrator/Clerk, Village of
McFarland